



# INNOVATIONS FOR SUCCESSFUL SOCIETIES

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## ORGANIZING THE FIRST POST-APARTHEID ELECTION: SOUTH AFRICA, 1994

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### SYNOPSIS

South Africa's Independent Electoral Commission faced a daunting task in January 1994. The newly established body had less than four months to organize and implement the country's first fully inclusive democratic elections. The stakes were high. A successful vote would signal a new beginning for the nation after the apartheid era. Failure could mean civil war. Choosing suitable polling sites, dealing with parties' distrust, reaching alienated and possibly hostile communities, addressing potential spoiler issues and remedying shortages of electoral materials posed formidable challenges. The commission's difficulties snowballed. In the end, however, all parties accepted the election results and the Government of National Unity went ahead as planned. The elections offer an example of how an electoral commission can sustain political will—of parties and the public—to overcome administrative shortcomings in extremely sensitive circumstances. The case study discusses location of polling stations, temporary polling facilities, candidate access, ballots and ballot counting.

*Amy Mawson drafted this case study on the basis of interviews conducted in Pretoria and Johannesburg, South Africa, in February 2010.*

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### INTRODUCTION

Sitting on the terrace of his home in Johannesburg in February 2010, 77-year-old Johann Kriegler, who led South Africa's Independent Electoral Commission in 1994, reflected on the busy months of that year. "We had the worst administration you can imagine," he said. "But we had the political will and we were legitimate. That's what you need. If you haven't got a Mandela, you're in trouble!"

Before 1994 the system of racially discriminatory laws known as apartheid had long precluded any voice for the majority in

government and policy. In the 1980s, increasing domestic and international pressure, combined with private diplomacy, ushered in the beginnings of change. In February 1990, President F.W. de Klerk, leader of the minority white National Party, released African National Congress (ANC) leader Nelson Mandela, who had been in prison for 27 years, and lifted the apartheid-era ban on the ANC and other political organizations. Shortly thereafter, the ANC and the National Party began bilateral talks, which were later followed by multiparty negotiations. As the process moved forward

between 1990 and 1994, violence escalated. In the run-up to the election of the transitional government, no one knew for certain whether peace would prevail.

The violence was particularly severe in KwaZulu—a quasi-independent homeland area that became part of the KwaZulu-Natal province in 1994—where supporters of the dominant African National Congress (ANC) party and the Inkatha Freedom Party (IFP) frequently clashed.

By the time the Independent Electoral Commission began functioning in January 1994, the country was on a knife edge. The parties had given the electoral commission less than four months to organize a vote that, if successful, would move the country's democratic transition forward. The legislature that resulted would have responsibility for preparing the draft constitution and electing the country's president, likely to be the leader of the party with the largest vote.

The electoral commission approached the challenge buoyed by hope but ill-prepared for some of the tasks it encountered. Choosing suitable polling sites, ensuring parties' access to all parts of the country to run their campaigns, supplying polling stations with adequate materials and counting the country's votes all proved more difficult than the commissioners initially anticipated.

Despite mishaps and mistakes, however, South Africa emerged from the 1994 elections with a democratically elected government that all the political parties accepted. Before the elections, the existing government—working with the Transitional Executive Council that the parties formed in 1993 to oversee the transition to democracy—provided the electoral commission with extensive resources that helped it meet the challenges of the electoral process. Much of the commission's US\$257 million budget helped fund the extensive operations of the Election Monitoring Directorate, which

became a vital part of the country's transitional electoral administration. Although the ultimate success of the elections can largely be attributed to the political will of the participants to see the elections through successfully, the electoral commission nurtured and sustained this political will. By demonstrating a high level of commitment, working closely with the parties to tackle problems head on, and seeking innovative solutions to last-minute glitches, the commission convinced a nation that it could believe in its founding elections.

### THE CHALLENGE

The electoral commission had its roots in the multiparty negotiation process. In mid-1993, the parties agreed that a legislature elected on a one-man, one-vote basis would draft the country's new constitution, respecting 34 immutable principles that the party roundtable established. However, the opposition parties did not trust the Department of Home Affairs, which had previously administered the country's elections, to manage the process fairly. As a result of their mutual suspicion, the parties decided to disband the old administration and set up an entirely new electoral commission. Ben van der Ross, one of the electoral commissioners in 1994, recalled, "We were not allowed to use a pencil that came out of ... [the old elections administration] ... absolutely nothing. Not their systems, not their stationery, not their equipment, not their physical locations, nothing. So you had four months within which to set up this thing entirely from scratch."

The 1993 Independent Electoral Commission Act empowered the president, on the advice of the Transitional Executive Council, to appoint as many as 11 new South African election commissioners and five international commissioners. The international commissioners would act as advisers and would not have voting rights on the commission. The electoral act also set up a Monitoring

Directorate, an Administration Directorate and an Adjudication Secretariat, all within the commission. The Monitoring Directorate, one of the most unusual aspects of the arrangement, was mandated to keep tabs on every step of the electoral process both internally and externally. At least part of the motivation for the change in structure was to address opposition party fears that the cadres drawn from the Department of Home Affairs would be able to manipulate the electoral process from within.

The legislature passed both the electoral commission act and the act establishing the Transitional Executive Council in October 1993. It took a further two months for the transitional council to establish itself and advise the president on whom to appoint to the electoral commission. In December 1993, President de Klerk appointed the 11 South African commissioners; a month later he appointed the five international commissioners.

The act establishing the electoral commission required that the South African commissioners “be impartial, respected and suitably qualified men and women, [who] do not have a high party political profile, are themselves voters, and represent a broad cross-section of the population.”<sup>1</sup>

Johann Kriegler, who served on the Supreme Court at the time, was on holiday when he found out that he had been appointed to the commission. “I came back from the beach, and the maid said that there’d been a phone call from the minister,” he said. “The children were making a bit of noise in the background and I wasn’t hearing particularly well, and I accepted the job, which I thought was to chair the electoral court.” On his way to Cape Town, Kriegler bumped into a friend on the plane who, to Kriegler’s surprise, congratulated him on being appointed chairman

of the Independent Electoral Commission. “I fell into it by default and mistake,” Kriegler said.

Zakeria Yacoob, who had been an underground ANC member when the organization was still banned and was a senior barrister in Durban, was first contacted by Nelson Mandela. “Madiba,” Yacoob said, using a term by which Mandela was often known in South Africa, “sent for me and he said—he used to call me boy—and he said, ‘Boy, you mustn’t think that we’ve got you on this body so that you must favor us. I have you there, and I agreed to your being there, only because I know that you will not favor us; and it is your instruction from me not to favor us.’”

Ben van der Ross was working for the Independent Development Trust, a South African development agency, in 1993. He received a call from Colin Eglin, a leading member of the Democratic Party. “I wasn’t that interested,” said van der Ross, “but they described it to me as being on a committee.” Van der Ross, like most of the commissioners, had no electoral-management experience. He thought being on the commission would be like being on a board of directors. “I was very wrong about that,” he said.

Charles Nupen had run the ANC’s first internal party elections in the early 1990s and had a background in mediation work. Prior to joining the electoral commission he had been the national director of the Independent Mediation Services of South Africa, a private nonprofit conflict-resolution agency. It had started work in the labor field in the 1980s but expanded its actions in the early ’90s to play a role in the peace committee structures that communities set up after South Africa’s political forces signed a National Peace Accord to reduce violence.

Dikgang Moseneke, a senior barrister in Pretoria at the time, was appointed as the commission’s vice chairman. The other

commissioners were Helen Suzman, a longtime anti-apartheid campaigner and former parliamentarian; Oscar Dhlomo; a university professor from KwaZulu; Frank Chikane, secretary general of the South African Council of Churches; Dawn Mokhobo, a senior employee of a major South African corporation; Johann Heyns, dean of Pretoria University's theological faculty; and Rosil Jager, a local government administrator and former parliamentarian. The five international commissioners were Jørgen Elklit, a Danish political scientist and electoral expert; Gay MacDougall, a member of a prominent U.S. civil rights organization; Amare Tekle, a former referendum commissioner from Eritrea; Walter Kamba, former vice chancellor of the University of Zimbabwe; and Ron Gould, an assistant chief electoral officer from Canada.

The commission held its first substantive meeting in January 1994 in Cape Town. At that meeting the South African commissioners and senior staff devised a strategic plan. The commissioners decided that they would work toward an election date of 27 April. Although the president and the transitional council did not actually set the official date of the election until the following month, 27 April 1994 had "assumed great symbolic significance"<sup>ii</sup> in July 1993, when the parties first suggested it in their constitutional roadmap. "We decided it would have to be 27<sup>th</sup> of April, come hell or high water," Kriegler said.

The commission faced several difficult logistical and political challenges in addition to the shortness of the time available to complete the process. The 1994 elections would be the country's first inclusive elections. Under apartheid, only white South Africans had been allowed to vote. With the end of apartheid and the negotiated transition to multiparty elections, the electorate expanded from about three million voters to an estimated 18 million. The commission thus had to cover six times as many

voters as the previous electoral administration. Because many voters of all political leanings had no experience with a fully inclusive process, the commission's mandate included "deepening democracy," a directive that its members chose to interpret broadly. Nupen said the commission planned to go to great lengths to bring people into the electoral process. The election "was also about creating conditions conducive to running a free and fair election," he said.

When the commission began its work in January 1994, several key figures were outside the electoral process and had the potential to destabilize the elections or to delay the electoral commission's work. Some of them were from the so-called homeland areas.

Under apartheid, black homeland areas were set up by the white minority government as a means of segregating and separating the black population. The leaders of the homelands consequently felt threatened by the end of the apartheid system because their authority and power depended on that system remaining in place. Mangosothu Buthelezi of KwaZulu (also leader of the Inkatha Freedom Party), Lucas Mangope of Bophuthatswana and Oupa Gqozo of the Ciskei all opposed the electoral process and tried to prevent election-related activities in their territories.

The white right similarly opposed the electoral process. The Afrikaner Volksfront (AVF or Afrikaner People's Front), led by Constand Viljoen, promoted right-wing unity and the idea of an Afrikaner *volkstaat*, or people's state. In an unusual alignment of political interests, the white right and the homeland leaders banded together in 1992 and 1993 to jointly reject the elections.

Meanwhile, fringe elements of the white right went further, engaging in acts of sabotage that included detonating homemade explosives. In early 1994, nobody knew how far the white right could, or would, take its campaign.

Distrust also increased the difficulty of winning cooperation between the two main parties. Although the ANC had a long formal commitment to a non-racial vision for the country, party preferences still reflected racial and ethnic divisions. In early 1991, before the main multiparty negotiations had even begun, a major South African newspaper broke what became known as the Inkathagate scandal. The newspaper report revealed that the country's minority white government, led by de Klerk, was involved in a covert military operation to fund and train supporters of the Inkatha Freedom Party, the party with the third largest following, that was based in KwaZulu.<sup>iii</sup> As supporters of the Inkatha Freedom Party frequently clashed with ANC supporters in KwaZulu, the revelation heightened the already high level of suspicion.

In 1992 South Africa's key political forces, including trade unions and political and government representatives, signed a National Peace Accord that helped dampen some of the violence. To implement the accord, civil-society leaders who had been involved in the anti-apartheid movement helped set up a series of conflict-resolution structures at national, provincial and local levels known as peace committees. The peace committees worked to resolve local-level disputes and promote peace during the transition. Although the peace committees played a key role in much of the country by creating an environment in which elections could take place, violence continued to rock KwaZulu and several other areas.

The political challenges interacted with logistical considerations. No one had any idea how many people would want to cast ballots in the many new jurisdictions created. If the electoral commission did not have sufficient capacity on the ground in party strongholds, the party placed at a disadvantage by long lines might cry foul. "There was huge contestation from various quarters, as to how many voting

stations should be deployed," Nupen recalled. The electoral commission came under strong political pressure from different parties. The ANC pushed to have many more polling stations in the Eastern Cape than the commission had anticipated. Similarly, the IFP's leader, Buthelezi, pushed to have more in the province of KwaZulu-Natal (of which KwaZulu was a part).

The commission members also knew they would face serious practical handicaps. For example, there were no good maps detailing large areas of the country and no reliable population figures.

One of the commission's chief concerns was the lack of a voters roll. Because the negotiating parties realized there would not be enough time to compile a list of voters, the electoral act made no provision for one. In the absence of a voters roll, determining voter eligibility would have to take place at each polling station. The commission had to ensure that each eligible voter possessed a valid voter identity document, but many potential voters had no identity documents. To address this problem, the electoral act mandated the electoral commission to issue temporary voters' cards where necessary. Determining who needed a card and how to distribute the cards consumed much of the commission's time and resources in early 1994.

The commissioners worried that some of the conventional elements of election administration could cause difficulties. Ensuring that voters did not vote multiple times was always a responsibility of an electoral management body. Without a voters roll, the only way to keep track of who had voted was to mark voters' fingers with indelible ink. However, the commission had to avoid making voters identifiable and putting them at risk in areas where potent political forces opposed the elections and might target those who had voted.

In many ways the commissioners felt they were walking into the unknown when they took

their posts. “I’m not sure that when we entered this process we had any real idea of what was going to be required,” Nupen said. “It’s rather like Ulysses passing through the gates of knowledge. It’s only when you pass through a particular gate that you begin to understand and recognize ... precisely what lies ahead.”

“I would like to claim that we saw all of these challenges at the first meeting,” Kriegler said, “but we didn’t have that perspicacity. I think many of these problems only dawned on us as time went on.”

### FRAMING A RESPONSE

For the first few weeks, the electoral commission functioned as van der Ross had predicted: like a board of directors. The commissioners were primarily required to provide strategic vision and did not get involved in the day-to-day management of the electoral preparations. But this situation changed when the different pieces of the electoral administration began to ramp up their operations and the commissioners realized that there were major gaps in the preparatory work.

To assist the commission in running the elections, the Department of Home Affairs seconded some staff to the commission’s Administration Directorate. Although many in the commission initially were suspicious of the staff members from the old regime, they still believed it was important to use them. After all, the Department of Home Affairs was the only body in the country that had any experience in running elections.

Norman du Plessis, who had helped draft some of the transitional legislation, was among those the Department of Home Affairs sent to help. According to Kriegler, du Plessis “was Mr. Elections behind the scenes ... and he ultimately proved invaluable.” Because he was part of the group that came from the government side, however, he was initially subject to intense suspicion. The tension between the seconded

Department of Home Affairs staff and the new commission staff drawn largely from the world of nongovernmental organizations added to the challenges the commission was already facing.

From the beginning, the commission worked closely with the political parties. The electoral act encouraged and often required the commission and the parties to work together. Section 5 of the act obliged the Transitional Executive Council to set up an interim party liaison committee, which would be replaced by national, provincial and local liaison committees after the parties had registered to participate in the election. According to du Plessis, who became secretary of the national party liaison committee, the idea grew out of the peace structures that had helped reduce conflict during the negotiation process. The parties each nominated two permanent members to the committee; all were high-level administrators with access to the party leadership.

Nupen explained that the committee “provided a forum for some measure of dispute settlement and dispute management. So if a party had a problem, the IEC [Independent Electoral Commission], in its role as the neutral arbiter, could intervene and sort these problems out.” The committee operated behind closed doors, and the parties never shared the internal discussions with the press. As a result, parties were able to take positions they were unable to express in public. “There was no public posturing,” du Plessis said.

The commission also set up a timetable. An expert, seconded from the Canadian electoral management body Elections Canada, developed a readiness plan that included 922 activities with target dates. The commission revised the plan weekly and made adjustments when necessary.

The Monitoring Directorate acquired staff. To head the unit, Nupen recommended Peter Harris, whom he knew from their work with the peace committee structures that they had helped

set up after the parties signed the National Peace Accord. Harris had headed the peace committee in Pretoria-Witwatersrand-Vereeniging province (renamed Gauteng province in 1994) for about a year and a half. He began working for the electoral commission in January 1994, shortly after the commissioners started. Harris hired others, like Piroshaw Camay, with peace committee experience.

Camay set up the Monitoring Directorate's National Operations Center, a vital piece of the directorate's institutional architecture. The center was in charge of deploying the directorate's 21,000 paid monitors. Camay said the monitors were crucial because "we needed to ensure that it wasn't just rumor we were acting on, but actual facts and information." The monitoring directorate also accredited a further 21,000 domestic and international monitors. The exceptionally large numbers of monitors led one political scientist to write, "South Africa's first democratic elections have a strong claim to being the most monitored elections ever."<sup>iv</sup>

## GETTING DOWN TO WORK

In this election, the first in the era of majority rule, the commissioners made accessibility a priority, and most of their efforts focused on the creation of polling places, issuance of temporary voters' cards, access of candidates to voters, and drawing potential spoilers into the process.

### *Polling places, polling stations*

One of the biggest logistical challenges that the commission faced was determining suitable sites for polling stations. Large parts of the country had never experienced an election.

The parties agreed in their negotiations that every voter should be able to walk to a polling station, meaning that about 9,500 polling sites had to be identified. The commission did not have reliable information on where people were living, and different parties

put pressure on the commission to set up more polling stations in areas where they had the most support.

The Department of Home Affairs offered to help identify potential buildings that could accommodate polling stations. In December 1993 the department drafted a memo on preliminary electoral arrangements for the new chairman of the electoral commission that stated, "A large proportion of voting stations in the Republic of South Africa have already been identified on a preliminary basis and details will be available in the form of a computer printed list at the beginning of January 1994. This is very much a preliminary list and no contracts have obviously been entered into."

A month into its preparations the commission realized that the list from Home Affairs was flawed. "Somewhere round about the third week of February, we tumbled into the horrible truth that the list was useless," van der Ross said. "Many of the places had never been visited, clearly. Many of the places, if they had existed, no longer existed. Many of the places hadn't existed, ever, at all. And many of the places were wholly unsuitable," he recalled. "So we had to start from scratch."

Discovering that the list of polling places prepared by the Home Affairs staff was unreliable shook the commission's confidence in the skills of the seconded Home Affairs staff. "What we learned as matters unfolded," Nupen said, "was that running white-only elections was one thing; running a national democratic election was quite another."

The commissioners and staff found it hard to identify polling stations because they lacked a clear sense of what facilities were available. Commissioner Charles Nupen recalled, "There was no ready intelligence available to say, 'In north, far northern KwaZulu, or in the deep rural areas of the Transkei, here was a mission school, or a building or something.'" Du Plessis said that, "In some areas of the country, the

Eastern Cape for example, the only maps you had were maps from the surveyor general which the British made in the 1850s.” Howard Sackstein, who was head of an investigations unit within the electoral commission, also remembered the lack of current and detailed maps as a problem. “The rural areas had never been mapped,” he said. “The townships had never been mapped. There hadn’t been a census of black people done in the country since the 1950s.”

Exacerbating the electoral commission’s difficulties was the fact that no one had any idea how many voters would show up at each polling station. Due to the limited time available to prepare for the elections, the parties had decided not to try to compile a roll of voters before the election. In the absence of a voters roll, determining how many would show up at a given polling station became a guessing game. Most parties did not trust the 1991 census figures, and final population figures were rough estimates that the parties hashed out in early multiparty talks.

To help identify roughly where polling stations were needed, Sackstein explained, the commission contacted South African Breweries, the largest brewer in the country. The commission assumed that the brewery’s distribution figures would serve as a proxy for where people lived. The problem was that not everybody bought their beer near their homes. In Johannesburg, for example, a large polling station was set up to accommodate 50,000–60,000 people based on the beer-sales distribution figures. On election day, however, the station remained virtually empty because hardly anybody lived in the area. It was simply an area where many people bought beer on their way home.

Throughout the four months’ preparatory period, the political parties continued to negotiate key aspects of the electoral process. Much to the frustration of some of the

commissioners, decisions would emerge from the negotiations only to be changed two weeks later. Working through the Transitional Executive Council, the parties amended the electoral act that was first promulgated in mid-January six times before the election in April.

One of the parties’ amendments to the electoral act complicated the commission’s task of identifying polling stations. In late February, just after the commission discovered that the list of preliminary polling stations developed by Home Affairs was unreliable, the parties decided that rather than having one ballot per voter to cover both the national and the nine provincial elections, the voters would instead be given two separate ballots. “They changed in one fundamental respect the whole voting process, did the politicians,” Kriegler recalled. In early March, “we were told we were going to have 10 elections instead of one,” he said.

The decision to use two ballots added a new twist to the already difficult process of choosing polling sites. The addition of an extra ballot box at each polling site meant that 1,500 of the 9,500 sites the Administration Directorate had identified—after the first mishap over the Home Affairs list—were too small. The decision also affected other areas of the commission’s work: The number of staff required for each polling station was revised upward, and planning for the counting process had to be rethought. “That was when you started working 20 hours a day,” van der Ross said.

Realizing that he would need more help to complete the job of identifying new polling sites, van der Ross contracted the work to a private project-management firm. But the project-management firm also struggled to find enough polling sites within the time available.

The Administration Directorate decided to use temporary polling stations that could be transported and set up easily. Van der Ross contacted a friend who was a senior executive in

a large construction firm in Cape Town. “Within 24 hours they actually designed a structure, made a prototype, brought it to Johannesburg, rigged it up in our board room and showed us what it was,” van der Ross said. He described the structure as comparable to a stall that a street vendor might set up, “sort of an awning which is basically aluminium poles covered in shade cloth.”

The commission approved the design, and the construction firm made units to deliver to 1,200 polling sites. It took 50 kilometers of metal tubing to produce the structures, and sewing businesses across Cape Town spent two weeks assembling the cloth that was needed.

The task of identifying suitable polling sites was also difficult because the electoral commission could not easily access certain areas of the country until near the election. The homeland area of Ciskei became easily accessible in January after the Ciskei leader was overthrown in a popular uprising. But other homelands remained hostile territory.

Mangope, the leader of the homeland Bophuthatswana, prevented the electoral commission from conducting its work in his region. Around mid-March, the commission sent a delegation in an effort to persuade Mangope to allow the commission access. “I can recall a helicopter flight at the dead of night taking Kriegler and, I think, Moseneke and one or two other commissioners, to meet with Mangope with a view to persuading him to come into the election,” Nupen said.

The delegation’s goal, however, was achieved by other means. The same day the commissioners arrived, paramilitary members of the white right-wing Afrikaner Volksfront (AVF) and the far-right Afrikaner Weerstandsbeweging (AWB), showed up in Bophuthatswana to shore up Mangope’s government after the Bophuthatswana Defence Force mutinied. The South African Defence Force intervened and defeated the paramilitary

forces. Bophuthatswana was subsequently reintegrated into South Africa’s administrative structures, and the electoral commission was able to access the territory and plan the elections.

#### *Issuing temporary voter cards*

While working to identify potential polling sites, the commission also had to ensure that voters would be able to cast their ballots once they got to a voting station. Because the parties decided there would not be enough time to register all voters, the commission did not have a voters roll. As a result, the electoral act required polling station staff to verify voter eligibility by reviewing voters’ identity documents on election day. Because many from the majority black population did not have identity documents, the electoral act empowered the commission to issue temporary voters’ cards.

At the commission’s first strategic planning meeting in January 1994, the Department of Home Affairs informed the commission that roughly 2.5 million voters had no identity documents and would require temporary voters’ cards. The commission decided to subcontract the issuing of the cards to Home Affairs.

Home Affairs deployed 400 units, including 100 mobile units, throughout the country to deal with demand for temporary voters’ cards between February and March. By mid-March the units had issued about 620,000 cards. Recognizing that the Home Affairs effort was insufficient to meet the task, the commission had to rethink its strategy. Reporting after the elections, the electoral commission said that, “There was a grave risk that protests by large numbers of disenfranchised voters could imperil the voting process.”<sup>v</sup>

The commission decided to set up a special task force to speed up the units’ work. With the help of several engineering and management consultants, the task force eliminated

bottlenecks and set up an additional 1,400 temporary stations to issue voters' cards. The new stations targeted prisons, squatter camps, mines and urban hostels—all areas that had been prone to violence in recent years. By April 24 the original units and the new stations had jointly issued over two million voter cards. By the end of the elections they had issued 3.5 million.

Some criticized the commission after the election for failing to stop abuses of the temporary voters' card program. An investigation by the South African police revealed that many birth certificates had been forged and that temporary voters' cards had been issued to foreigners and under-age voters. Most of these abuses took place in rural areas of Transkei and KwaZulu, where a single party controlled the local administrative structures. But the commission, pointing to data from its Manual Verification Unit, which acted as a check on the computerized results tally, asserted that the abuses did not have any significant impact on the overall outcome.

#### *Candidate access*

As part of its mandate, the electoral commission had to facilitate parties' access to so-called no-go areas so that they could campaign freely. At the beginning of March the mediation branch of the electoral commission, located within the Monitoring Directorate, launched a program called Operation Access. The program would liaise with local party structures and organize public meetings under the aegis of the electoral commission. Through the program, candidates would travel together in minibuses and address crowds in three-minute speeches. Although it was primarily used by the ANC to campaign in white farming areas that were difficult to reach and offered no public space to run campaign rallies, all parties were

affected by no-go areas and used Operation Access at some point during the campaign.

The commission organized 106 Operation Access meetings in total, and only one ended unsuccessfully.<sup>vi</sup> In mid-April, just two weeks before the election, candidates from the ruling National Party and four other parties traveled with the program to campaign in Phola Park and neighboring Thokoza township, both ANC strongholds southeast of Johannesburg.

The candidates delivered their messages successfully over loudspeakers from the safety of their minivan in Thokoza, but when the van moved on to Phola Park it encountered a hostile crowd. Told by army officers escorting the van that their safety could no longer be guaranteed, the candidates decided to leave without delivering their campaign messages.

Speaking shortly after the incident, commissioner Helen Suzman said, "This is just a symptom of the problems that we have when one party has gained control of an area. We are trying to break that down. We don't want any 'no-go' areas."<sup>vii</sup>

#### *Ballots, not bullets*

Commissioners also played a role in drawing disaffected parties into the electoral process. To do so, they sometimes bent the formal rules while adhering to the spirit of the law. The electoral act contained detailed provisions regarding party registration and the submission of candidate lists by certain deadlines. But as the commission reported after the elections, "In the event, virtually none of the parties was able fully to comply with technical requirements: indulgences, assistance and advice were often necessary to prevent genuine participants' exclusion from the elections for want of proper compliance with procedural niceties." Three examples illustrate this role: the incorporation of the Afrikaner Volksfront

(AVF) as a result of events in Bophuthatswana, the inclusion of the Pan-Africanist Congress (PAC), and the willingness to preserve space on the ballot for the IFP, which sought to boycott the vote until the last minute.

The government intervention against paramilitary activity in Bophuthatswana caused at least one potential spoiler to join the electoral process. The media widely circulated footage of AWB members being shot point-blank in the Bophuthatswana conflict. According to Kriegler, “that put the fear of God into a lot of the right wing.” AVF leader Constand Viljoen decided to join the electoral process under the party name Freedom Front. “The decision by Constand Viljoen to come into the election and to bring his people into the election was ... a critically important watershed, because if they had become an abiding, destabilizing element it would have made things very, very difficult,” Nupen said. Although other white-right groups remained outside the electoral process and continued to try to disrupt it, Viljoen’s acquiescence brought important commitment from some on the white right to the electoral process.

When the Freedom Front came to register, the commission extended the registration deadline so that it could submit its papers. The commission also extended the deadline for the Pan-Africanist Congress. Kriegler remembered the head of the Pan Africanist Congress coming in with the party’s registration documents after the midnight deadline and “apologizing for it being very late, and there was the clock showing 20 to 1:00 in the morning, and du Plessis saying, ‘It looks like five to 12:00 to me.’”

More challenging than bringing the white right into the electoral process, however, was persuading the leader of the KwaZulu homeland and the IFP, Buthelezi, to join the elections. The commission sent several delegations to KwaZulu to meet with Buthelezi, but all were unsuccessful. Violent clashes continued between

ANC and IFP supporters, increasing concerns that the electoral administration in KwaZulu would be seriously compromised.

The situation in KwaZulu was extremely tense. In one incident, local-level Monitoring Directorate staff members were caught in the crossfire of a shootout between the two sides when the IFP occupied a stadium that the ANC had booked for a rally. The head of the provincial KwaZulu-Natal Monitoring Directorate’s office, Bheki Sibiyi, was taken hostage five times. He became so concerned by the violence and threatening atmosphere that he was ready to leave the country after the elections.

About a week before the elections, Buthelezi agreed that the IFP would participate. Although a Kenyan professor named Washington Okumu is often credited with bringing about this turn of events, some interviewees suggested the credit was misplaced. “I think that at that stage that we had reached, with two or three weeks to go, Buthelezi had made a decision that he needed to come in; but he needed somebody unattached to any of the interested parties to be able to be seen to have brokered the deal, and that’s where I think this man played a role,” Nupen said. Phiroshaw Camay, the head of the Monitoring Directorate’s National Operations Center, agreed: “I think there was a game plan, and Buthelezi saw that game plan out.”

The IFP’s decision to join in the elections was a critical juncture. “Of course, this was crucial,” said Kriegler. “It was 20% of the electorate. Quite apart from being a very specific identifiable area of dissent, just in terms of numbers it was important.”

With the IFP back in the fold, however, the commission had to address the implications of the last-minute change in the electoral landscape. The commission had to issue an additional 700,000 temporary voters’ cards in KwaZulu-Natal between 25 and 29 April, as it had only managed to issue 225,000 before that.

Between 600 and 700 more polling stations in KwaZulu had to be identified, set up and staffed. The commission recruited 13,000 additional staff in the last two days.<sup>viii</sup> Kriegler conceded the recruitment procedures and training were not ideal. The polling-staff members were “certainly ill-trained; they were probably largely ill-selected as well because ... we took school teachers and junior civil servants. In KwaZulu Natal they were overwhelmingly IFP,” he said.

Also, by the time the IFP joined the elections, the ballots had already been printed in England at considerable expense. Because of the time and expense that would have been required to reprint the ballots to include the IFP, the commission decided that millions of IFP stickers would need to be printed and affixed at the end of each ballot. Unfortunately, the National Party occupied the original spot at the bottom of the ballots and had run an entire election campaign highlighting this fact. The commission had to arrange for some of the party’s campaign money to be reimbursed.

## OVERCOMING OBSTACLES

The official opening day of the elections was 27 April, a date which South Africa commemorates every year as Freedom Day. To allow the elderly, the hospitalized and the electoral staff to vote, however, the polls opened a day early. What the commission had not bargained on was the enthusiasm of the voters. Hundreds of thousands turned up on the first day even though the polls were not meant to be open for regular voters. “So what does the presiding officer do?” said Kriegler. “He says, ‘Come in my brothers, come and vote.’”

The early opening of many polling stations, combined with the absence of a voters roll, led to a shortage of ballots. Presiding officers, confronted with so many unexpected voters, worried that they were going to run out of ballots. In some areas the shortages were

genuine, but after talk of shortages began to spread, presiding officers who did not have shortages moved to protect their supplies and in some cases preemptively drained reserves. “The most fatal miscalculation in that election was to accept that half of the populace would pitch up on Day One and the other half on the second day,” said du Plessis, of the Election Administration Directorate.

Many polling stations in KwaZulu were unable to function properly because of ballot shortages. The commission agreed to extend the voting by a further day to ensure everyone would get the chance to vote. It also had to arrange for many more ballots to be printed.

Camay, from the Monitoring Directorate, took care of getting more ballots printed. To overcome security concerns, the National Operations Center liaised with the South African Typographical Association to print the extra ballots. In the end far too many were printed and 14 million had to be destroyed after the elections.

Kriegler said that ballot boxes also were in short supply. Many presiding officers were forced to take unconventional measures to store the completed ballots. Some officers, violating protocols, opened ballot boxes and restacked the papers neatly to make more room. When space ran out, one officer at a rural polling station stuffed ballots into a spare pair of trousers.

Before the election, parties had decided that voters’ fingers would be marked with ink that would show up only under ultraviolet light. In the absence of a voters roll, it was an important measure to prevent people from voting twice. Ultraviolet ink was chosen with KwaZulu in mind: Before the IFP rejoined the elections, officials worried that marking voters’ fingers with visible ink would make people vulnerable to attack.

As voting got under way, supplies of ultraviolet ink quickly ran out. Polling station staff members were given small brushes to apply

the ink but were applying far too much. Additional ink was not available within South Africa because the parties had decided in the interests of security that “the ink had to be a special secret formula, hyper secret formula,” said Kriegler. It had been shipped in drums from the United States. Faced with the shortages during the election, however, Kriegler said, “the head of the police forensic department put his people to analyzing what was in the stuff, and they managed to duplicate it in a couple of hours.”

The new ink then had to be transported to polling stations, but many of the rural stations could not be reached. Deciding on a quick fix, the commission told presiding officers to apply water instead. When some ultraviolet lights broke down, the National Operations Center told presiding officers to pretend that the lights still worked. Poll officers were advised to “look and nod sagely,” Kriegler said.

The commission was forced to rely on people at the polling stations to resolve problems that continued to crop up. The communications infrastructure was so limited, especially in rural areas, that the commission could not be involved in sorting out every problem. International election observers, in a breach of normal protocols, had to adopt a hands-on approach. “Even observers, without interfering overly, guided and assisted,” du Plessis said.

The Monitoring Directorate’s role also shifted significantly after the polls opened. “The monitoring division went beyond its role of standing back and scrutinizing and evaluating and actually ... rolled up its sleeves and assisted with the administration effort,” Nupen said. Du Plessis added, “On the ground, on the day, the roles actually switched or intermingled to some extent.”

Many polling stations experienced long lines. “There were some places where they voted on a fourth day. You had no option; you had to extend it on a localized basis,” du Plessis said.

The extension of the election led to another problem: fatigue. The tiredness of polling staffers, mixed with the supply shortages they were facing, had the potential to lead to serious trouble. “These were the kinds of things that could let a whole election fall apart,” du Plessis recalled.

#### *Vote-counting troubles grow*

The electoral commission and the parties had decided that votes would be counted in central counting stations rather than at the polling stations where the votes were cast. According to Kriegler, 670 counting stations had been planned, but the number had been reduced to 70. As a result, some of the counting stations faced enormous tasks. One in Nasrec, a suburb of Johannesburg, for example, tallied three million votes, representing about 15% of the electorate.

Because the votes would not be counted locally, the electoral commission had devised a series of procedures meant to ensure that each ballot box could be traced back to its polling station. Kriegler said the procedures were “all beautiful—in Scandinavia. In Scandinavia you don’t need it. In Africa you do need it, and it doesn’t work. Well, it certainly didn’t work for us.”

The problems started when exhausted electoral workers showed up at the counting stations to drop off the ballot boxes. “These people had been on duty for 48 and 72 hours. They weren’t going to go and sit in a long line of motor cars, waiting another four or five hours while hundreds of ballot boxes are being signed in, in triplicate, and stamped,” Kriegler said. “They came in and they said, ‘Here are your boxes. We’ve done our job, and we’re going to sleep.’ Some of them slept there; they didn’t move any further, they were so tired.”

The commission soon realized there were major problems with the accuracy of the vote count. Party agents at some counting stations

could not agree on the final result, and long delays raised concerns. The commission decided to send commissioners to different counting stations to settle disputes and move the counting process along. Van der Ross was sent to the Pretoria showgrounds to settle a dispute between the Freedom Front and other parties.

Kriegler went to Nasrec. “When I got there, there was a mountain—you know, I actually still get nightmares about it—a mountain, it must have been three meters high, 20 meters, 30 meters in diameter, of ballot boxes. Nobody had signed them in,” he said. Because the paperwork was missing and nobody had any idea where the boxes had come from, officials there had decided not to count the ballots. Kriegler decided that the votes should be counted anyway, even though it would be impossible to reconcile the ballot boxes’ paperwork.

“I couldn’t see any alternative. I still can’t see any alternative,” Kriegler said. “We would have had three million people who had stood for hours in the sun being disenfranchised because our process was defective? Because we couldn’t handle the volume of material? It could never be justified. ... We would have had to have a new national election, because we didn’t have a voters roll.”

In Durban, Nupen was called in to mediate a dispute over ballot boxes. He described his mediation skills as being “tested to the limits” that day. He recalled Kriegler’s decision not to reconcile the ballot boxes: “It was a very tough decision to make, and people could have cried foul. But ... I think there was just a collective wisdom that said we have to have an outcome.”

Aside from the problem of reconciling the ballot boxes, some counting stations had staffing difficulties.

Sibiya, head of the KwaZulu-Natal provincial monitoring directorate, said the counting station to which he was assigned experienced a major problem when the voting in

KwaZulu was extended. The original 2,500 people who had been hired to count the votes were told by the commission to come a day later. The commission soon realized it had made a mistake: Many of the ballot boxes were arriving on schedule and the votes needed to be counted. Because the commission had no way of contacting the vote counters in such a short period of time, it decided to hire new vote counters. The original vote counters, however, soon heard by word of mouth that their jobs had been taken by others, and many showed up to complain.

“At some stage we had almost 3,000–4,000 people converging in the same counting station,” said Sibiya, who was redeployed to sort out the mess.

When the counting started around the country, Camay set up a Manual Verification Unit within the Monitoring Directorate to double-check that the results were being tallied properly. He said the procedure was similar to parallel-vote tabulation, except that it was not being carried out simultaneously. About four hours into the process, the staff members carrying out the exercise discovered a problem.

“We were finding that as the computerized results were being entered, some parties were being allocated a certain percentage increase, and it varied within 10% and 20%,” Camay said. “So every vote that was counted for the ANC, two other parties were getting either a 10% or 20% vote as well.” The commissioners had a long debate about what to do and eventually decided to let the system continue and to set up a new counting system with new computers. “My argument was that whoever’s fiddling with the system, let them not become aware that we are onto them or what’s happening,” said Camay.

The monitoring directorate hired several audit firms to provide clerks who would monitor the directorate’s data input into the new system. “So there was somebody standing physically over

their shoulder,” Camay said. “And that person could not move. If he wanted to take a toilet break, that person shut down their computer and moved away as well. So we were quite strict and rigid about what could and could not happen. And then we were eventually able to deliver the vote and the final number to Judge Kriegler.”

Kriegler had to deal with various complaints from the parties before they accepted the results. The National Party complained about the Northern Province, the ANC complained about KwaZulu-Natal, and the IFP complained about many different areas. But they all eventually agreed to accept the results.

The last party to hold out was the Democratic Party, which wanted to get a court order to block the announcement of the results. Kriegler agreed with the Democratic Party that the elections had not been perfect, and he offered to make his secretary available so she could help them draft their urgent application to court.

“But just before you actually do that,” Kriegler recalled asking Tony Leon, who later led the party, “would you please go back to Dr. de Beer—who was the leader of the party—and say to him, ‘Is *this* what he’s lived for? Is *this* what he wants to do?’ Fine.” When Leon returned, he confirmed that de Beer and the Democratic Party would accept the result.

Kriegler traveled to the media center at Nasrec on the afternoon of 6 May to announce the results. “While I was talking to the media,” Kriegler said, “Elklit [one of the international electoral commissioners] was doing the final calculations on a notepad. But by the time we announced the result, every single counting station had reported and had been taken into account.”

The ANC won the election with 62.2% of the vote, enough to take the lead in the planned Government of National Unity but less than the two-thirds majority it would have needed to

change the constitution on its own. The National Party received 20.6% of the vote, surpassing the 20% threshold needed to nominate a vice president to the new government. The IFP received 10.4% of the national vote but reached its main goal of winning KwaZulu-Natal’s provincial election.

In 2010 a few dissenting voices continued to assert that the final result was a negotiated settlement among the parties and that the commission had played a role in manipulating the votes to suit this settlement. Kriegler vehemently denied this assertion. “There was no manipulation,” he said. “There wasn’t time to manipulate. I would have loved to say to people that I was on top of the process. I wasn’t. We were hurtling along on a wave.”

## ASSESSING RESULTS

Speaking in 2010, people close to the electoral process in 1994 offered a variety of explanations for why the elections were successful despite daunting challenges and imperfect administration.

“I think the important thing was at the end of the day people lived with the outcome because it was more important for the country to move forward on the basis of what people generally regarded as an acceptable outcome,” Nupen said.

Sibiya reflected on his personal experience: “If you look at the acceptance of results in KwaZulu-Natal, then it comes to a Mandela factor. It was ... Mr. Nelson Mandela who persuaded the ANC in KwaZulu-Natal to accept the elections.”

Van der Ross stressed Kriegler’s key role. “This country will never, ever understand what it owes that man,” van der Ross said. “I mean, he was fantastic. He was absolutely fantastic. He was calm; he never lost his composure.” Van der Ross gave overall credit for the success of the elections to the South African people. “If you ask me why it worked, it worked because the

people of South Africa really wanted it to work,” he said.

Du Plessis suggested the fact that just one minor party-financing case was taken to the electoral court was a reflection, in part, of the electoral commission’s efficiency at dealing with politically sensitive issues. Camay agreed: “We were able to attack the problems where they occurred. We were able to localize the problem and make sure that it didn’t manifest itself as a national problem.”

Interviewees agreed that the election suffered from serious logistical problems, and several people tried to explain why these difficulties did not derail the process. “The big weakness of the ’94 electoral commission—but at the same time, probably, its strength—was that a lot of people were actually doing the same thing, without the others knowing that they were doing it,” du Plessis said. “Everybody just found themselves a job.”

To illustrate his point, du Plessis told a story about a man who started asking people around the commission for a salary: “Eventually the staff people referred him to me. ‘Do you know this guy?’ ‘No, I don’t know this guy.’ [I] started talking to him, ‘What are you doing here? How did you get here?’ And he said, ‘I heard Judge Kriegler on TV saying that we must roll up our sleeves and come and help.’ So he rolled up his sleeves, found his way into the office, found something useful to do. ... That was how that election worked.”

## REFLECTIONS

Several aspects of the electoral process in 1994 were clearly unique to South Africa. Although the elections were not a model of electoral administration, those involved spoke with pride of their country’s experience and pointed to important lessons.

Norman du Plessis stressed the electoral commission’s financial independence from outside donors. “We did our own election, with

our own money, instead of having some sponsor somewhere else whose ideas then get imposed on you,” he said. Although South Africa’s elections were expensive—the election commission spent almost US\$257 million, and the country was forced to introduce a one-year, 5% tax increase to pay the bills—the electoral commissioners benefited from the country’s financial independence from donors, he said.

Related to the electoral commission’s financial independence was its flexibility. The commission ran into many problems during its four-month effort, but at each stage the group was able to identify, and pay for, solutions. Ben van der Ross was able to bring in private-sector help to fix the polling-station problem. The Inkatha Freedom Party’s last-minute entry into the elections was made possible because the commission could command the resources necessary to print and affix the stickers to the bottom of the ballot and reimburse the National Party for its wasted campaign money. The polling-station supply shortages could be addressed because the commission was able to print millions of new ballots. The commission’s flexibility, particularly its budgetary flexibility, was crucial.

Charles Nupen emphasized that the Monitoring Directorate harnessed conflict-management skills and embedded them in the election administration. He suggested the electoral commission’s focus on prevention rather than punishment of transgressions held valuable lessons for other countries. He tied this to the party liaison committee, which, in a fashion similar to the Monitoring Directorate, drew directly on the experiences of the peace committees that communities established following the signing of the National Peace Accord.

Although the Monitoring Directorate did not become a permanent feature of South Africa’s electoral administration, it was a vital structure in the country’s transitional elections.

The presence of the Monitoring Directorate made it possible for the commission to draw on the skills and expertise of the only state structure that had any experience of running elections, the Department of Home Affairs. Because the scale of the 1994 elections was so much larger than previous votes, the commission ultimately realized the Home Affairs expertise was limited. Nevertheless, a number of the Home Affairs staff, such as du Plessis, proved vital to the commission's operations. Without the Monitoring Directorate, the previously banned political parties would never have allowed Home Affairs staff to be involved.

In addition, the Monitoring Directorate played an unforeseen but crucial role in administering the elections. At the local level, the commission redeployed Monitoring Directorate staff when the Electoral Administration Directorate faltered. More

important, however, was the Monitoring Directorate's Manual Verification Unit, which successfully detected an attempt to allocate additional votes to certain parties as the results were being computerized. Without the manual verification unit's efforts, the election could have hinged on those inaccurate results.

The commission's timetable was clearly too short. Speaking in 2010, du Plessis, who worked in the electoral commission's Administration Directorate in 1994 and continued to work for the commission in subsequent years, said, "To put an election together, if we talk about our current environment, it's something that takes two, three years." However, at the time South Africa, like many post-conflict countries, had to move fast. The Kriegler commission's experience points to some useful innovations under these circumstances and offers important cautions.

<sup>i</sup> Independent Electoral Commission Act, 1993 [No. 150 of 1993] – G15183, Chapter 2, 5 (2)

<sup>ii</sup> Report of the Independent Electoral Commission, *The South African Elections of April 1994*, page 27

<sup>iii</sup> South African History Online, 'The Move to Democracy—Threats to Negotiations,' Accessed November 23, 2010 <http://www.sahistory.org.za/pages/hands-on-classroom/classroom/pages/projects/grade12/lesson11/06-threats.htm>

<sup>iv</sup> Anglin, Douglas. 'International Monitoring of the Transition to Democracy in South Africa, 1992-1994.' *African Affairs*, Vol. 94, No.377. October 1995, page 519.

<sup>v</sup> *Ibid*, page 41

<sup>vi</sup> *Ibid*, page 54

<sup>vii</sup> Kraft, Scott. 'ANC Supporters Rout Candidates from Settlement.' *Los Angeles Times*, April 14, 1994

<sup>viii</sup> Anglin, Douglas. 'International Monitoring of the Transition to Democracy in South Africa, 1992-1994.' *African Affairs*, Vol. 94, No.377. October 1995, page 520.

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