



INNOVATIONS FOR SUCCESSFUL SOCIETIES

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MAWSON: My name is Amy Mawson, and I am here to interview Judge Johann Kriegler in Johannesburg, South Africa. First, thank you very much for agreeing to this interview and giving us some of your valuable time. We really appreciate it.

KRIEGLER: *You're welcome.*

MAWSON: I would like to start off by asking you a very general question. How did you come to be appointed to the IEC (Independent Electoral Commission)?

KRIEGLER: *I think it was a consensus decision between the political role players and negotiators at the time. I was a member of the highest court in the country at the time, the Appellate Division, apolitical, regarded I suppose as independent. Perhaps even a little bit of a maverick.*

I think there was consensus that the chair should be a judge. I think that the South African judiciary, by and large, was suspect as far as the liberation movements were concerned. It obviously had to be a South African judge. You know, there were probably half a dozen possibilities, Richard Goldstone must have been one of them; the existing Chief Justice, Michael Corbett, must have been one of them. They both had other work to do at the time so, yes, I think—I haven't heard from anybody behind the scenes really why the lot fell to me.

MAWSON: So what were you doing when you got the phone call asking you to chair the IEC?

KRIEGLER: *You mean literally? I was at that stage a judge of the appeal court, but I was on Christmas vacation at the seaside. I came back from the beach, and the maid said that there had been a phone call for me from the minister. I didn't know which minister. I phoned him back. Children were making a bit of a noise in the background and I wasn't hearing particularly well. I accepted the job, which I thought was to chair the Electoral Court, which would be a very minor, short-term little stint.*

He said would I please come to Cape Town next Monday, and I said fine. I headed back to Pretoria, where I was living at the time, got on the plane to Cape Town, and on the plane met somebody that I knew at a distance who congratulated me on being the chair of the new Electoral Commission. I said, "I think you're making a mistake; I'm chairing the Electoral Court." He said, "No, no, you've made a very serious mistake, sir." That's how it happened. I fell into it by default and mistake.

MAWSON: What were the first few meetings like? You had a first meeting towards the end of '93?

KRIEGLER: *We had a very, very preliminary meeting of some of the people. By the time I got to Cape Town, all of the South African members had not yet been contacted. I think they'd all been identified. Certainly, the internationals that were added had not yet—several of them had not really been identified yet. In the result, the first meeting was sort of a preliminary meeting about a meeting.*

Our first real meeting was in the first week of January, when we met in Cape Town and had a look at one another and said who we are. Most of us had not met before; we didn't know one another. We were a pretty eclectic body, coming from all sorts of necks of the wood. Then started looking at the legislation and the planning of what we had to do.

MAWSON: Was that in January when you started looking at the legislation?

KRIEGLER: *In January. Fortunately, we didn't consult experts all that seriously. When we did talk to experts a little while later, we were told it was an impossibility, you cannot organize the elections that we had to organize within 18 months to two years. We had a little under four months. They said, "You can't do it." Then indeed, in retrospect, the fact that we had to do everything on the gallop made a lot of the decisions easier, eased a lot of the bottlenecks, everybody being acutely aware of the crisis proportions of what we were dealing with, and there wasn't time for personality disputes and minor procedural issues.*

We made enormous mistakes also, but I don't think the job could have been done in a year. It could be done in four months or in two years, but not in between. I think we took one decision at that first meeting. I think it was the 6th of January, which was that the date, the 27th of April, was graven in stone. We would not move the election; there would be no postponement. We had been given a political imperative and we would work within that imperative. Anything else had to give to that. The date had assumed enormous emotional significance in the country already by then. I think the date was actually agreed in Washington between the various honest brokers and the two sides. So we decided it would have to be the 27th of April, come hell or high water, and that was good for us.

We had no staff. We were given some civil servants. Some of the government's existing structures—the Department of Home Affairs used to run elections under the Nationalist regime—oh, before that, the old South Africa. We were given the secretary, the head of the department, secretary general of the Department of Home Affairs, who was a very useful man because he knew his way around the civil service and about the bureaucracy and how to get things done and who to talk to at the government printer. But he knew nothing about elections. He'd never run an election himself. But we also got Norman du Plessis who was "Mr. Elections," behind the scenes at the Department of Home Affairs. He ultimately proved invaluable.

MAWSON: The name of the Secretary General, that was Piet Colyn?

KRIEGLER: *Piet Colyn. Piet Colyn is a good man but he was no electoral expert. He brought some of his team with him. The political dimension is more important and should be mentioned. There was, at that stage, tremendous suspicion, understandably. Colyn and his team were regarded by certainly some of the commissioners as unacceptable, as likely to try to pervert the process. The suspicion ran deep. We were, for instance, although we had a system of proportional representation, it wasn't a blanket, national, open list. The nine provinces that were created were individually also electoral colleges for one-half of the National Assembly seats. So we had to do an estimate of the population of each of these nine new entities. The existing census data were not trusted by the ANC (African National Congress) or ANC-minded members of the commission.*

MAWSON: And you didn't have a voters' roll.

KRIEGLER: *We didn't have a voters' roll. We subsequently found out, years later when I was working with the permanent Electoral Commission, that doing a voters' roll is a fascinating experience in a country such as this, where you have very large segments of rural dwellers, very often migrant or migrant to the extent that they move one, two, three, four miles down the road. I found it in East Timor as well—fascinating. Villagers just move overnight. So the absence of a voters' roll was a major problem. We didn't know what the voting-age population was. The*

legislation relating to the franchise was pretty wooly—understandably so. It was all being done at the negotiating table and give-and-take. Often the parties resorted to what they called constructive ambiguity, which enabled both sets of negotiators to go back to their principals and say “We won.” Those victories came home to roost later.

So voters’ roll, calculation of population, establishing a staff structure were the first major issues we looked at.

MAWSON: Right at the beginning, when you met on the 6th of January, what challenges did you anticipate? You’ve already laid out a couple—the fact that there wasn’t a voters’ roll and that you didn’t know how many people were going to vote. You also mentioned the problem of suspicion. Could you mention any other challenges that you were anticipating?

KRIEGLER: *Yes. I would like to claim that we saw all of these challenges at the first meeting but we did not have that perspicacity. I think many of these problems only dawned on us as time went on. I think the first thing we looked at at the beginning was to get a staff structure. We didn’t have offices, we didn’t have a computer. We didn’t have a telephone. We had to start literally from the ground. The government had provisionally hired premises for us where the negotiations had taken place up near the international airport. We moved in there. It turned out to be a disastrous choice. Our staff couldn’t get there; there was no public transport there. The phone lines were inadequate. The cables couldn’t bear the additional burden of what we were looking at. So in midstream we had to move to downtown Johannesburg. But we were looking at the beginning at the most fundamental things.*

MAWSON: When did you move to Johannesburg?

KRIEGLER: *Early February.*

MAWSON: Just about a month after.

KRIEGLER: *A month afterwards. Which was a major disruption. But believe it or not we closed at the old building at 6 or 7 in the evening and started at 7 the next morning in Johannesburg.*

MAWSON: You must have had quite a team working through the night.

KRIEGLER: *And who had been working over a period of weeks in identifying the place and negotiating with the landlords and getting it equipped. Yes. Then the movers came in overnight and moved the desks and the computers. It was a remarkable exercise in logistics.*

To go back to your question of the challenges we saw at the beginning. I think the political challenges were probably foremost in our minds. There was still a very high degree of suspicion. You know the animosity at CODESA (Convention for a Democratic South Africa) had not ever really died down, and we were facing a competitive, politically competitive situation where we had this incubus of centuries of racism and animosities, injustice, sense of entitlement on the one hand and sense of loss on the part of the whites. So it was, politically it was, I think, the most difficult one.

Let me make a point before I forget it. The one lesson I learned, I personally learned, above all else over the period of the next four months was how to find

consensus among dissentients, and we did it. Throughout the four months that we functioned, the sessions that went to a vote you could count on the fingers of your one hand. In fact, I think there were three. But anyway, we talked through, can you live with this? Is that really essential? Can this not work and that not work? We started with that, for instance, on the census figures. Let's take the official figures as a starting point and then we can hand them to others to look at—that sort of thing.

MAWSON: So did the composition of the IEC have an impact on the level of suspicion?

KRIEGLER: *Oh certainly. We had people from each of the main camps in the country. I think, frankly, I was the only one who had no political connection whatsoever.*

MAWSON: Related to the suspicion that was so prevalent during that time, I've read about a number of different things that emerged to overcome some of that suspicion. I'm thinking specifically here of the Monitoring Directorate and the party liaison committees. Could tell me a little bit about how the Monitoring Directorate came to be? Where the idea came from and how it got put together?

KRIEGLER: *The basic structure of the IEC within the administration branch and the monitoring branch being built into it came from the TEC, Transitional Executive Council. It wasn't our idea; it was given to us as a given. Its existence is logical. It manifests the common sense of the negotiating parties. Who runs the elections? Well there's nobody other than this body. Yes, but this body is going to rely heavily on the existing regime's agencies. We don't trust them. Well, then let's give you a sort of military police presence within the military to monitor the administration branch. A compromise, and it worked. In fact, by a curious happenstance it subsequently saved the electoral process, the fact that we had these two parallel systems working.*

But the monitoring section was a very difficult one to handle financially. It doubled the expense. Peter Harris who headed it was a man of outstanding administrative ability and leadership and vision.

MAWSON: So did the Monitoring Directorate start working at the same time as the IEC?

KRIEGLER: *Yes. All started at the same time. Monitoring—except for electoral day staff. The monitoring division was bigger than the administration division, and it certainly had more, and more competent staff, than the administration division, which drew largely on the bureaucracy and the broader bureaucracy at the provincial and local government level.*

Whereas Peter Harris' lot drew very largely on the NGO (nongovernment organization) community. It added, as I say, to our overhead very substantially but it was well worth the expense ultimately, as it turned out.

MAWSON: Did the monitoring directorate work at all levels throughout the administration?

KRIEGLER: *Oh yes.*

MAWSON: All the way through, from provincial level down?

KRIEGLER: *Yes, and right down to the voting-station level, where we didn't get to until much later in the administration. But I suppose—it is an uncomfortable analogy, but I think it is pretty much like the commissars in the Red Army. You had a watchdog all the way down. The monitors, subsequently, some of them proved very*

difficult. They became a force unto themselves and wouldn't allow people into counting stations in four or five places in the country because their wages hadn't been paid or because they wanted an adjustment of their wages or whatever.

MAWSON: Wouldn't allow which people—party agents?

KRIEGLER: *The people who were supposed to go and do the job. Eventually, we had an inundation, an invasion of the IEC's head office in downtown Johannesburg by several hundred irate monitors from somewhere on the eastern side of Johannesburg.*

MAWSON: That was during the count?

KRIEGLER: *During the count. We had to get the police to clear them out. It was unpleasant but it was all part of the process. Anyway, the monitoring division mirrored the administration by and large all the way down.*

MAWSON: I have heard that some people in the administration directorate were frustrated by the fact that the monitoring directorate was better resourced and had better staff. Was that a feeling throughout the IEC?

KRIEGLER: *I can't say that. I am sure that a large number of senior management people felt that way. I didn't, because I knew it was a political imperative. I was right, because if it weren't for the monitors as an independent branch, then during the data collation period—when we found the database had been invaded, broken into—we could switch over to the monitoring division's database, which was inviolate.*

MAWSON: We'll put that on the back burner for a second. The other thing I wanted to ask you about then was the party liaison committees. I have heard that these worked very well and were crucial to the elections.

KRIEGLER: *Fully endorse that. I think it is the one invention that we improved upon that I'm particularly proud of. I have tried to introduce it in every polity where I've worked elsewhere. People don't want to accept it; it's not easy. But it really does work. I think it worked here because we had already the political will to compromise. The whole CODESA process, the whole negotiation process meant that there was an atmosphere of give and take that percolated down from the very highest echelons. So our national political liaison committee was chaired by Eso Packard. [Eso Packard] is a very, very tough politician, takes no prisoners. But he ran that committee brilliantly.*

He put aside very often his own strongly pro-ANC sentiments, and they worked at the national level. Once that worked, it was relatively easy to duplicate it or replicate it at the provincial level right down to the voting- station level in some places. In a large number of places, the committees existed in theory only. It would be silly to suggest that there was an IFP (Inkatha Freedom Party) presence in the Transkei or a DP (Democratic Party) presence in Suweto or an ANC presence in deep KwaZulu. There were spheres of influence which were essentially one-party areas. We did other things about that which we may or may not get to.

But the party liaison committees worked substantially yes, making allowance for this strong balkanization of the country politically.

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- MAWSON: Concerning the structure of these committees, were they set up right at the beginning?
- KRIEGLER: *Certainly, the national committee was set up right at the beginning. By the end of January it was up and running. In fact, it saved the bacon for us many a time, because we would not take any strategic decision without running it passed that committee, and if they thought it necessary they would go to the subsidiary committees. So our move from the World Trade Center into downtown Johannesburg was a decision we took in consultation with, or rather let's say after consultation with. They didn't have a veto but they always had a voice.*
- Many of the subsequent, ad hoc statutory amendments that we had to ask for, and regulatory changes we had to implement were all done in consultation with them. So that it was on the basis of speak now or forever hold your peace.*
- MAWSON: And was the national committee made up of the party leaders?
- KRIEGLER: *No, not the leaders. It is important that it is not the leaders. It is the administrators within the party. The people who really don't go out on the platforms and make the speeches. But it is the people who have got to arrange the local hall or talk to the traffic chief about holding a procession or talking to that opposite number about are you going to using that hall on Saturday. People at that executive level but not political leadership.*
- MAWSON: I see, and earlier on you mentioned that if the issues weren't resolved in the national committee they went to subsidiary committees. Were these at the provincial level?
- KRIEGLER: *Provincial level and down to—yes, provincial level by and large.*
- MAWSON: So it was almost a network of information?
- KRIEGLER: *That's right. In fact, that's one of the major problems we encountered throughout is communication. You're working in an office building in Johannesburg, but what is actually happening out there? Is your message getting through? That goes for voter education of all kinds. Are your instructions to your polling station staff getting through? I think by and large human nature, and very much African human nature, to say what you think the inquirer wants to hear. So you get very positive feedback, which is often quite misleading.*
- MAWSON: How did you access parts of the country that might be hostile to the work of the IEC or hostile to the work of specific parties? I have read references to this program called Operation Access. How was Operation Access conceived?
- KRIEGLER: *Operation Access was created somewhere I think the beginning of March in order specifically to counter the feature of no-go areas. The party liaison committees, with the best will in the world, couldn't ensure free access at all places at all times, although the monitors helped a great deal and the parties had monitors who worked with our monitors to ensure that electoral violence was virtually unknown. But still there were areas of manifest inability, largely at the beginning, at the instance of the ANC. There were complaints that they could not campaign in the white farming areas where public transport didn't exist, where public facilities, community halls, and such like didn't exist and where, if you had to go and canvass voters on a farm, you would have to have the permission of the farmer—the farmer, who was most unlikely to allow "terrorists" onto his*

property. These were the enemy who was shooting at them two years ago when that sell-out de Klerk went and sold us down the river.

MAWSON: That was the attitude of the farmers?

KRIEGLER: *That was, in some areas certainly. We then created this agency where we, through a senior chap who came to us, just retired from one of the mining houses, I can't remember his name. I can find it for you. He was a remarkable chap, died not long afterwards. He ran this, and it was countrywide, not blanketing the country but it moved. There are some fabulous photographs from the northwest, very nearly on the fringes of the Kalahari Desert in the Richtersveld, where they went with Operation Access and up in the remote reaches of what is now Limpopo province, deep KwaZulu-Natal. What we would do is we would liaise with the local party structures and organize a meeting, a meeting held under the aegis of the IEC.*

So whoever disrupted this meeting was acting with hostile intent to the IEC; we were the hosts. Each of the parties was given an option: Do you want to put up a speaker, do you not? They were given equal time, were given each a short space of time in order to reply to one another and would then address the crowd in rotation.

MAWSON: So it was about getting access for the parties so they could campaign. But was it also about getting access for the IEC so they could do their work at polling stations?

KRIEGLER: *No. This was purely about campaigning and canvassing, getting access for the party structures to the electorate. Operation Access had nothing to do with our access. Our access was done at the political level. Of course, we did have access in the overwhelming spread of the country because the ANC and the government, the National Party government, were in favor of the elections. But there were the boycott areas. There was first of all the Ciskei for a short while held out and then, the lord be praised, there was bloodshed and everybody got a fright. The Ciskei agreed to come into the electoral process.*

MAWSON: There was bloodshed between who?

KRIEGLER: *Police fired on a crowd, very unwisely, very tragically. But it taught everybody a very salutary lesson. You know this political background. The constitutional background. I'm not going to bore you with that.*

But Bophuthatswana held out, (Lucas) Mangope believed his own propaganda and Buthelezi held out. It was not theoretically, in quotes, "independent," he was very strongly in favor of a federal system. He was very strongly in favor of protecting local Zulu rights against what he saw was an overwhelming majority of non-Zulus. I think he was genuinely anti-Communist and he was not prepared to go into the elections unless the constitution was much more federally structured than it was.

MAWSON: Some of these problematic homelands leaders joined with the white right, to form the Concerned South Africans Group, COSAG, which later became the Freedom Alliance. So did you deal with them as a group or individually?

KRIEGLER: *We dealt with them largely through the TEC. It was a political exercise. It turned out to be a major problem in Bophuthatswana. A delegation went out to go and try to persuade them to join the process. We saw the cabinet.*

MAWSON: This was in March sometime?

KRIEGLER: *Late-ish March.*

MAWSON: This was after the ADF and the AWB (Afrikaner Weerstandsbeweging) had been in the—

KRIEGLER: *No, no, the very day that they were—the very day that we were in Mmabatho was the very day that the shooting took place. It was another salutary blood-letting. I think that did more—not I think, I know, it is historically established, that that fiasco, AWB fiasco caused Constand Viljoen to turn his back finally on the lunatic fringe.*

MAWSON: Just for the record, the AWB incident was a shooting that took place within Bophuthatswana when the Bophuthatswana Defense Forces opened fire?

KRIEGLER: *Well, the AWB put together a posse in the white rural areas near Bophuthatswana in the northwestern part of the country. They ostensibly went to support Mangope in his resistance to the elections. It was badly organized, it was ill-disciplined, it was even worse led, and it was a fiasco. The Bophuthatswana Defense Force, which was largely ANC-minded anyway, it was probably largely in favor of joining the electoral process, wasn't going to let these white racists come and run their show. So shooting ensued. The AWB didn't come second, they came third. They were publicly humiliated. There was television footage that shocked the country to its back teeth of white AWB members actually lying, dying next to their motor cars in the sunshine of Bophuthatswana in the late autumn of a March day. I think that put the fear of God into a lot of the right-wing extremists. It was no longer the 19th century, where you were fighting people who had spears and you had firearms.*

So it was a very sobering experience and certainly it caused Viljoen, the former Chief of the Defense Force and a fairly messianic figure, to turn his back on the extremists. They subsequently joined the electoral process. It was an interesting little story, how we managed to get them to register at the 11th hour.

MAWSON: Please tell us about that.

KRIEGLER: *[Chuckling] I can't give you the detail any longer. All I know is that my attitude, and I think the attitude of the majority of the commission, was that this election is about reconciliation. It is about inclusivity. It is trying to get as many people as possible to participate in the process. The legitimacy of the outcome will depend upon the degree to which the electorate participate. So much so that the legislation permitted, and we facilitated, residents who are not South African citizens to vote. So to exclude any grouping of South Africans would have been a strategic mistake. So we extended that period, the deadline for registration, for participation. Eventually I know that the PAC (Pan Africanist Congress) and the Freedom Front came in late, after the deadline. Norman du Plessis can tell you the story of the, certainly the PAC lady, Patricia de Lille, wonderful political genius, now runs her own party, apologizing for it being very late. There was the clock showing twenty to one in the morning. Du Plessis saying, "It looks like five to twelve to me." That sort of thing.*

Of course we bent the rules. We bent the rules I think in the right direction. Likewise with the Freedom Front. I actually said to the man who was bringing the papers, "Never mind what time you get here, see that you get here, come and file

your documents. Deadlines are for newspapers; deadlines are not for us. Let's get them in." But it all stemmed from that shooting in the sunlight. That made it possible.

We then had a very difficult exercise in KwaZulu-Natal.

MAWSON: Before the IFP joined the elections, how did you access KwaZulu Natal to decide where polling stations should be located?

KRIEGLER: *We couldn't. The whole of the then self-governing homeland of KwaZulu was verboten to us. It was closed territory. I've know (Mangosuthu) Buthelezi many, many years. I was his counsel a million years ago when I was still practicing law. We had respect for one another, and I had tried my best on a personal or historical association level. He stuck to his guns. I went down to go and see him in Durban. We sent a delegation down to go and see them at Ngoma, where Buthelezi ran a fabulous exercise of public humiliation of the IEC. He stage-managed it beautifully.*

Buthelezi organized the process. He readily said if the IEC wants to come and see the cabinet and His Majesty we're very welcome to do so. We sent a delegation down. I think there were six or eight of us including Helen Suzman, who was an old friend of the prince's. First they interviewed in private. I was asked, or given a nod to say something. I started introducing the reason why we were there and the importance of the elections. Buthelezi then cut me down and said, "You don't speak to the king first, the king must speak to you first. This is in our culture." Down, Fido.

Then we were taken to the big circular building, triple volume, treble volume, legislative assembly building with serried ranks of seats going up and at the top a gallery. They had bused in hundreds of people in white shirts and black pants or black skirts, packed. We were going to put our case to the legislative assembly. The circus operator, Barnum and Bailey—. We sat in a little corner between 12 o'clock and 1 o'clock. From 1 o'clock to 12 o'clock was Zulus. When the King came in Buthelezi led them in their chant, Bayete! louder and louder which is the cry "Hail to the king, you are an elephant." This crescendo thundering. I was—when the airplane came over I was about to say my schizophrenia—I was sitting looking at this, being amused by it, but at the same time being intimidated to hell by it.

I actually did enjoy the exercise, it was beautifully done. Then they stage-managed it and they had leader after leader and prince this and prince that and prince so and so, each touching on a separate aspect of their case. They had worked it out very, very carefully and we left, humiliated.

MAWSON: I have heard that you spoke to the Assembly and defended the IEC steadfastly, could you comment on that?

KRIEGLER: *I wasn't intimidated. I thought that they would not take kindly to weakness on our part so I was pretty confrontational in a response. I thought I owed it to them and I owed it to the IEC. I think we left with our honor preserved but our nerves a little jangled.*

MAWSON: When did this event take place?

KRIEGLER: *I think this was probably the first week of April.*

MAWSON: So this was before the IFP joined?

KRIEGLER: *Certainly. I can remember, the one time I was scared was when we were walking from the little airport building to our airplane across hundreds of yards of open territory and I thought some nut may just want to shoot at us. I wasn't afraid of anything like that where the IFP was in control, but lunatics are always around. But anyway, it didn't work.*

So we had the whole of KwaZulu excluded from the electoral process.

MAWSON: So you weren't planning on any polling stations?

KRIEGLER: *We were refused access to plan any. We had plans for them. We had identified buildings. I must tell you this: The existing Department of Home Affairs had very kindly told us early on in January that they had a list of potential polling stations. We were looking for between 9,000 and 10,000 polling stations around the country and they had a list of about 9,300 I think. Lovely to have that under your belt; it is a very major job requiring an enormous amount of skilled, logistical inquiry.*

MAWSON: How did the Department of Home Affairs have that list? How had they managed to develop it?

KRIEGLER: *They had done it provisionally during the course of 2003—sorry, '93, as it transpired that an election was in the offing. Somewhere around the third week of February we tumbled to the horrible truth that the list was useless. 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. So we had to start from scratch somewhere around the 20th of February identifying polling stations.*

We identified schools, post offices, community halls, churches where they were prepared to make them available. We knew where the schools and the community halls and the such were in KwaZulu. We knew more or less what the population distribution was; that was part of the national census data. But we couldn't actually go and identify or go to a local authority and conclude an agreement.

MAWSON: Was that only a problem in KwaZulu?

KRIEGLER: *Only in KwaZulu then. We had been able to get into Bophuthatswana fairly early; it's a much smaller population, it's a much easier terrain. Although the roads aren't particularly good, it's a drier area, it's not a mountainous area, it's largely flat, dry land. Then the population is largely nice, quiet Bophuthatswana people that you can talk to. Zulus are a horse of a different hoof print. So it was tricky in KwaZulu. The area is difficult, it's high-rainfall area, late summer, early autumn. Difficult climatologically, topographically, and of course just in terms of people.*

MAWSON: So it was difficult to identify the polling stations. But then it must have also been almost impossible to do any voter education?

KRIEGLER: *We did none.*

MAWSON: So even in that last week, when the IFP finally did join the electoral process, what about a week before the election?

KRIEGLER: Yes.

MAWSON: Then were you able to do some voter education?

KRIEGLER: *Honey child, what are we talking about? What voter education? You're talking to an extremely well-traveled cynic about voter education. Are we talking about civic?*

MAWSON: I'm talking specifically about how to exercise your vote.

KRIEGLER: *The IFP did that, don't you worry. The IFP did like the ANC did it in the Eastern Cape.*

They took over and frankly I believe that that is—if you've got active political parties, it's their job. They did it well. We had a fairly indulgent policy when it came to the count as to what would constitute a spoiled paper or not, but not uniquely indulgent. If it was reasonably clear what the voter's choice was, you counted the ballot—which I think should always be the norm, by and large. We had very few spoiled papers around the country, very, very few. The ballot paper was well designed. It had the images of the political leaders; it had their colors; it had a well demarcated with a block for the marking of the ballot paper.

MAWSON: Were you worried that the parties might control the voter education messages, meaning the voters would not get neutral information about the process?

KRIEGLER: *But of course. What's the alternative? There is no alternative. Who provides neutral information in the United States or in the United Kingdom. It is the political parties that put their programs. I believe, and I think that I can argue this in any forum anywhere in the world, that the exercise of elections is to allow the electorate to make a free choice, a free informed choice and to exercise that choice without hindrance. If you can allow them, as we did with Operation Access, exposure to the political parties, that's fine. Obviously, it is desirable that all of the political parties should be able to do that in all communities in the country. In this country, that was impossible then, it's still impossible and it will probably remain very difficult for a generation. But, at the same time, without being laissez-faire it is Africa, it's not Scandinavia. The average Zulu tribesman was going to vote IFP come hell or high water. And probably rightly so. The average Xhosa tribesman was going to vote ANC, probably advisedly so. I don't think that it would have made 5% difference if we had had Operation Access throughout the country in every constituency. People just weren't going to vote for the whites and they weren't going to vote for the Zulus or they weren't going to vote for the Xhosas.*

MAWSON: So Operation Access worked in which areas?

KRIEGLER: *It worked in largely peri-urban and white farming areas and urban areas. In Soweto and on the east Rand and so forth. But mostly people had made up their mind which way they were going to vote anyway. They voted according to historical allegiances. You won't get a change at the 11th hour. It wasn't whose budget is best or who is going to want the national health scheme or are you going to have Tony Blair up on the gallows for having started a war in Iraq—it's not that kind of country.*

MAWSON: Getting back to the meetings you had with Buthelezi. Aside from that time you went down to KwaZulu with the delegation, did you have any other meetings with him?

KRIEGLER: *No. I saw him on two other occasions. I once flew there to try to persuade him, and I saw him at a meeting in Durban as well.*

MAWSON: Do you remember when that was, roughly?

KRIEGLER: *March. Before we went as a delegation.*

MAWSON: Then Dikgang Moseneke, he was taking up some of the responsibilities for dealing with Buthelezi?

KRIEGLER: *Yes, what we did was we allocated a province to each commissioner to take, sort of political control of the administration and the running of the election in that particular province and Dikgang was KwaZulu-Natal, KwaZulu-Natal was his area. It was administratively and immediately politically his responsibility. I think he and Charles Nupen, as I recall.*

MAWSON: Yes. So they went down a few times?

KRIEGLER: *I don't think they did any negotiation before the election. No, they certainly had no mandate to do so.*

MAWSON: But then when the election started and the IFP—

KRIEGLER: *Well, what happened then is very, very interesting. We had the artwork ready for the printing of the ballot papers. Incidentally, the ballot papers were printed by De La Rue in Midlands of England. We were violently criticized by the South African printing industry for having done so and then by some politicians who got on the bandwagon and thought we were a good target. Fortunately, we had run that one past the national party liaison committee and they had actually insisted for credibility reasons, legitimacy reasons, that the papers be printed outside the country.*

Incidentally, I've never understood why people are so keen on not having ballot papers printed in the country. It is voodoo, it has nothing to do with reality. But be that as you may, if you run your election properly, you can print 57 million extra ballot papers, it will get you nowhere.

We had the artwork ready for the ballot papers and some of the ballot papers had already been printed and brought back to the country. We had the artwork for the IFP ready on a Saturday afternoon 10 days before the election. I was sitting in my office in downtown Johannesburg when Piet Colyn came to me and he said, "Here's a man who wants to talk to us." He must have been 6'2", 6'3" tall and just about that wide as well, black as the ace of spades. A man by the name of Washington Okumu, a Kenyan who wanted to know whether we would like him to—he'd come to talk to Buthelezi and what was my view and could we still—. In fact, he came to see me and I called Colyn in because Okumu wanted to know if the IFP came in could we still accommodate them.

MAWSON: Why was this Kenyan here?

KRIEGLER: *He had come to talk to Buthelezi. We had had the three wise men who were the Nigerian and Scandinavian, the three wise men who couldn't persuade Buthelezi to come in. It was (Henry) Kissinger led the delegation. They got nowhere.*

Washington Okumu came later. Okumu came on the Saturday afternoon. Colyn came in, he confirmed that if we had the information by the following Tuesday or Wednesday we could still make a pack. Okumu flew down to Nongoma in an executive jet put at his disposal by a Johannesburg businessman. He told me what he was going to say to Buthelezi, whether he did so, whether he was telling me the truth or whatever he did I don't know.

But the message he was going to take was: Prince Buthelezi, your name will live in African legend forever, either as the man who made the elections of liberation possible or as the man who frustrated them. You have the choice. I thought that's not a bad message to take, and it worked. Certainly, Sunday night, the first indication came that the IFP would join. We went—I went to a cabinet meeting on the Tuesday afternoon, 19 April. This was the extended cabinet, with (Nelson) Mandela et al. there and I confirmed that if they agreed, we could still accommodate the IFP. Of course, this was crucial—it's 20% of the electorate. Quite apart from being a very specific, identifiable, potential area of dissent. Just in terms of numbers, it was important. We, de Klerk, the National Party had been drawn at the foot of the ballot paper. You know we had a raffle as it were, and it had been a major feature of their campaign to their less literate supporters, vote for the man at the foot of the page. There was complaint about this. We said what we could do is we could put a sticker at the foot of the ballot paper. We could still get the stickers done and circulated. Whether we could have them stuck on in time was dicey, but we would do our best.

KRIEGLER: You know they were printed wrong?

MAWSON: No.

KRIEGLER: *The stickers were about a half a millimeter too small. Especially the head, the face was smaller in proportion to the others.*

To this day, nobody has ever said a word about it.

We then started identifying, equipping, staffing, proclaiming in the Government Gazette, I think 620, between 600 and 700 polling stations in KwaZulu-Natal.

MAWSON: That all had to be done at the last minute?

KRIEGLER: *Yes, find the staff, equip them, train them. In the result, they were ill-equipped—certainly ill-trained. They were probably largely ill-selected as well because we took schoolteachers and junior civil servants. In KwaZulu-Natal, they were overwhelmingly IFP. As in the Transkei, they were overwhelmingly ANC. So sauce for the goose and sauce for the gander. We also had to increase the number of polling stations in Transkei at the last moment very, very substantially. I think this was about four weeks before the election. One of the deputy administrative heads of the Electoral Commission was a civil servant from the former Transkei government and obviously pro-ANC, and he had insisted that we just about double up the voting stations in the Eastern Cape, in the rural areas. So people had much easier access because there was a broader spread.*

MAWSON: Do you feel that you came under a lot of that kind of political pressure?

KRIEGLER: Yes.

MAWSON: And how did you deal with it?

KRIEGLER: *You lived with it. You know the major exercise of printing the voter registration cards, I think in the last couple of weeks we provided something of the order of three million voter cards because you didn't have formal documentation for everybody and that was one form of identification. We had arguments about voting for prisoners. Caused the world's trouble. Whether people in prison would be enfranchised or not; whether some would be enfranchised and some wouldn't. Would it depend upon the nature of the offense for which they were serving a sentence or would it be the length of the sentence.*

MAWSON: When was that debate settled?

KRIEGLER: *Over a period of months from February right until the day before the election. The day before the election, there was an amendment to the qualification for prisoners to vote. The ANC was strongly pressing for everybody to be enfranchised. The nationalists and the government were strongly resisting it. We in the IEC were saying, for God's sake just make up your mind, just tell us, stop giving us contrary instructions twice a week. It was a very major problem and we had to send commissioners to various prisons around the country to go try and pacify people, explain to people.*

MAWSON: The issue of prisoner voting, was that the only issue that had to be worked out while you were still planning the elections? I have heard there were ongoing negotiations about a number of key things. What were the other issues that were still being worked out while the election was being prepared? I have heard there was a problem with the polling stations and the location of the ballot boxes which did not get resolved until the last month of preparations?

KRIEGLER: *They changed, in one fundamental respect, the whole voting process, did the politicians. I think in the first week of April. We were going to have one ballot paper. You were going to vote on one ballot paper, and that would then reflect in the province in which you voted and would reflect in the national Parliament. They negotiated and haggled about that one. I think the end of the first week in April we were told that we were going to have 10 elections, not one election. We were going to have nine provincial elections and a national election contemporaneously, and we needed extra ballot papers. We now needed provincial ballot papers. People would now be voting for their provincial legislatures separately. Obviously a major logistical problem.*

You know the—you've been involved in election academically; have you ever been involved on the ground?

MAWSON: No I have not.

KRIEGLER: *It is the most exciting, spectacular thing to be involved in for a number of reasons, even if you aren't a dedicated democrat such as I am. I get all starry-eyed about it. It is the sheer excitement of it. But it is the volume that frightens you. You don't realize what an enormously complex logistical exercise it is. If you have 10,000 voting stations, which we had, and you have 18 million voters and you have to provide a ballot paper in two elections, national and provincial for each of those at each polling station and you have got to ensure that you don't allow people to duplicate voting. You haven't got a voter's list on which you can mark them off. So you've got to have some other safeguard. So we said we'll mark their nails with ink. Oh, no, you can't mark their nails with ink because there at that stage still IFP was boycotting the election and the AWD continued to*

boycott the election. So you can't have people walking around with marks on their thumbs showing that we voted.

So it's got to be invisible ink, ink that is visible under ultraviolet. Fine. So then you need 10,000 ultraviolet scanners, at least a third of them in areas where there is no electricity. So they've got to be battery-operated. You've got to check that they worked.

MAWSON: When was this decided, that you would be using invisible ink and you would need to have all these lamps?

KRIEGLER: *In the course of March.*

We managed to borrow a large number of these from Lesotho, where they'd been using them before. The ink had to be special secret formula, hyper-secret formula, mixed in Washington and sent in drums from the United States. Total nonsense.

MAWSON: Why did it have to be secret?

KRIEGLER: *Because of security and legitimacy. You can't have—please, it makes no earthly sense. Who would go and put ink on his finger voluntarily if he hadn't voted?*

It's the other way around. No, people would work out the formula and they'll work out some way of obliterating the mark.

MAWSON: So this was all coming out of the ongoing party negotiations?

KRIEGLER: *Yes. We were dealing with these. You know, it's not just a decision. It is a decision that has to be transferred into regulatory form. It has to be passed through the legal drafters. It's got to go to the Government Gazette and it has to be promulgated at all of the stakes—. So it was the voting process, the number of ballot papers, the ink.*

I must tell you, it's out of chronological sequence but it makes sense. The voting station staff were given little brushes to mark the ink. Just on the cuticle and onto the nail. It didn't work like that. They'd put a great big blob or put your finger in it or whatever. Then the result, they started running out of ink. The head of the police forensics department put his people on to analyzing what was the stuff and managed to duplicate it in a couple of hours.

We started sending out spare plastic drums of this stuff. But there were areas where they just couldn't do this, we couldn't get the stuff there. How do you get it to remote, the rural area. So we said use water. Who will know the difference.

KRIEGLER: *They think they've been marked, but they haven't been marked. Places where the ultraviolet lamps broke down: 'Look and nod sagely.' Part of the process was you had to put your hand in before you were allowed to vote. The queues were so long that anybody who was prepared to stand for 16 hours—they said, the PR system, what earthly difference does it really ultimately make. So 10,000 people voted twice in the country. Made not one iota difference. But this was part of the planning process that was difficult.*

How many people do you have to have in a voting station? We had debates and arguments and differences of opinion on that. What do ballot boxes have to look

like? What the voting procedures have to be, and what the presiding officers had to do or had not to do. A fortnight before the election, one of our international consultant members realized, to his horror, that the voting booth was open at the top. My God, what a business. How can you have an open—we're not multi-storey buildings here. We had to redesign the box. These are things that have got to be made up that have got to be circulated.

And no voters' roll. So you didn't know how many people were going to pitch at any particular polling station. So what do you do? Do you double the supply? Do you have strategic reserves as a military commander would have, you have a battalion there and a battalion there but you keep one or two divisions in reserve that you can send to fill up holes? Come polling day, some of the urban polling stations had a massive influx of voters and ran out of polling, ballot papers and went and drew from the strategic reserve and drew 10 times as much as they needed because they didn't want to run out and have a riot and have people burn down the polling station over their heads. So there was an enormous shortage in some areas, particularly in the East Rand which was a hotly contested IFP / ANC area, politically very sensitive. Rumors flew that large numbers of ballot papers had been stolen.

MAWSON: How did you deal with those rumors? Did you address them openly with the press or did you deal directly with the political parties?

KRIEGLER: *I think there were a couple of things going for us. Number one, there was a compelling political will across the spectrum of those participating that these elections must work. There was a commitment to the process by the major role players in the political game. The leaders talked peace, the leaders talked "competition-free competition," new South Africa. The leaders were enormously influential in that. The atmosphere was, let's go and vote, this is a day of joy, this is not a day of confrontation. That was tremendously important.*

What was equally important was that the party liaison committees propagated that view at all levels in the administration of the election. I think much more important than voter education and starry-eyed liberation stuff about the rights of man and "I recognize your right to disagree," very important stuff, but people were saying guys, please don't mess with our election, let's have our election work. It's our election. I think that the party liaison committee was tremendously important in that structure.

The monitoring system, with that, we had long before the election a well-developed NGO sector, national peace committees, liaison committees, local liaison bodies, that integrated well with the monitoring system. The electorate was not left to itself to wallow in ignorance.

MAWSON: I wanted to ask you about that. I have heard that civil society played an enormous role in creating an enabling environment for the elections to happen. I wanted to ask you, specifically about the peace committees. When were they set up and did they continue to work throughout the elections?

KRIEGLER: *They continued to work throughout the election. They, the National Council of Churches working with them, the organized religious community, working with the peace committees that had already been strongly influenced by the church, the organized, structured church organizations had been functioning for at least two years before the election. In the course of the free election, animosity and anger and violence and bloodshed—strife—the peace committee structures had been developed throughout the country.*

MAWSON: Who had developed them? The churches?

KRIEGLER: *Through the churches, through the government, through the party structures. The national—I was not involved in that exercise, so I'm not really your best source of information. There is a judge who lives in Pretoria, works in Johannesburg by the name of Antonie Gildenhuys.*

He was very, very active in the peace committee structure. He played a major role. You know, at one stage we had a crisis up in the Northern Province as it then was, later became Limpopo. A whole central counting station had been closed down, rendered inoperable by the monitors. They said we're not going to start counting until we get paid this and get paid that. Through Gildenhuys I managed to get a team of ministers of religion to go up there, say "Peace unto you brethren, let's count." They settled it. To this day I don't know what they did but it worked.

MAWSON: Did that happen often, that the religious leaders were brought into settle these disputes?

KRIEGLER: *Yes, we're by and large a pretty devout country. We always were, more than than we are now. We've become much more cynical and mercenary today, but there was a lot of that. Fascinating incident at Easter, which was early April, late March. We have a very large African semi-Christian church, Church of Zion, claims some seven million members in southern Africa. They were not yet decided whether they were going to come into the voting process, whether it is religiously permitted to be so worldly as to go participate. These are very, very humble, very, very good, very simple believers. I had gone up to talk to the Bishop. I asked him to tell his followers to take part in this process, as one of the ways of breaking the boycott that was still going on then. He was sympathetic, but he said he would rather invite all of the political leaders to the church's Easter celebrations. They normally have at Easter anything up to three million people living in the open coming to their Easter celebration, which is their big holiday.*

We sat there in their church hall with de Klerk and Buthelezi and Mandela and you name it, and he then in his sermon said this is a process we must support and everybody must think very carefully about what they want to do. So he did a voter education for us.

KRIEGLER: *Unforgettable experience, sitting next to Mandela I was. We started late, it was Africa. As people came in this chap had been in prison for 27 years could say, it's Dlamini from Ngoma, yes, he is married to so-and-so. He was like my late grandfather was with the Afrikaners. He could identify anybody who was anybody in black politics.*

Anyway, that was one of the processes we did to break down the boycott and the church served a very valuable role in maintaining peace and actually removing bottlenecks as this one did up in Sekukuniland.

We said the third major factor was that—this sounds like vanity but it isn't, it's necessary to say it and it is a lesson for others to learn. We made it plain from day one that the IEC may make horrible mistakes but we're honest. We are impartial. We owe nobody anything other than to deliver legitimate elections. I had to do a course in PR and all sorts of things. I was the public image of the IEC, and I did my job well. I did it well because I was well-trained. I had good support. I had outstanding public relations advisers. To this day I go to a filling

station in a remote area and the man at the filling station would say, "Ay, Judge Kriegler, how are you?" From television, from 15, 16 years ago.

MAWSON: You were on television all the time?

KRIEGLER: *All the time. We made a pact with the media. We will level with you on everything. You ask us whatever you like; we will tell you. We would never lie to them. We never withheld anything. It actually became quite tricky at times, particularly at the end when we found out that our database had been penetrated and polluted.*

MAWSON: When did you find that out?

KRIEGLER: *The Tuesday night after the election. The 2nd of May, thereabouts, something like that. I was woken up at 3 o'clock in the morning and asked to come across urgently. I was staying in a hotel directly across the road from the electoral offices then. Elklit and his team had discovered that there had been a surreptitious minor, but possibly eventually cumulatively significant, addition of voters to each one of the series of non-ANC parties. Little dribs and little drabs here and there. To this day, I don't know who did it. We had teams of auditors come in. We had the big five of the auditors firms in the world, who took over the count.*

They kicked out the staff, they said you take over, and they then used the monitor division's parallel data collation system and proceeded with that. In the result the pollution did no actual damage. But it was a very difficult thing to go and tell the media.

They were dribs and drabs, they were really not important, yet. They may well over time have become so. But that was the Tuesday night, Wednesday morning after the election. The counting process proved infinitely more difficult than we had ever imagined, for a number of reasons. You know that we decided early on for security reasons not to count at the polling station. In retrospect that was a mistake. It's easy with hindsight to have 20/20 vision. Maybe it wouldn't have worked if we did have counting at the polling station. We may have had people interfering at that level.

The parties insisted on having counting stations. We had about a dozen, I can't remember how many, central polling stations—counting stations. Some of them were enormous, like the one at the Pretoria show grounds, Durban central, Soweto show grounds.

There were some three million votes at the Soweto showgrounds. That's a significant—15% of the overall. The voting process was bad. The training had been inadequate. The amended regulations at the last minute, new ballot papers, different inking process. We had not even proclaimed all of the regulations by the time the election actually took place.

The 26th of April was the day for disabled, elderly, hospitalized and military. We should come back to the military; please make a note.

The enthusiasm for voting was so enormous that tens of thousands, hundreds of thousands of voters turned up on the 26th to vote. That's awfully well to sit in an ivory tower in downtown Johannesburg and say only the halt and the lame and the elderly can vote. If you have 500 irate voters saying 'we want to vote.'

KRIEGLER: *'We waited 500 years to vote, you're not going to hold us for another day.'* So what is the presiding officer to do? He says, "Come in my brothers, come and vote." So we had a very large number of people voting the day before the election and putting enormous strain on the logistics. There didn't need to be people on full-time duty on that day, which was going to be a very small turnout. OK. The regulations about these special voting procedures also changed. The regulations about foreign voting changed at the 11th hour. We had to send people to the four corners of the earth to go and set up voting stations in Vancouver and in Auckland, New Zealand.

MAWSON: When was that decision made, at the last minute?

KRIEGLER: *Also in the last couple of weeks. As the political process changed we rolled over and said, "Yes darling, you want some more?"* So OK, that made it tricky. We spent a fortune on foreign voting, an absolute fortune. Can't remember, the figure would be misleading but certainly 10 times as much per voter for foreign voting than for local. In the end I think there were 96,000 votes all over the world, it was barely worth the effort. An interesting exercise, illustration.

The day before the election the ambassador in Canberra phones in a panic; he's also responsible for New Zealand. He has had information, absolutely reliable information, that a woman, an African woman, a friend of the wife of the New Zealand prime minister is going to be voting tomorrow. She is going to be the first person in the world to vote in the African elections, South African elections on liberation. That's the nearest to the dateline, it is on the 26th, foreign voting on the 26th like the halt and the lame, and she is an imposter. She is not Mandela's cousin at all. She is not even a South African. Judge, what do I do?

I said, "Ambassador, let her vote."

He says, "What? How can I do that?"

I said, "Let her vote."

He said, "But the television and everybody will be there, she's coming with the Prime Minister's wife, who is accompanying her. It is a major political scene in New Zealand."

I said, "Exactly, let her vote. If it will make you happy, I give you my personal undertaking, I will subtract one ANC vote from their final total here in Johannesburg. Let her vote."

"We can't do that—she's an—."

MAWSON: So where is she from?

KRIEGLER: *She was from somewhere. She is a con woman of some kind.*

How can you have the first black woman in the world to vote in the new South Africa and I have Mr. van Rensburg saying, "Hey Madam you're not allowed to vote. We have information from the security police that you are not a South African."

OK, where were we. Foreign voting was difficult.

The counting process we had thought would be a cakewalk, but the paper trail—which electoral administrators all know in one form or another, where you've got to record as the presiding officer how many ballot papers you were given, how many ballot papers you have left in the booklets you still have, how many ballot boxes you've got. How many names you've marked off on your list. All sorts of things so that you can do a cross-check in order to see that papers weren't added to the ballot boxes after the people had voted, ballots have not been removed, the ballot boxes are sealed with the official seal, the parties have countersigned this, everybody signed off the documentation. You've put that all in the last ballot box and sealed it up. Then you've taken all of this with your return and you've gone to the counting station and you've delivered it to the presiding counting officer who has signed off each of these together with you and the party representatives from that polling station. All beautiful. In Scandinavia. In Scandinavia you don't need it. In Africa you do need it and it doesn't work. It certainly didn't work for us.

What happened, in some of the polling stations—and this is genuine, because parties agreed on this. They had a particular polling station that didn't open for some reason or another. The presiding officer was drunk or he got sick or his car broke down, or whatever. So the people from that polling station went and voted at the next-door one. They ran out of ballot boxes. They first of all ran out of ballot papers, but those we could get delivered to them, because they're pretty nearby and you can run the truck out there quickly enough.

The ballot boxes ran out. So what do you do? What you do as a decent presiding officer?

MAWSON: You put them in a bag?

KRIEGLER: *You put them in a bag? He didn't have a bag, but he had a spare pair of jeans. This is literally true. I saw it with my own eyes. He knotted the legs of the jeans, stuffed the bottom part and pulled the belt tight over the top and then reused the ballot box. Now this is supposed to be sealed, signed, countersigned. Other guys opened the ballot box where there was this jumble of ballot papers, stacked them neatly together, put them in, and said, OK, let's vote again in this one, we've got more room.*

MAWSON: And that makes everybody think that it was a fix?

KRIEGLER: *"Oh, look at it, it's a swindle." Right. Some of it was no doubt a swindle. You know once you haven't got the paper trail, there is room for serious—well, not serious, but there is room for some doubt.*

MAWSON: Do you think that procedures could have been simplified?

KRIEGLER: *Of course they should have been simplified. But because we were so punctiliously careful to be as transparently legitimate as we possibly could, we set the norm too high. The moral of the story is, If you can't run yet, walk very, very slowly. Don't put too high a standard on it, a battle I had to fight again in Liberia. People say, "Because this is an emerging democracy, because this is Africa, we must be satisfied with second best?" Why can't they have the same facilities as Americans have? Isn't this—you're denying them their human rights. Every ballot, polling station must have wheelchair access. There isn't a single wheelchair in the whole of the country, but you must provide every—. OK. So we set the norms too high.*

The procedures were too demanding. We started training too late. We changed the rules too late. Yes. Ultimately did it work? Look at this, it did work. I don't think—there was talk, you'll go ask me questions about that, we'll get to that, but it worked. I'll never forget the Saturday afternoon in NAZREC, 3 o'clock in the afternoon, I went out with Helen Suzman. Helen was the commissioner looking after what was to become Gauteng which was PWV (Pretoria-Witwatersrand-Vereeniging). Our provincial electoral officer—a friend of my wife's, I've known her for donkey's years, Mrs. Brodie—had said they've bombed down, they haven't started. This is now Saturday afternoon. Voting closed there on Thursday. They've been fighting with one another for two days.

There was a pile, when I got there, there was a mountain. Actually I still get nightmares of it. A mountain, it must have been 3 meters high, 20 meters, 30 meters in diameter, of ballot boxes. Nobody had signed them in. Nobody had checked that they contained the presiding officers' signing off documents. Nobody could identify them with polling stations any longer, because the people had come in. We had to extend the voting day twice. These people had been on duty for 48 and 72 hours. They weren't going to sit in a long line of motor cars at NAZREC waiting for another four or five hours while hundreds of ballot boxes are being signed in in triplicate and stamped.

They came in and they said, "Here are your boxes, we've done our job, we're going home, we're going to sleep." Some of them slept there, they didn't move any further.

They were so tired, they were exhausted. So we had a mountain of ballot boxes that the opposition said, "We're not going to count. You can't count these because where is form IEC 17B and where is form IEC 17C and where is form IEC 17C/2?" As we amended the regulations and changed the forms.

MAWSON: So it was at that point that you managed to negotiate the idea of not reconciling the ballot boxes with the paperwork?

KRIEGLER: *We didn't negotiate anything. I said, "You start counting now."*

MAWSON: So you took the decision on your own?

KRIEGLER: *There and then and I went back to the commission and I got the mandate from the commissioner, ex post facto, to ratify it. I couldn't see any alternative, and I still can't see an alternative. We would have had three million people who had stood for hours and 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. To say that we would have to revote there? I don't think it could have worked, we would have had to have national elections over again, because we didn't have a voters roll.*

You could bus in millions of people from elsewhere. So we disqualified some minor voting stations, fair enough, we said we won't count them all. Docked off some votes of the ANC in the Eastern Cape on a rough and ready basis. But to say we've got to go back to the voting process all over again?

MAWSON: So this was the counting station in Gauteng you said, PWV?

KRIEGLER: *PWV, the central one. There was another big one in Pretoria, and there was another big one in Springs. But this was the biggest one.*

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- MAWSON: This was NAZREC?
- KRIEGLER: *NAZREC, it was the biggest one.*
- MAWSON: But then there were similar problems in Durban as well?
- KRIEGLER: *Certainly. And in KwaZulu, what was the counting station there? In Empangeni? the counting station—.*
- MAWSON: I thought the votes from KwaZulu were counted in Durban?
- KRIEGLER: *No, no, there was a big one up in KwaZulu. Not everything in KwaZulu-Natal went to Durban.*
- I think we had 70 counting stations, I seem to recall. But you know they were consolidated.*
- MAWSON: So you took this decision that you were not going to reconcile the paperwork, that everyone would just have to start counting.
- KRIEGLER: *Couldn't reconcile. They would never reconcile.*
- MAWSON: So the counting proceeded.
- KRIEGLER: *You see, let's just think about it. I reasoned at the time and I still reason that each ballot paper had to—in order to be counted, had to have on the reverse side the stamp of the presiding officer. Once it has the stamp of the presiding officer, you know that that is a ballot paper that went through the hands of the presiding officers and his or her team.*
- These are not ballot papers that have been manufactured somewhere else or produced somewhere else, these are ballot papers that were cast in this election. Whether they were cast in Senwane polling station 43 or whether they were cast in Orlando East in polling station number 480, we're not in a constituency, first come, first serve process. They were in the PWV, they will be counted here.*
- We started out with 670 counting stations, which we consolidated to 70. They consolidated something like 100 counting stations at NAZREC. They didn't think that there isn't a road that can handle a hundred counting stations' traffic. We haven't got a reception area. A hundred things. We had lovely, beautifully designed forms that were faxed in, in those days, from the counting stations to give us progressive counts as we go along. Very wise, very sensible. Keep the electorate up to date. Give them something, let them see the votes mounting. It's very important. Keep tension down and temperatures down. The process is going on, even though it takes long to count. There is a little trickle coming in all the time, suspicion about what's happening back there is minimized.*
- Very interesting. You send in your progressive counts on the blue form. You send in your final counts on the pink form. Then you fax them.*
- MAWSON: That's great; fax machines don't pick up color...
- KRIEGLER: *That kind of thing was trouble. This is one of the top logistic experts in the country sent to a data-collection person that we got from private industry to do this for us.*

MAWSON: So all of that aside I wanted to get to the one thorny issue, which I know you've been asked about a million times before—.

KRIEGLER: *No I haven't. Nobody asked me.*

MAWSON: You know what I'm going to ask about?

KRIEGLER: *About the settlement of the final figures.*

MAWSON: That's right.

KRIEGLER: *It's total fiction.*

MAWSON: I have read the transcript of an interview you did with Pádraig O'Malley.

KRIEGLER: *I haven't seen it. Patrick never let me have it again.*

MAWSON: There have been allegations that the final count was a negotiated settlement between the parties. Because of all the problems with the counting, there was no way to actually know who had won, and the only way the parties were able to accept the final outcome was because it had been negotiated. Some people say the final result was too perfect.

The ANC didn't get the two-thirds majority it would have needed to go forward and make the constitution on its own. The National Party got the right percentage it needed to have a deputy prime minister role. And the IFP got control of KwaZulu-Natal, so they were also happy. So what is your response to those allegations?

KRIEGLER: *They're not allegations. I would ask, who makes these allegations? Which reputable political scientist or electoral expert makes these allegations? And on what data? Clever inference by reverse reasoning—the result is too good, therefore it must be crooked? I would love to be able to claim credit that I was the Machiavelli that saved the South African elections of 1994, that I was this cunning, manipulative genius who made it all possible. I would love to have that as the truth. It's just nonsense.*

Number one, nobody has, to this day, come forward, and we're now 15 years down the line. Nobody has come forward to say, I did this or I did that, or I did the other, nobody. Number two. If you ask any electoral administrator, how would you do this, he would say to you it would be very tricky. You would have to try to add to the data at the central collation point, that would be your best bet.

MAWSON: Which you had already caught.

KRIEGLER: *We had the five top firms of auditors in the country doing that exercise. We weren't in charge of it. We said, "Give it to them, let them—." In order to prove our integrity, put it in the hands of others. That's where the pollution of the data turned out to be a blessing, because ultimately we were not in control of the ultimate collation exercise. Number three, go and look at the local government elections of the following year and do the demographics and do the political analysis and you will see that it is precisely the same pattern that the 1994 election manifested in the 1995 local government elections.*

You can't go to '99 because by then the hegemony of the ANC in large parts of the country and its use of corrupt money under the arms deal to saturate the

country with propaganda had a massive effect on the voting pattern. But look at the immediate next election. It is a striking similarity. Now I'm a genius but I'm not that clever that I can fiddle with the next election. Where does it come from?

At a stage after the pollution had manifested a journalist at a press conference put to me there is evidence, there are rumors we hear of horse trading. So I said, "What are we talking about?"

He said, "Well, we've heard that—I think it is the Empangeni in KwaZulu. They had been agreeing, party officials had been agreeing as to whether ballot papers were good or bad or whether certain ballot boxes should be accepted or not."

So I said, "Yes, so what's the point? That's what happens in elections. If the parties are happy with it, if they agree to that, I am happy with it. We can't check everywhere. Come on, are you looking for chastity in a brothel?" I should not have used the expression. I was overwrought. I was a little angry. The suggestion was then that in the brothel people are doing deals. The last contributing factor was that on the Thursday night before we made the announcement—that's the second-to-last contributing factor. The Thursday night, Thursday afternoon, Thursday night, we had a delegation from the National Party over complaining like stuck pigs about how things had gone wrong in Northern Province. And they had gone badly wrong. The logistics broke down in many places. I would not be surprised if there was finagling done in the count there, although it was not significant because in the local government elections which were not subject to these tensions and stresses, the pattern was substantially the same.

So the National Party wanted us to dock 300,000 votes, I think that's what they wanted, off the ANC's total in Northern Province. When Jacob Zuma, with his lieutenant came to see us, came to see me I think three times in the course of the Wednesday and the Thursday, saying we should nullify the election in Natal because of voter intimidation in the KwaZulu part, what was then still called Natal, and because there was voting at a number of ghost voting stations. They were ghost voting stations because they were only proclaimed in the Government Gazette the day of the election. These were some of those that had to be done at the last minute and had to be moved in the last frantic days of proclaiming. But they were equipped with IEC ballot papers. They were manned by IEC staff, and they returned their ballot papers to IEC counting stations.

MAWSON: Were these what were also called the pirate voting stations?

KRIEGLER: *Pirate or ghost, yes. Pirate voting stations, staffed by whom? Equipped with ballot papers supplied by whom?*

MAWSON: My understanding of why people thought something was a little bit shady was because the IEC had had to recruit these staff at the last minute, and a lot of them were clearly IFP.

KRIEGLER: *No doubt. Certainly they weren't kosher. They weren't kosher. They were the best we could do in the circumstances. But they were certainly not pirate. They were IEC people. There was not one ballot paper throughout the country counted that did not have the presiding officer's stamp which we sent to each presiding officer. Whether he went and put up his polling station nearing his headman's scroll because that suited him or the headman—.*

I will not say that somewhere along the line somebody didn't take over a polling station from the IEC staff. It could well have happened. That was "Indian territory." It was not Scandinavia. There could well have been instances where the balloting process was perverted by local warlords. Certainly.

MAWSON: I have heard there was some disagreement with the security forces about how many polling stations they could actually provide security for. Apparently they said, 'No, we can only provide security to 7,000.' And in response the IEC said, 'Well look, we have to do 9-1/2 thousand because that was what was agreed in the party negotiations. Everybody has to be able to walk to a polling station.'

KRIEGLER: *That's right. What the distance was changed from time to time. We had to change the number.*

MAWSON: The reason I wanted to talk about this now was when you were having to put together all of these last minute polling stations in KwaZulu, were security forces able to actually cover the security of those polling stations?

KRIEGLER: *Of course not.*

MAWSON: They were not part of the security planning at all?

KRIEGLER: *They weren't part of the security planning, but there were many, many, many other places where there was no security or inadequate security. Remember, we extended the voting to a second and in some places a third day. Constable [Dlamini] may have been there on Tuesday, maybe even on Wednesday, but by Thursday he'd gone home.*

But we had not one single reported incident throughout the country, throughout the days of voting and counting, of one single person being injured, let alone killed, in any violence.

Look at the evidence, look at the overall picture. If there had been significant violence, why was it never manifested? Why was nobody hurt, nobody killed? Why was not one single ballot box destroyed?

MAWSON: So although there were a lot of worries about electoral violence before the election, on election day there was no violence?

KRIEGLER: *None at all. Not one single person injured.*

MAWSON: Was that surprising to you?

KRIEGLER: *Yes, I suppose so. I think more gratifying than surprising. I think we had, with the help of the monitors and with the help of the peace committees and the party liaison committee and a massive public-relations exercise and the leadership said, "Let's go, this is our election." I think it was that kind of collective effort. So yes, not really that surprising, more gratifying than surprising.*

You know smart alecks with smart theories, how would I manage to do a 62%? How does one do it? I didn't have the competence in my staff to be able to do that kind of clever rigging. It would require probably dozens of people to be party to it and I've still got a hold on them.

I was telling you about Zuma and his lieutenant who had claimed that the election had been stolen by the IFP. When I said there, what did you do in Kwamashu

and—‘oh well, that’s a different matter.’ The DA were the last. IFP were there all the time, their spokesperson has now left, he lives in the United States. He was a perennial complainant. The National Party complained about Northern Province. Zuma and his lieutenant complained about KwaZulu-Natal. The Democratic Alliance—what were they called in those days? They change names so often. Anyway, Zach de Beer sent his chief administrator to come and see me. He was the last. He came about midnight on the Thursday night. I said, let’s make my typist available to you. We will help you prepare an application, an urgent application to court, tomorrow morning, to block us from announcing the result because we are going to announce the result some time on Friday.

We had to do it because Parliament had to meet on Saturday in order to elect President Mandela, who was due to be inaugurated I think the following Tuesday, and the world and his brother-in-law and sister-in-law were coming. Friday was the last day we had. So I said to them, we will—Selma, my secretary will help you type your application to court here, now. You can serve it on my here and we will see you in court at 10 o’clock. You may succeed because there were imperfections, certainly. The process at NAZREC was in breach of the regulations as they were at the time and there are major risks involved in the way we cut the corners. We’ll go to court.

But just before you actually do that, would you please go back to Dr. de Beer, who was the leader of the party, and say to him, Is this what he has lived for? Is this what he wants to do? Fine. He went. Young Mr. Leon went and phoned de Beer. He said he wants to come back and say, “Let’s call it a day.” That’s it.

MAWSON: Then you announced the result?

KRIEGLER: *Helen Suzman’s party, will sabotage the exercise? Go ahead, do it. We didn’t have all of the results yet. We put out a public announcement that we will do the results, announce the results at 2 o’clock at the media center at NAZREC. When I got into the helicopter to go up there at 1, we still did not have the last counting stations’ figures. While I was talking to the media at Midrand at Gallagher’s Center, our media center there, Elklit 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. There was no manipulation; there wasn’t time to manipulate anything. I would have loved to have been able to say to people I was on top of the process. I wasn’t.*

We were hurtling along on a wave.

MAWSON: We’ve touched on almost every issue and I think this would be a very nice place to end, but I have a couple more questions to ask you, if you don’t mind?

KRIEGLER: *Ask away. I must talk about the security people.*

MAWSON: Yes, the military, that was one question.

KRIEGLER: *They couldn’t supply us with the actual presence at voting stations. I wasn’t all that unhappy, because I don’t like uniformed armed people at polling stations anyway. I don’t think a single person there would make any earthly difference anyway. But what they did do, and for which they have never been given sufficient credit, if any, is that they put their logistical network at our disposal. They made helicopters available, they made radios, shortwave radios, walkie-talkies, off-road vehicles available to us without which we couldn’t have done the job.*

MAWSON: Were all the parties happy to use those resources, or was this done quietly?

KRIEGLER: *It was done quietly and they were only too happy. Let's not say it, announce not in Gath and announce it not in Ashkelon. But quietly the defense force, through the chap who became a friend of mine later, did a very remarkable job of quiet professionalism. OK, you wanted to ask a question.*

We're taking too long, far too long, it's my fault, I talk too much.

MAWSON: I'm sorry, are you OK to continue?

KRIEGLER: Yes.

MAWSON: I wanted to ask you about the threat from the white right. What kind of relationship did you have with Constand Viljoen throughout the run up to the elections. Were you having regular meetings with him?

KRIEGLER: *No. I got to know Viljoen only remotely towards the end of the process. I was not a go-between with the white right wing.*

MAWSON: So who was?

KRIEGLER: *Curiously, Eugene Terre'Blanche, the leader of the AWB had been a client of mine when I was at the Bar, like Buthelezi was, and as Lucas Mangope had been. So I had an interesting career. Terre'Blanche and I never spoke a word to one another and I could have picked up the phone and he would have come to see me. I don't know who liaised with him, if anybody. I don't think the National Party people did. Certainly the Conservative Party boycotted the election. They weren't actively opposed to it, they just ignored it. They were by and large respectable middle-class people. They weren't violent people. They weren't bomb people and firearm people like some of the lunatic fringe.*

MAWSON: Weren't you worried about, say for example, OK, finally the AVF did agree to sort of become part of the election, Viljoen decided to run as Freedom Front. But the AWB was still very much outside the process and, as you say, setting off these bombs. Were you not worried about election day security related to the right wing?

KRIEGLER: *I was certainly worried about it. I worried about it. There was talk of a machine gun being put up in a polling station at Viljoen's Kroon in the Free State. There was—one of my commissioner colleagues went and settled the thing. She came from those parts, she came from the Free State. When the bombs went off in downtown Jo-burg and at the airport, I'm trying to sound neutral about this. Our attitude was, elections are going to take place. We made it plain to all and sundry that these elections were going to take place come hell or high water. I think that had a tremendous effect, an immense effect on them. That's one part of it.*

The second part of it is, I'm a pretty heartland Afrikaner myself. I know my people. I grew up in an old minority-thinking Afrikaner, where we are very arrogant about Afrikaners from the other side of the track. They talk great, they don't fight good. I did not ever think that there would be a serious eruption. Viljoen was something else. Viljoen represented good, solid, middle-class values, as did the Conservative Party. But the guys who went into Bophuthatswana and got shot—. They impressed nobody and they certainly didn't frighten us. If anything, they did us good, because they frightened respectable middle-class

people into dissociating from that kind of extremism. They were never a serious threat anyway. They were a miniscule percentage.

Much bigger problem was the large body of farmers.

MAWSON: The Boere Krisis Actie up north?

KRIEGLER: *That's whom we liaised through the Operation Access. We got some prominent named farmers, big farmers, respected farmers, to be publicly associated with Operation Access, which made it legitimate. A good farmer looks after his employees. In looking after your employees, make sure that your people will go and vote. The fact that you tell them that if they don't vote for the National Party, they're going to walk home—but that became quite the acceptable thing, that a responsible farmer would see to it that his staff had the right to vote. Made them able to vote by giving them transport to the polling station and such like. I don't think the Afrikaner right wing was ever a major factor.*

MAWSON: The only other thing now I wanted to ask you about was towards the end of '93, I read some figures that Viljoen's AVF, they were estimating that they had 100,000 of the 140,000 commando members as supporters.

KRIEGLER: Yes.

MAWSON: Commando members being the—

KRIEGLER: *The citizen force.*

MAWSON: The South African Defense Force.

KRIEGLER: *"Rurales" they would have been in Mexico.*

MAWSON: Territorial army.

KRIEGLER: *Rural territorial, yes.*

MAWSON: So was that not worrying at all in considering where the AVF stood at least at the beginning of '94?

KRIEGLER: *Perhaps it was stupid. That was a political issue. If the government and the opposition, the freedom movements couldn't sort that out we couldn't. I certainly was never—I've seen the statistics since, and I've also seen statistics as to the percentage of support they had within the permanent defense force. I grew up in a soldier's home. Gen.(Magnus) Malan, the minister of defense under P.W. Botha, was my roommate at the military academy. I had confidence in the army. I had confidence that they would behave as they should behave. I was not afraid of them deserting or supporting subversion whatever. I knew that the decision had been taken by government to compromise, having consulted their constituency.*

So substantial armed resistance, it did not concern me. Perhaps I was stupid, but I happened to be right.

MAWSON: OK, I don't have any more specific questions to ask you. Is there anything important that you would like to add, or do you think we've touched on everything?

KRIEGLER: *I think we've touched on everything. I would like to end with an anecdote.*

MAWSON: Please do.

KRIEGLER: *Mandela's inauguration. Every hospital in downtown Pretoria was cleared of all but the most critical patients. I know. I had a friend who had badly broken a femur—in a splint and one of those contraptions with weights in a downtown hospital in Pretoria—and I was asked to come and help. We had to move him, with great effort and great pain for him out of the hospital because they wanted to clear every hospital within five miles of the Union buildings where the inauguration was going to take place. There were going to be tens of thousands of people and tens of thousands of them from the townships and heaven knows what they are going to do. People had bought tins of baked beans and stacked them up. It was as well that they had emptied the hospitals because there was a person from the crowd at the union buildings who needed urgent medical attention, one person, who had badly cut the space between the thumb and the forefinger with his penknife when he was trying to open a tin of sardines with his penknife instead of a can-opener. That was the only casualty that day.*

MAWSON: So then do you think South Africa got lucky?

KRIEGLER: *Yes, I think we got lucky. You get lucky the harder you practice, as Sam Snead said years ago. We'd worked hard; the politicians had worked hard over very nearly a decade by then. The leadership was inspiring and inspired, and it worked. With political will present you can do anything. Political will absent, you can achieve nothing.*

I went to visit Mexico two, three months later, and they had the finest electoral administration the world has ever seen. They had brilliant procedures, and the legitimacy of their election was rejected for political reasons. We had the worst administration you can imagine, we had the political will, and we were legitimate. That's what you need. If you haven't got Mandela you're in trouble.

MAWSON: OK, we will leave it there. Thanks very much.