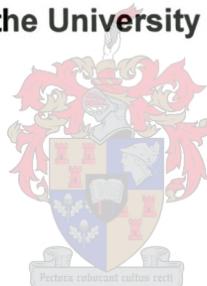


Foreign Observers in South African Elections: An Assessment of Their Contributions

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DECLARATION:

I, the undersigned, hereby declare that the work contained in this assignment is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree.

Opsomming

Die fokus van internasionale verkiesingwaarneming het in die loop van die laaste drie dekades wesenlik verskuif van die tradisionele dekolonisasie verkiesingskonteks, na waarneming binne onafhanklike state waar die omskakeling van outoritêre na demokratiese regeringsvorms redelik onlangs plaasgevind het. Laasgenoemde state moes waarnemers, en die verkiesings wat waargeneem is, met voorbehoud aanvaar. Die alternatiewe was egter beperk. Die val van die voormalige Oosblok en die gevolglike triomf van die liberale demokrasie, het ondemokratiese state met 'n eenvoudige keuse gelaat: hervorm of staar isolasie in die gesig.

Pro-demokratiese groepe in voormalige outoritêre state het die nuwe klimaat van politieke vryheid verwelkom. In die besef dat nuwe demokrasieë waarskynlik nie oor die nodige ervaring en wedersydse vertrouwe binne die bevolking beskik om verkiesings volkome te laat vlot nie, is buitelandse bystand – met inbegrip van internasionale waarneming - deur dié groepe verwelkom. In die afgelope dekade het die positiewe konnotasie aan internasionale verkiesingswaarneming egter in gedrang gekom. Drie kernredes hiervoor was die skynbare gebrek aan universele verkiesingstandaarde, swak georganiseerde waarnemer afvaardigings en 'n algemene gebrek om hul motiewe bo verdenking te plaas.

Die sentrale oogmerk van hierdie werkstuk is die evaluasie van die bydraes gemaak deur internasionale verkiesingswaarnemers in die twee Suid-Afrikaanse verkiesings van 1994 en 1999. Op 'n teoretiese vlak is die drie bogenoemde gebreke aangespreek, en na raadpleging van internasionale literatuur oor die onderwerp is drie teenmaatreëls geïdentifiseer. Hierdie aktiwiteite, gemik op meer effektiewe internasionale betrokkenheid bestaan uit: 1) groter aandag wat geskenk moet word aan politieke konteks; 2) die kombinerings van internasionale waarnemer vaardighede vir beter resultate, en 3) groter klem wat gelê moet word op samewerking tussen nasionale en internasionale waarnemers. Elkeen van

hierdie vereistes is oorgedra na die Suid-Afrikaanse verkiesingskonteks om vas te stel tot watter mate dié gebruike in Suid-Afrika wortel geskied het.

Wat betref die eerste voorstel met betrekking tot konteksgebonde evaluasie, is daar vasgestel dat dit wel deel was van internasionale waarnemer praktyk in beide verkiesings. 'n Waardeskating van die koördinasie van internasionale waarnemingsgroepe dui verder daarop dat samewerking tussen waarnemergroepe oor die algemeen bygedra het tot 'n versterking van inisiatiewe deur internasionale waarnemers. Op hierdie gebied het die Verenigde Nasies veral 'n sleutelrol gespeel. 'n Aspek wat egter agterweë gebly het, is die vlak van samewerking tussen internasionale waarnemers en hul Suid-Afrikaanse eweknieë. Hier is 'n waardevolle geleentheid verspeel om die kapasiteit van plaaslike verkiesingswaarnemers te versterk. Dit, en die feit dat toekomstige internasionale teenwoordigheid in die toekoms nie 'n sekerheid is nie, sal volgens die skrywer, beteken dat Suid-Afrikanners in die toekoms toenemend aangewese sal wees op die ontwikkeling van eie kapasiteit. In die lig hiervan moet inisiatiewe soos SADC se nuutgestigte Verkiesingsforum verwelkom en aangemoedig word.

Abstract

Over the past three decades the practice of international election observation has shifted its focus from elections taking place within a decolonisation context, to those in independent, but formerly undemocratic, states. The latter accepted the presence of international observers with some reservation, citing the contention that observation amounted to an infringement on national sovereignty. The demise of the former East Block, however, established the primacy of the liberal democratic ideology in world politics, leaving these states with a limited choice between democratisation and isolation.

Pro-democracy supporters in former authoritarian countries embraced the change in ideological climate. Realising the lack of capacity and trust to run elections by themselves, they generally supported the presence of international observers in elections of states emerging from prolonged periods of authoritarianism. Over the past decade this affinity with international missions has been transformed into skepticism. Three primary reasons for this disenchantment have been the apparent lack of electoral standards, uncoordinated observer missions and failure to convince voters of their impartiality.

This assignment represents a scholarly attempt to evaluate the contributions of international election observers to South African elections. On a theoretical level it addresses the three criticisms against foreign observation. Drawing on the vast body of international literature, the author suggests three countermeasures. These suggestions, aimed at enhancing the contributions of international observer consist of: 1) a greater consideration for the political context within which an election takes place; 2) the pooling of international observer capacity and 3) more scope to, and cooperation with, local observer groups. Each of these measures is transferred to the South African electoral reality to establish the extent of their application in this practical context.

With regard to the first proposal the author finds that clear consideration has been given to contextual factors in both elections. An assessment of the quality of coordination of international observer groups also indicates that the practice of pooling resources have been employed with success by a number of missions. In this field the U.N. played a leading role. Cooperation between international observers and their local counterparts is however an aspect that has been lagging behind. The opportunity for capacity building, a significant benefit of such cooperation, has therefore to a large extent been lost. In the light of this, and the uncertainty of future international involvement, the author asserts that in future South Africans will increasingly be dependent on the cultivation of homegrown capacity. He therefore believes that initiatives such as the creation of the SADC Electoral Forum in 1998 are commendable and should be encouraged.

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Dedication:

To the memory of Oupa Jan

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CHAPTER 1

Introduction

1. BACKGROUND

Following the example of other recently democratised countries, South Africa invited a large contingent of international election observers to attest to the smooth conduct of its first democratic elections in 1994. It was the appropriate thing to do at the time. Newly democratised countries were expected to exhibit their democratic credentials to the international community. Without them they were destined for an existence on the periphery of the post-Cold War liberal democratic world order.

It would be safe to say that as far as international acceptance goes, South Africa has made the grade. Far from being the pariah that it was under the apartheid regime, the country has become a respected member of the international community of nations. This is underscored by the active, and often leading role, it plays within a vast number of international organisations.

Why then, can it be asked, was it necessary for international observers to be present again during the country's second general elections? Although fewer in numbers and with diminished status than the first time around, once again careful attention was given to findings of foreign observer groups at the conclusion of the election. It may be argued that when a country has proved itself once, any further foreign involvement in elections will amount to an insult to the particular country's sovereign right to self-determination. What are South Africans therefore to make of international scrutiny of their second general election?

To value this practice only for its legitimatising function to those outside national borders, would, however, render an incomplete assessment. The body of international literature with regard to the topic of international election observation suggests that it entails more than putting an international stamp

of approval on an election. It also has a key developmental function to fulfil in the legitimisation of democracy to potential voters within the observed country itself. Since most instances of international election observation occur within developing countries with little or no prior experience of conducting elections, foreign observers have the ability to make important contributions with regard to the creation and support of both democratic values and instances. A review of their accomplishments in South Africa should consequently take cognisance of the legitimising role international observers have played in the international community, but very importantly also their service to electorate of the relevant country.

2. RESEARCH QUESTION

As has been stated in the above section, international legitimacy of both South Africa's general elections has been established. This paper will rather concern itself with the latter of the two prerequisites. What contribution, if any, have international election observers made to the strengthening of the electoral process within South Africa?

Literature on this topic is hard to come by. Anglin's account of the 1994 election observation effort has probably been the most thorough to emerge in the wake of these this historic election.¹ Although presenting a comprehensive evaluation, the fact that this was a first election prevented him to draw any comparisons with local precedents. He was, therefore, largely dependent on accounts of elections that have taken place abroad in comparable political contexts. The 1999 election provided scholars with the first opportunity to compare South African observer efforts with one another. Following the example of Anglin, the author intends to provide an account of the 1999 international observation effort. By comparing the two efforts, he, however, hopes to go one step further in providing an assessment of the achievements of this practice within a South African context.

¹ Anglin, D. 1995: *International Monitoring of the Transition to Democracy in South Africa, 1992-1994 African Affairs* p. 522.

Although many intergovernmental and international nongovernmental organisations have already made – and are still making - significant contributions to the larger project of democratic consolidation, the paper will specifically concentrate on elections as one of its most important constituent parts. The focus of questions to be asked will centre on the nature and conduct of the observer missions themselves, as well as on their interaction with local democratic structures participating in the conduct of the elections.

It is the feeling of the author that the international community still has a role to play in South African elections. To what extent their assistance will be required in future elections is difficult to tell at this stage. Variables like economic growth and political development will have an impact one way or another.

For the sake of clarity it has to be noted that a scholarly distinction is being made between election observation, and election monitoring. These terms are sometimes used interchangeably, which is technically incorrect. Observation refers to a passive role played by international observers in watching, evaluating, and reporting on matters pertaining to an election. Monitoring on the other hand refers to active participation, where the role of observer is combined with activities such as guidance, instruction and assistance.² Both mandates for international electoral assistance in South Africa were limited to observation.

3. AIM AND VALUE OF THE STUDY

The central aim of this study would be to provide an overview of the accomplishments of international observation missions in South Africa's two post-apartheid general elections. An opportunity is provided to look back and ascertain the number and nature of the contributions that were made.

²Geldenhuys, D. 1998: **Foreign Political Engagement: Remaking States in the Cold War World** New York: St. Martin's Press p. 92.

The practice of international election observation has become too sensitive an issue to approach in a haphazard manner. Recent opposition to international observer groups in East-Timor, and the dismal failure of observation groups in Angola's 1992 elections, serve as a stark reminder of this fact. It is therefore hoped that this study will be able to provide a recommendation for the need for future missions, and if indeed the case, what the nature of it should be.

4. RATIONALE

Robert Pastor remarks that in the period 1990-99, 81 elections were reported as being flawed.³ The grounds for their failure are numerous, but his analysis shows that at the heart of each there was one common denominator: administrative problems incurred by electoral authorities.

Most recently democratised countries in the developing world share these administrative shortcomings. Two factors, however, stand out above the rest. A shortage of funds to conduct a proper election is a first important drawback that hampers the effective conduct of elections. Secondly, and maybe most importantly, the experience needed to coordinate a project of this magnitude is lacking in most of these countries. Exacerbating the situation is the high level of political polarisation present in most of these societies. Since the stakes are so high, political parties and their supporters may interpret administrative shortfalls that may put them at a disadvantage as orchestrated by the incumbent regime. If left unresolved, such a situation might derail a whole election campaign.

In the run-up to the June 1999 elections, Idasa, Markinor and the South African Broadcasting Corporation (SABC) conducted the Opinion 99 Surveys on a number of issues that could potentially have had an impact on the final results. Of specific interest to this paper, is the survey conducted on a number

³Pastor, R. 1999: *The Role of Administration in Democratic Transitions: Implications for Policy and Research* **Democratization** Vol. 6 No. 4

of matters relating to trust in electoral institutions. Even though the majority of respondents indicated their trust in the Independent Electoral Commission (IEC), a substantial percentage (24%) voiced opinions ranging from suspicion to distrust in IEC's ability to administer an impartial election campaign.⁴ Interesting differences in opinion about the IEC run almost exclusively along racial lines, with whites (58%) having the least trust, followed by Indians (47%), Coloureds (35%) and blacks (16%). These results also confirm earlier findings by Mattes and Thiel that opinions on issues that can be used to indicate levels of democratic consolidation, can be clearly differentiated in terms of race.⁵ From the above it can be asserted that pre-election attitudes indicate that more needs to be done to foster trust in the IEC.

Nongovernmental organisations have an important role to play in the fostering of a functional democratic infrastructure. With their roots anchored in local communities they provide a valuable link between institutions promoting democracy and the populace that needs to be convinced of its merits. One important contribution that they can make, and in many instances do make, is their participation in domestic election observation efforts. An important condition for election observation, as will be indicated in this assignment, is however observer impartiality, a requirement that is often hard to satisfy. In politically divided societies these groups will enjoy the trust of those opposing the incumbent regime. It is, however, the latter and its supporters that need to be convinced of the impartiality of local observer groups. In many recently democratised countries, NGO's stood at the forefront of campaigns against policies of incumbent governments and it is, therefore, doubtful that these regimes will accept their findings without reservation. This scenario can also be likened to the relationship between civil society and political parties in South Africa. Traditionally South African civil society has stood closer to the ANC and its partners in the liberation struggle than to the former Nationalist

⁴IDASA, 1999: Opinion 99 Survey: Trust in Electoral Institutions
http://www.idasa.org.za/pos/op99/op99_no22.htm

⁵Mattes R. and Thiel, H. 1997: "Consolidation and Public Opinion in South Africa" **Journal of Democracy** Vol. 9(1)

government. One possible solution to counter reservations with regard to observer partiality is to invite international observers to observe elections alongside local observers. Should they confirm the findings of local groups, greater credibility is given to local efforts.

5. METHODOLOGY

This is a comparative study aimed at establishing the extent to which South African elections have benefited from the presence of international observers in both its democratic general elections.

A substantial body of international literature with regard to the experiences of observer missions elsewhere in the world will be consulted to establish whether there are any common threads running through all of them. This will be supplemented by unstructured questionnaires to observer groups and interviews where possible. Key questions that will be asked with regard to this first section are: What is the underlying rationale for the use of international observers? When should they be deployed, and what are their primary functions. From responses to these questions the author would like to distil a number of conditions that will serve as criteria for the efficient conduct of international observer missions. He envisages that these conditions will most probably centre on the three recurring themes in the consulted literature: a) electoral standards, b) observer conduct and c) the coordination of international observer activities.

Once specific conditions have been extracted from the above themes, the author will proceed to apply them to the activities of international observers in the two recent elections. Literature with regard to both elections, as well as interviews with the IEC, scholars and local observer groups will be used to get a better understanding of the South African experience with foreign missions. The primary focus of this second section will be to identify the role that they have played in each of the elections respectively. In conclusion, a judgement will have to be made with regard to their contribution so far, but also about the desirability of future contributions to the South African electoral process.

6. CHAPTER SEQUENCE

The assignment will consist of five chapters. A number of introductory comments will be provided in the first chapter, which will be followed by chapters two and three that will relate to the broad theory and practice of international election observation. Chapter four will be an analysis of foreign observer activities in the past two general elections, while the final chapter will contain a number of recommendations for future use. The following is a short summary of the content of each.

Chapter 1

A general outlay of the paper is provided. The research question is stated, an explanation of the aim and value of the study is provided, the rationale for conducting the study is established, and is supported by the underlying assumptions of the author. In addition matters relating to the methodology and scheduling of the paper are addressed.

Chapter 2

Chapter 2 covers the recent history of the practice of international election observation, and explains the emphasis placed on elections as a measure of democratic reform. Finally it introduces the reader to the types of organisations that conduct election observation and the functions that they perform.

Chapter 3

The sensitive question of foreign intervention is touched upon in Chapter 3. A justification for its existence is provided. It is stated that objections have recently been coming from pro-democracy campaigners within observed countries themselves. Three of the main objections are stated, as well as responses to them. Finally a number of conditions are identified for the smooth conduct of foreign electoral missions.

Chapter 4

Chapter 4 takes the conditions that were identified in the previous chapter and apply them to the experience of observer missions in South Africa. An

assessment will be given on the efficiency of their participation in the past two elections.

Chapter 5

Concluding remarks and a number of recommendations will be made in the final chapter. Views on the desirability of future missions will be expressed.

7. KEY WORDS AND PHRASES

Key words to be used in this study will be:

international observers, foreign observers, domestic observers, free and fair elections, democratic consolidation

8. CONCLUDING REMARKS

This chapter provided an outline of the objective and motivation for engaging the chosen topic. It consists of three main components. Firstly it contained a statement of the research question that was to be addressed in this paper. It was pointed out that the central concern of this paper would be to ascertain the achievements of international observers in South Africa's two democratic elections.

The second important element of Chapter 1 was the provision of a rationale for the study to be conducted. Cultivating a democratic culture and a trust in the institutions that promote it, are not something that can be accomplished overnight. In the opinion of the author the contributions of international observers during elections can assist in the building of capacity and trust in local electoral processes. The rationale of this study is, therefore, to determine whether this can be said of observation efforts in South African elections.

A last important component of the first chapter has been the methodological approach to the paper. Although international literature has been reviewed in Chapters 2 and 3, very few comparisons were made between the international and South African experiences in election observation. International literature has rather been used to extract a number of good electoral practices that the

author argues should be applied by observer missions in South African elections. The nature of this paper is therefore essentially descriptive, rather than comparative.

CHAPTER 2

International Election Observation - An International Overview

1. INTRODUCTION

Foreign assistance in domestic elections is by no means a phenomenon peculiar to the last two and a half decades of this century. Since the advent of decolonisation in Africa, the United Nations (UN) and other inter-governmental organisations (IGOs) were involved in facilitating the process of transition from dependent colonies to independent states. By the mid-eighties, most African territories had severed their ties with their former colonial masters. This did, however, not signal the end of the conduct of electoral observation. Especially in the last two decades of the twentieth century, it also became a common phenomenon in independent states.

This involvement by inter-governmental and non-governmental organisations in domestic elections coincided with what Huntington has coined the “Third Wave of Democratisation”.⁶ This term referred to the democratisation process that had started in Portugal in 1974 and since swept through Eastern Europe, Latin America, and specifically the African continent. The conclusion of the Cold War speeded up this process, and by the late nineties democracy had become the most prevalent political system on the globe. Countries that are not democratic, or are in the process of democratising, are experiencing ever growing international pressure to implement the appropriate reforms. It has become the norm to link the granting of development aid and loans to the extent of democratic reform that has taken place within formerly authoritarian countries. Undemocratic African countries with their weak economic predisposition were especially vulnerable to this new world order. The inevitability of democratic reform had become a given factor, and no longer were countries able to rely on the financial assistance afforded to them due to

⁶ Huntington, S.P. 1993: **The Third Wave: Democratisation in the Late Twentieth Century** Oklahoma University Press p. 3.

their strategic importance during the Cold War. By the mid-1990s the great majority of African countries have conducted either founding or second elections to demonstrate their commitment to democratic values.

These elections would, however, have been useless if they were not witnessed and legitimised by the international community which in the first instance insisted on them taking place. Without an international blessing, their lack of international legitimacy would have kept authoritarian states out in the cold. Not only did they experience an external legitimacy crisis, but also opposition groups within their own borders did not trust them to conduct the pending elections in an acceptable fashion. Required therefore were impartial observers who enjoyed the trust of both the international and relevant local communities. For this purpose the practice of international election observation was revived in its new guise.

What has distinguished the new course of foreign electoral participation from that of its predecessor has been the fact that for the first time electoral assistance has taken place within the boundaries of formally independent countries.⁷ As the democratisation process gained momentum in the late eighties and early nineties, observers from international organisations were increasingly being invited to observe elections in formerly authoritarian states. This sharp increase in observation missions gave rise to what Anglin calls “an international monitoring industry”.⁸

In addition to the “legitimacy” that they provided to the electoral process, the presence of international election observers also brought with them technical skills and experience which were needed to assist domestic electoral commissions and observer groups in creating the required democratic infrastructure within which elections could take place.

⁷ Chand, V.K. 1997: *Democratisation from the outside in: NGO and international efforts to promote open elections* **Third World Quarterly** Vol. 18, No. 3 p. 543.

⁸ Anglin, D. 1998: *International Election Monitoring: The African Experience* **African Affairs** No. 97 p. 471.

The question must, however, be posed whether the conduct of elections is sufficient proof of a country's commitment to democratic ideals. How much importance should be attached to it as a measure of democratic reform? If the answer to this is 'little' or 'none', the international community's focus on elections as a yardstick of democratisation has been completely misplaced. These issues will be addressed in the following section.

2. ELECTIONS AS A MEASURE OF DEMOCRATIC REFORM

The questions stated in the above paragraph hinge on the issue of democratic consolidation. For the purpose of this discussion, the most common conceptualisation of democratic consolidation, i.e. "the widespread acceptance of the rules to guarantee political participation and political competition," will be employed.⁹

By their very nature elections promote both these norms, but, according to Bratton, there is little consensus on the exact role they play within the consolidation process.¹⁰ There are essentially two lines of thought on the issue: one that subscribes to a minimalist understanding of democracy, using electoral criteria, and another more substantialist view which maintains that elections in and by themselves cannot be used to make judgements on the state of a democracy. By means of his "two turnover test", Huntington¹¹ subscribes to the former school of thought by using electoral criteria, whereas Karl¹² aligns herself with the latter by rejecting such a practice as the "fallacy of electoralism", pointing to "illiberal" democracies where elections coexist with a continuous trampling of political rights and the disenfranchisement of large sections of the population.

⁹ Bratton, M. 1998: *Second Elections in Africa* **Journal of Democracy** Vol 9, No 3 p. 51.

¹⁰ See Bratton 1998, p. 51,

¹¹ See Huntington 1993, p. 266

¹²Karl, T.L. 1986: *Imposing Consent: Electoralism and Democratisation in El Salvador* in Drake, P. and Silva, S. eds. **Elections and Democratisation in Latin America 1980-1985** La Jolla: University of California San Diego Press p. 9-36

Bratton chooses to take an approach, which can be regarded as a middle road between the two extremes. While acknowledging that the occurrence of elections do not by themselves consolidate democracies, he nevertheless maintains that elections remain fundamental not merely to the instalment of democratic government, but even more so as a prerequisite for broader democratic consolidation.¹³ The regularity, openness, and acceptability of elections can indeed be used as indicators of whether basic constitutional, behavioural and attitudinal foundations have been laid down during the interim periods. "If nothing else," Bratton states, "the convening of scheduled multi-party elections serves the minimal function of marking democracy's survival."¹⁴ This view is echoed by Breytenbach, who contends that even though an election might not be proof enough of democratic consolidation within a country, the symbolism attached to it can lay a powerful foundation for the institutional foundations that will enhance democratic development.¹⁵

The view taken by Bratton and Breytenbach (which the author subscribes to) thus recognises that one election does not a democracy make. They nevertheless believe that the analysis and observation of an election can be a significant indicator of the extent that democratic consolidation has taken place.

Conducting observation that can provide an accurate indication of satisfactory electoral conduct is, nevertheless, easier said than done. Many factors play into a specific context and therefore require different levels of observer involvement. In the following section the diversified network of observation groups and their activities, which evolved as a result of these multi-level requirements, will be discussed.

¹³ See Bratton 1998, p. 52.

¹⁴ See Bratton 1998, p. 52.

¹⁵ Breytenbach, W.J. 1996: **Democratisation in Africa: Transitions, Elections and Prospects for Consolidation** Ndabeni: Rustica Press p. 57.

3. OBSERVER BODIES AND THE CATEGORIES OF ASSISTANCE THEY PROVIDE

Functions that can be performed by international observers will in most instances depend on the nature of the organisation they are affiliated to. The main distinction to be made with regard to organisations participating in international election observation is that between intergovernmental organisations (IGOs) and non-governmental organisations (NGOs). This section will contain a discussion of these two categories and the functions they fulfil within the context of international electoral assistance.

3.1 Intergovernmental Organisations

3.1.1 The United Nations

The UN is by far the best resourced of all IGOs participating in the practice of election observation. Its financial muscle, its track record of more than four decades in the observation “business”, and most significantly, its political clout, has made it the leading election observation organisation. According to Beigbeder an analysis of UN electoral assistance can best be done by drawing a distinction between first generation and second generation electoral assistance.¹⁶

First generation assistance was first provided in the post Second World War era, shortly after the UN came into being. Its initial focus was on assistance to the two divided countries of Germany and Korea, and later on to former trust territories and countries that were in the transition process from colonialism to independence. The single objective of these first missions was to observe electoral processes and to report the mission’s findings to the authorising U.N. body.¹⁷ With the exception of Germany and Korea, none of these missions conducted election observation in sovereign states. The UN’s participation in “first generation” elections was relatively low-key, with the number of

¹⁶ Beigbeder, Y. 1994: **International Monitoring of Plebiscites, Referenda and National Elections: Self-determination and Transition to Democracy** Dordrecht: Martinus Nijhoff Publishers p.120

¹⁷See Beigbeder 1994 p.120

observers per country rarely exceeding more than thirty persons.¹⁸ According to Beigbeder this was one of the major shortcomings of early electoral assistance units. The size of the missions, he asserts, considerably limited the scope and the extent of the actual fulfilment of their observation tasks.¹⁹

Other than first generation electoral assistance, second generation assistance by the U.N., has primarily occurred within independent countries. The cases of Namibia and Western Sahara are two exceptions. Another distinguishing trademark of the U.N.'s second-generation assistance has been its participation in larger, more complex operations than in the past.²⁰ A more holistic approach has been taken not only to ensure that the events on election day run smoothly, but - if required - also to create those conditions that will enhance peaceful and acceptable elections. In the case of Namibia, the UN was responsible for overseeing the entire electoral process. In most other countries, UN electoral assistance comprised different variations and combinations of assistance activities that have transpired from observation efforts over the past four decades.²¹

For technical purposes the UN distinguishes between two main categories of assistance. The first is known as "standard electoral assistance activities" that refer to all forms of small-scale technical assistance activities that do not require a specific mandate from the General Assembly or the Security Council. On request from a member state where an election is to take place, the following types of standard assistance can be provided to enhance an electoral process. (In most instances, however, the need to adapt strategies to the specific environment gives rise to a synergy of two or more activities.)

The co-ordination and support of international election observers: This form of assistance is generally employed where several organisations have been invited by a member state to observe an election. Under such circumstances,

¹⁸See Beigbeder 1994, p.120.

¹⁹See Beigbeder 1994, p.120.

²⁰See Beigbeder 1994, p.148.

the UN would establish a small secretariat in the requesting country that will help to co-ordinate and provide logistical support to the various observer groups.²² Together these organisations that fall under the U.N. umbrella comprise joint international observer groups (JIOGs). JIOGs is one of the fastest growing forms of electoral assistance in countries that are conducting their own elections. For observer groups it has become far more cost effective to be part of a JIOG. The management function provided by the U.N. ensures the optimal deployment of observers and thereby avoids the duplication of services. Most importantly, JIOGs develop as far as possible a commonly agreed upon purpose and terms of reference for all observers participating under the auspices of the U.N.²³ The fact that there is sufficient consensus on the yardsticks to be used for evaluating an election, allows the JIOG to issue a joint statement on the conduct of an election at its conclusion.

It should, however, be recognised that among observer groups there is a diverse range of reasons and approaches to election observation, which in most instances will always require that they maintain a fair amount of institutional independence. For this reason some organisations participating in JIOG's will issue a separate statements apart from that of the JIOG to explain their findings in more detail.²⁴ To illustrate this point Anglin observes that the Organisation for African Unity (OAU) has only recently become less reticent about committing itself publicly to the joint statements of JIOG's.²⁵

Technical Assistance: Requests for technical assistance in the conduct of elections is the most popular form of assistance provided by the U.N. to its member states.²⁶ Depending on the requests of national election authorities,

²¹ United Nations EAD: <http://www.un.org/Depts/dpa/docs/website3.htm> 23/7/1999

²² See Anglin 1998, p. 486.

²³ IDEA, 1995: **International Election Observation: Seventeen organizations share experiences on electoral observation** Stockholm: IDEA p. 20.

²⁴ See Anglin 1998, p. 486

²⁵ See Anglin 1998, p. 486

²⁶ Mair, S. 1997: **Election Observation: Roles and Responsibilities of Long-term Election Observers** ECDPM: http://www.oneworld.org/ecdpm/pubs/wp22_gb.htm 14/6/1999

assistance can be provided on either a long-term or short-term basis. The range of assistance activities provided by the U.N. and its subsidiary bodies includes assistance and/or advice on planning elections, voter registration, election budgeting, review of electoral laws and regulations, training of election officials, logistics, voter education, electoral dispute resolution, computerisation of electoral rolls and boundary delimitation.²⁷

Support for Domestic Observers: The empowerment of domestic observers to conduct election observation is one of the most significant, though less emphasised, contributions that the U.N. can make to the future consolidation of democratic institutions within member states. This form of assistance is provided on request from the host country and is usually made available to a national network of observer groups, sponsored by local non-partisan, civic organisations.²⁸ As will be indicated in the following chapter, the importance of civil societies participation in the electoral process cannot be overemphasised. Domestic observers, if properly organised and prepared, hold several advantages over international observers. Not only can they be mobilised in much larger numbers, but also have the advantage of being acquainted with the physical territory, the languages of the region, as well as the political culture. Because they are citizens of the country, their presence reinforces the idea that their country is willing and able to take responsibility for the wellbeing of its political process.²⁹

Limited Observation ("Follow and Report"): In extraordinary circumstances the U.N. will send a small team of observers to follow the final phase of an electoral process and issue an internal report to the Secretary-General on its conduct.³⁰ Financial constraints have made it increasingly difficult for the UN to send large observer missions to member states. It can be argued that

²⁷See United Nations EAD: <http://www.un.org/Depts/dpa/docs/website3.htm> 23/27/1999

²⁸See United Nations EAD: <http://www.un.org/Depts/dpa/docs/website3.htm> 23/27/1999

²⁹Carothers, T. 1997: *The Rise of Election Monitoring: Observers Observed* **Journal of Democracy** Vol 8 No 3, p. 26.

³⁰See United Nations EAD: <http://www.un.org/Depts/dpa/docs/website3.htm> 23/7/1999

limited observation only serves the purpose of providing moral encouragement and support to a democratic transition.

"Major electoral missions," the second main category of electoral assistance, are provided in circumstances that the U.N. considers being exceptional. The green light for these missions can only be given if it is backed up by a mandate from the Security Council or the General Assembly. These missions form in most instances the important electoral component of larger, more comprehensive peacekeeping operations.³¹ The following activities can be regarded as falling in the category major electoral missions:

Organisation and Conduct of an Electoral Process: In this extraordinary form of electoral assistance the U.N. is being mandated to assume the duties generally afforded to a national electoral authority. The functions that are afforded to these missions may include the establishment of a system of laws governing the process, procedures and administrative measures necessary to conduct an election in an acceptable fashion, and the administration of the actual election process.³² The enormous cost, scope and amount of time required to develop custom-made electoral infrastructures, make this form of assistance very rare. The only conditions under which it is likely to be applied is where an election is to take place in post-conflict societies, characterised by insufficient national institutional capacity to organise elections. The large role that the U.N. played in Namibia's liberation election of 1989, is an example of this extraordinary type of electoral assistance. Its duties ranged from the organisation and planning of the elections to the observation and verification thereof. In addition it was also responsible for peacekeeping, protection of human rights and the general promotion of democratic values within Namibian society.³³

³¹See United Nations EAD: <http://www.un.org/Depts/dpa/docs/website3.htm> 23/7/1999

³²See Beigbeder 1994 p.120.

³³See Beigbeder 1994 p.120.

Supervision of an Electoral Process: Just as exceptional is the UN practice of supervising an electoral process. For the larger part of its existence supervision has been conducted within the context of decolonisation and hence its rarity as a current instrument of electoral observation. It requires that all phases of the electoral process – be this political or electoral – have to be certified, and not only the results of the election itself.³⁴ The sensitive and complex nature of such a mission usually requires that preparatory a mission visit the member state to discuss the various aspects that need to be supervised. These components will include aspects such as the registration process, the impartiality of the national electoral commission, the freedom of organisation and movement of all parties, equal access to the media and all other matters relating to the organisation of the poll, the campaign, the counting and the announcement of the results.³⁵

Verification of an Electoral Process: A more commonly used practice in the category of major election missions is that of verification. The electoral process is organised and administered by the national election authority, while the UN is asked to verify the acceptability of all aspects of the process. U.N. verification missions have no legally binding powers, but are authorized to verify the various stages of the election process and the compliance of the national electoral authority with the electoral regulations. According to Beigbeder, the terms of reference for verification are very similar to those pertaining to supervision. The major difference, he points out, lies in the fact that the former takes place in sovereign states, while the latter does not. A very recent example is South Africa's 1994 elections, where the U.N. was specifically required to conduct the verification of each phase of the election process.

The rate at which democratisation has taken place since the late eighties has forced the U.N. to rethink the nature of its participation in electoral assistance programmes. The increased demand for a U.N. presence had the effect of

³⁴See Beigbeder 1994 p. 111.

³⁵See Beigbeder 1994 p. 111.

putting the organisation's human and financial resources under severe strain. With its aim to provide a more efficiently managed observation service, the U.N. established its Electoral Assistance Division (EAD) in 1992. The division is run by a small staff of electoral experts who work in close co-operation with other UN agencies, IGOs and NGOs. Its main functions are to evaluate government requests for electoral assistance, conducting needs assessment missions, and collaborating with other U.N. system agencies in the design of electoral assistance. In addition it also provides training and logistical support to international observer groups.³⁶

In the light of budgetary constraints, the EAD has limited its operations to the provision of electoral verification in the context of peacekeeping, and the co-ordination and support of various international observer groups in the form of JIOG's.³⁷ The organisation no longer deploys large groups of observers on a routine basis, but in some instances it will still send a small number of observers to "follow and report" on an election. As will be indicated in the following chapter, the EAD has also drawn up a list of criteria to which a member state has to adhere before assistance can be provided. The primary aim of this list is to ensure that funds are not wasted on countries where either the goodwill of the organisation will be abused or where the basic conditions for holding elections are nonexistent.

3.1.2 The Commonwealth

The Commonwealth is not a typical intergovernmental organisation. It consists out of a loose amalgamation of former British colonies and has no constitution or charter, no constitutional structure, and it does not impose statutory obligations on its members.³⁸

Already in 1971 the Commonwealth adopted its Declaration of Commonwealth Principles, which contained a strong pro-democracy

³⁶See United Nations EAD: <http://www.un.org/Depts/dpa/docs/website3.htm> 23/27/1999

³⁷See Anglin 1998, p. 474.

³⁸See Beigbeder 1994 p. 224.

content.³⁹ This is significant in the light of the fact that a large number of Commonwealth members were at that stage one-party states or military governments.

Like the U.N. the Commonwealth had previous experience of election observation during the decolonisation era, but never formally subscribed to it as a measure to render electoral assistance in sovereign states. When its Heads of Government met in Kuala Lumpur in 1989, to strategise on the organisation's course for the nineties, it was decided that henceforth the organisation should play a more prominent role in the promotion of democracy within member states.⁴⁰ It was further agreed upon to provide Commonwealth observer missions on request to members in order to reinforce their election and constitutional processes. In the Harare Declaration two years later, the organisation undertook to strengthen its capacity to respond to requests from members for electoral assistance and to contribute to the entrenchment of democratic practices and institutions.⁴¹

In practice the Commonwealth's electoral assistance consists mainly of the technical assistance, verification and/or observation.⁴² Generally its advisory role is limited and up to now it has not been responsible for the conduct of an election. Most missions have therefore been small and the size of contingents usually ranges between four and thirteen observers.⁴³ The Commonwealth also participates in democratic capacity-building programmes by contributing to the strengthening of institutions which sustain democracy and the civil service.

3.1.3 The Organisation for Security and Cooperation in Europe (OSCE)

³⁹ The Commonwealth, 1992: "The Evolution of the Modern Commonwealth" **Commonwealth Yearbook 1991**

⁴⁰ See Beigbeder 1994 p. 238.

⁴¹ See Beigbeder 1994 p. 238.

⁴² Anyaoku, E. 1996: *The Commonwealth and the New Liberation*

<http://www.tcol.co.uk/secgen.htm> 2/9/1999

⁴³ See Beigbeder 1994 p. 239.

The OSCE, or the Conference on Security and Cooperation in Europe (CSCE) as it was known at its establishment in 1972, has since its inception in 1973 subscribed to the principle of respect for human rights. Its founding charter did, however, not contain any reference to democracy as the preferred political system for its member states. It was only at a summit of the organisation in Paris in 1990, that it decided to adopt the principle of democratic governance in member states.⁴⁴ Earlier that same year in Copenhagen at a meeting on the Human Dimension of the OSCE (then CSCE), the need was impressed upon members to consider the advantages of having present both international and domestic observers at general elections.

The Paris Summit also saw the establishment of an Office for Free Elections, which progressively was given more responsibilities, and eventually led to its name change of the Office for Democratic Institutions and Human Rights (ODIHR).⁴⁵ Its tasks included facilitating and exchanging information on elections, the organisation of democracy related seminars and the establishment of contacts with NGOs. Its main function however became the monitoring of elections. Its broad membership, according to Prins and Würzner, had put the OSCE in the ideal position of taking charge of the coordination of election monitoring at a stage when a vast number of the former East Block countries were in the transition process from authoritarianism to democracy.⁴⁶

3.1.5 Other IGOs

Many other regional and transregional IGOs have recently become actively involved in promoting democratic values mainly in their member states, but in some exceptional cases also abroad. Like the U.N. their main contribution has come in the form of providing observer missions and technical assistance to countries which have national elections.

⁴⁴See Beigbeder 1994 p. 256.

⁴⁵ Prins, D. and Würzner, H. 1996: *Transition or Tradition? The United Nations, OSCE and Electoral Assistance* **Helsinki Monitor** Vol. 7 No 4, p. 32.

Like the Commonwealth, la Francophonie is focussing in on democratic reform in former French colonies. The EU also makes use of its influence in Lomé Convention countries, like the OAU in African countries. Sub-regional bodies such as the Economic Community of East African States (ECOWAS) and the Southern African Development Community (SADC) are also becoming involved in election monitoring on the African continent.⁴⁷

Specifically of interest to Southern Africa, is SADC's drive to establish a professional electoral assistance infrastructure. The Electoral Institute of South Africa (EISA) is coordinating the work of SADC electoral commissions forum. The main motivation behind this endeavour is to build the necessary capacity within SADC to observe each other's elections says David Pottie, a senior researcher at the institute.⁴⁸ In 1999 there will be five elections within SADC member countries, and according to Pottie, it will be the aim of EISA to coordinate SADC observer missions in all them.

3.2 Non-governmental Organisations (NGOs)

As has been stated in the above section, the UN with its greater financial, organisational and technical resources has major advantages over other observer bodies. Being bigger does, however, not make it better in all matters pertaining to election observation.

Since they are small groups with limited resources, most electoral NGOs are increasingly focussing their attention on specialised niches based on comparative advantage.⁴⁹ The International Human Rights Law Group, for example, specialises in the analysis of election laws, while the International Foundation for Election Systems (IFES) excels in the provision of electoral equipment and technical support. Due to their specialised nature, it has increasingly become American practice to contract observation out to larger electoral NGOs like the IFES, the National Democratic Institute (NDI), and the

⁴⁶ See Prins and Würzner 1996, p. 33.

⁴⁷ See Anglin 1998, p. 482.

⁴⁸ Interview with David Pottie

International Republican Institute (IRI). In practice these larger NGOs prefer to do their election observation independently. Most of the smaller international NGOs pool their respective skills in the combined UN-organised observer missions.

According to Chand, this type of specialisation by NGOs have contributed to greater pluralism in global society and fostered a much-needed network of co-operative ties between IGOs and NGOs.⁵⁰

4. REPRISE

It has been the objective of this chapter to introduce the reader to the origins, nature and practitioners of international election observation. It has been indicated that its roots essentially lie within the context of electoral assistance provided to former colonies in the wake of the decolonisation period.

Initially IGOs were the primary practitioners of international election observation. The magnitude of post-colonial elections and the resources required by observer missions to cover them has made IGOs the obvious choice to conduct election observation. As the rate of countries democratising has rapidly increased since the late eighties, it has, however, become increasingly difficult even for large IGO's like UN to finance their observer missions. This opened the door for the NGO sector to play a more prominent role in the field of electoral assistance.

Today international and national NGOs play a significant role in the conduct of elections. Their value lies in the fact that most are specialising in some aspect of electoral conduct. This has allowed the UN to perform its new function of co-ordinating major IGO and NGO missions by means of joint international observer group (JIOGs). Not only is it a more economical way of observing, but according to its proponents, it allows for increased efficacy in terms of reaching as many voting stations as possible.

⁴⁹ See Chand 1997, p. 548.

⁵⁰ See Chand 1997, p. 559.

Many of the abovementioned organisations, both intergovernmental and nongovernmental, were also active participants in South Africa's 1994 and 1999 electoral processes. The context within which each took place, differed and therefore also the contributions that were required and provided by international bodies. This assignment will specifically deal with the nature of international participation in both elections, and the cumulative effect it had on South Africa's relatively young democratic infrastructure.

CHAPTER 3

Major Challenges to International Observation and Responses Thereto

1. INTRODUCTION

A defining trademark of the new generation of election observer missions has been the vast majority of observation efforts that have been conducted within the borders of sovereign states. The foundations for this new focus has been laid by the global wave of democratisation that has swept over most of the world's formerly authoritarian countries since the late eighties. Although being viewed by its proponents as a measure, which could enhance the legitimacy of elections, there are a substantial number of critics who view this practice with suspicion for a number of reasons.

This chapter will focus on these reasons and the responses they have drawn from the proponents of international electoral assistance.

2. THE "INTERVENTION OR ASSISTANCE" DEBATE

The monitoring of elections touches on a sensitive nerve in the debate about the changing nature of national sovereignty – even more so than the question of humanitarian assistance.⁵¹ The latter can be justified by arguing that it occurs under circumstances of political and economic breakdown where governments are unable to provide for the needs of their citizens. In Chand's opinion the same can be said about elections that take place as part of a peace-building strategy.⁵² When international monitoring is, however, being conducted within functioning states, that in some cases have conducted a second or even a third election, the complexity of this issue becomes more obvious.

⁵¹ Korten, D.C. **Getting to the 21st Century: Voluntary Action and the Global Agenda**

West Hartford: Kumarian Press p. 135

⁵² See Chand 1997, p. 549.

A starting point for discussion would be to look at the conceptualisation of “sovereignty” within the context of international law. According to Oppenheim, it involves the popular characterisation of states as “the highest underived power and as the exclusive competence to determine jurisdictional limits.”⁵³ When this understanding of the sovereignty concept is read together with Article 2(7) of the UN Charter, which states that nothing contained in the Charter shall authorise the UN to intervene in matters which are essentially within the domestic jurisdiction of any state, a pretty strong case can be made out against the principle of international election monitoring.⁵⁴

The counter argument questions the extent of the boundaries of domestic jurisdiction. Should the election process fall within the ambits of national sovereignty, election observation can amount to intervention in a country’s domestic domain. Should it, however, fall within the sphere of international law, it would not be the case.

Rwelamira and Ailola argue in favour of the latter.⁵⁵ They begin their argument by pointing to the nightmare experiences of the Second World War, and the subsequent adoption of the United Nations Charter. The atrocities that occurred during the war period provided convincing evidence of the close proximity between the brutal behaviour of a government towards its citizens, and the core concerns of international law: the protection of human rights and the maintenance of international peace and security.⁵⁶ The preamble to the United Nations Charter reaffirmed this commitment to the protection of human rights and in the equal rights of men and women. The further notion of a “crime against humanity” that originated during the Nüremberg Military tribunal, further affirmed the new contention of the existence of human rights that are superior to the law of the state, and protected by international

⁵³ Oppenheim, L. 1994: *International Law: A Treatise* in Darko Asante, K. ed. *Election Monitoring’s Impact on the Law* **International Law and Politics** Vol 26 No 235 p. 238

⁵⁴ United Nations Charter: Article 2, Paragraph 7

⁵⁵ Ailola, D. and Rwelamira, M. 1994: *International Monitoring of Free and Fair Elections* in Steytler, N. a.o eds. **Free and Fair Elections**, Cape Town: Juta p. 214.

⁵⁶ See Steytler a.o. 1994, p. 214.

sanctions, should they be violated. The Universal Declaration of Human Rights also contributed to the idea that popular sovereignty has become a justification for the human right to participate in government. It thus reaffirmed the notion that the will of the people remains the foundation on which government authority has to be built.

The acceptance of these norms has, according to Ailola and Rwelamira, brought with it the right of the international community to set standards which states have to comply with should they wish to be accepted as fully fledged members of the community of nations.⁵⁷ The nature of current international standards point to the conduct of democratic elections as the key symbol of a state's commitment to the protection of human rights and international peace. The three documents that bear evidence to this are the *International Covenant on Civil and Political Rights*, the *UN General Assembly Resolution on Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections* and the *Council of European Communities' Resolution on Human Rights and Development*. Article 25 of the *International Covenant on Civil and Political Rights* ascribes to every person "the right to vote and to be elected at genuine elections, which shall be universal with equal suffrage, and shall be held by secret ballot, guaranteeing the free expression of the will of the electors."⁵⁸

The UN resolution asserts that: "as a matter of practical experience, the right of everyone to take part in the government of his or her country is a crucial factor in the effective enjoyment of all of a wide range of other human rights and fundamental freedoms, embracing political, economic, social and cultural rights."⁵⁹ The European Union also points to the link between the universal nature of human rights and its supposed relationship to democracy. In its resolution it states that: "The Council acknowledges that human rights have a universal nature and it is the duty of all states to promote them. At the same

⁵⁷ See Steytler a.o. 1994, p. 214.

⁵⁸ International Covenant on Civil and Political Rights, Article 25(b)

time, human rights and democracy form part of a larger set of requirements in order to achieve balanced and sustainable development.”

In the opinion of Ailola and Rwelamira, the right to political participation, as has been stated in the above documents, is for this reason, binding on all signatories. In total such a view emphasises – with the sanction of international law - the importance of free elections as the cornerstone of human rights protection. On the basis of this they claim that international election observation should be seen within the context of the above-mentioned and other documents pertaining to the protection of basic human rights. This view is subscribed to by Darko Asante who states that: “Since the concept of sovereignty and the principle of non-intervention are clearly subject to the requirements of international law, election monitoring therefore does seek to endorse an international right and the UN in carrying out the process does not violate the sovereignty of the monitored nation.”⁶⁰

However noble the norms, intentions, and activities stated in the above section, an increasing dissatisfaction with the practice of election observation is coming to the fore - and surprisingly not from political incumbents, but from pro-democratic civil society organisations in Africa. In the following section these main points of discontent will be discussed along with recent responses to them.

3. POINTS OF DISCONTENT

International election observation is not the panacea for unconsolidated democracies. The Angolan elections and more recently the referendum in East Timor, has crudely brought home this harsh reality. According to Thomas Carothers, examples like these highlight the limitations of observing elections.⁶¹ The truth is that observers cannot force irreconcilable parties to

⁵⁹ United Nations: **Enhancing the effectiveness of the principle of periodic and genuine elections** (GA Res. 45/150 1991)

⁶⁰Darko Asante, K. 1994: *Election Monitoring's Impact on the Law: Can it be reconciled with sovereignty and non-intervention?* **International Law and Politics** Vol. 26 No 235, p. 275

⁶¹Carothers, T. 1997: *The Observers Observed* **Journal of Democracy** Vol. 8 p. 21.

cooperate. They cannot counter deeply ingrained political anti-democratic instincts of political incumbents, and least of all can they guarantee that the international community or individual nations will act decisively on findings of electoral fraud.

However, he warns that there are number of current observation practices that may lead to unsatisfactory electoral outcomes. Geisler points to the Kenyan general elections of 1992 and the Ghanaian presidential elections of the same year as examples of flawed elections that could have been avoided.⁶² Obvious failures like these have led to a number of sceptics asking whether the presence of international observers are not more damaging to the achievement of long-term democratic stability than anything else. Some have even gone so far as to suggest that voters have experienced severe betrayal by international election observers. Carothers identifies elusive standards, amateur observers, and partiality as the three central shortcomings that should be addressed in future. In the following subsections each of these points will be discussed in more detail.

3.1 *Elusive Standards*

The notion of free and fair elections has become the popular measure against which an electoral outcome is assessed. "Was it free and fair?" is usually the first question asked by the international media at the conclusion of an election. Less experienced observers are likely to provide them with the sound bite they look for. Rarely does anyone enquire about the content of such a pronouncement.

The debate of what should be regarded as free and fair is only now receiving proper attention. Is there a universal conceptualisation of free and fair means, and if not, it should be asked whether there is any sense in attempting to achieve such a standard. As the debate develops, the paradox is gradually

⁶²Geisler, G. 1993: *Fair? What has Fairness Got to Do With It? Vagaries of Election Observations and Democratic Standards* **The Journal of Modern African Studies** Vol. 31 No. 4 p. 613-614

becoming more obvious. Observers everywhere agree that elections have to be free and fair, but one is likely to find as many interpretations of freeness and fairness as there are observer groups.

At present a clear international measure seems to be lacking. Although certain broad guidelines can be found in sources like the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights and the U.N.'s Human Rights and Elections Handbook, practical circumstances have shown that observer missions are to a large extent dependent on interpretations of the free and fair criteria within the context of a specific election. These interpretations in effect become *ad hoc* standards that cannot easily be compared with standards used elsewhere in other elections. This apparent inconsistency in the use of yardsticks has been severely criticised by domestic pro-democracy groups.⁶³ While Western countries demand that elections have to be conducted in a free and fair fashion, the contradictions emanating from the standards being used cause confusion about what is really required from the observed country.

Carothers notes that the spread of international election observation has fostered a somewhat false perception that an ideal set of criteria exists for electoral competition all over the world.⁶⁴ Experience has shown, he asserts, that it is not the case. The popular definition of free and fair elections goes as follows: Freeness refers to the ability of voters to participate in an election without coercion or restrictions. Fairness again, relates to regularity (the unbiased application of rules) and reasonableness (a fair distribution of resources between competitors).⁶⁵ Should an election meet all or most prerequisites, it can surely be declared free and fair. Should the opposite be the case, it must clearly be declared not free and fair. What does however happen when the conduct of an election falls somewhere in-between the extremes. Carothers argues that many elections in politically transitional

⁶³See Geisler 1993, p. 604

⁶⁴See Carothers 1997, p. 24.

countries fall somewhere in this grey area between the extremes. Very often elections meet the freeness, but not the fairness criteria or vice versa. How should the observer make sense of such a situation? It is within this space that the controversy about the application of standards exists. In addition it highlights the need for a more elaborate understanding of the free and fair criteria that can be employed under most electoral circumstances.

One way of devising a framework within which elections can be evaluated is to distinguish between a list of factors deemed necessary for an election to be free and fair, to operationalise them, and then to judge each of these individually. Elklit and Svensson argue that such an approach can be troublesome. Firstly methodological problems might arise in determining whether an individual category does indeed meet the established criteria. Even more challenging might be an endeavour to combine the different measures into a single score.⁶⁶

Instead they opt for a model that takes a more holistic approach to the judging of elections. They state categorically that within the context of elections, the phrase, "free and fair", should not be regarded as an internationally accepted standard of electoral competition. According to these two authors no such standard exists. The complex nature of an election campaign does not allow for such a simplification.⁶⁷ They are nevertheless critically aware of the dilemma that this causes for the election observation project as a whole. Should they avoid the use of the phrase "free and fair", a real danger exists that it might become the object of abuse of many who have little understanding of the electoral process. Should they, however, choose to use the phrase as convenient shorthand, they might open themselves to criticism from their intellectual peers who will be quick to point out the discrepancies contained in it. Their model is an attempt to side-step both these potential

⁶⁵Elklit, J. and Svensson, P. 1997: *What Makes Elections Free and Fair?* **Journal of Democracy** Vol. 8 No. 3 p. 35.

⁶⁶See Elklit and Svensson 1997, p. 34.

⁶⁷See Elklit and Svensson 1997, p. 43.

pitfalls. Instead of indiscriminately using the “free and fair” criteria, they allow for the more lenient categories of “acceptable” or “not acceptable”.

Elklit and Svensson’s point of departure is the clear distinction that they make between the “free” criteria and the “fair” criteria. They conclude that freedom criteria should in most instances enjoy preference, because without political freedom, the chances of election rules being applied fairly are minimal. Fairness is also subdivided in its components parts, regularity and reasonableness. Regularity, they assert, refers to the impartial application of the electoral law and constitutional provisions, while reasonableness pertains to equal opportunities for the exercise of political freedoms.

Apart from the clarification of these two concepts, another distinction is can be made between events before, during, and after polling. A complete observation mission should include each of these components and not only observation on election day itself. The significance of observation in the pre-election period lies in the assessment of whether the electoral law and constitution allow voters the necessary freedom to participate meaningfully in the voting process. Observation in the post-election period is vital in order to establish whether electoral rules have been applied fairly and regularly. By combining these two dimensions, the authors have constructed an electoral checklist for both the free and the fair criteria, which they hope will provide a number of general guidelines.⁶⁸

Since electoral processes are not uniform, it is not feasible to assign specific weights to each of the dimensions in this checklist. Elklit and Svensson, however, identify a number of rules of thumb. Normally items in the “free” category should take precedence over items in the fair column, because, as has they have asserted, the chances of election rules being applied are fairly minute without political freedom. Within the fair column items that pertain to impartial application of electoral law should be regarded as more significant

⁶⁸See Elklit and Svensson 1997, p. 35.

than those having to do with ideal opportunities for political competition.⁶⁹ Ideal conditions, especially in developing countries, are seldom present. Too much emphasis on this aspect will disqualify many transitional elections.

For the abovementioned reason, the authors assert that a checklist, as has been suggested above, cannot be used in isolation of the environment within which the election takes place. In addition, they suggest that observers should as far as possible try to evaluate the election within the context of the specific political environment. Important here is to assess whether the electoral process, despite its flaws and shortcomings, stands to have a consolidating effect on democratisation process. Also to be considered is whether the election result has been a true reflection of the will of the voter population. These two considerations should not be taken to their extremes (The authors caution that an election should not be judged favourably simply because it contributes to political stability and order. Their focus should not be on drawing political conclusions, but rather on delivering information on factual occurrences within the electoral process).⁷⁰

Elklit and Svensson suggest three distinctive contexts in terms of which identified criteria should be judged. A graphic illustration is used to illuminate their model (See Figure 3.1).⁷¹ Curve A represents transitional elections from an authoritarian to a democratic state. In elections like these where very little electoral infrastructure exists, it will be advisable to adopt a “looser” interpretation of electoral standards. This should be allowed to ensure that too high standards do not discourage former authoritarian countries from embarking on the road to democratisation.

Curve B represents elections in the same position as those in Curve A, but where there are reasonable indications that the incumbents might have manipulated an election. The use of this category is an indication that “looser”

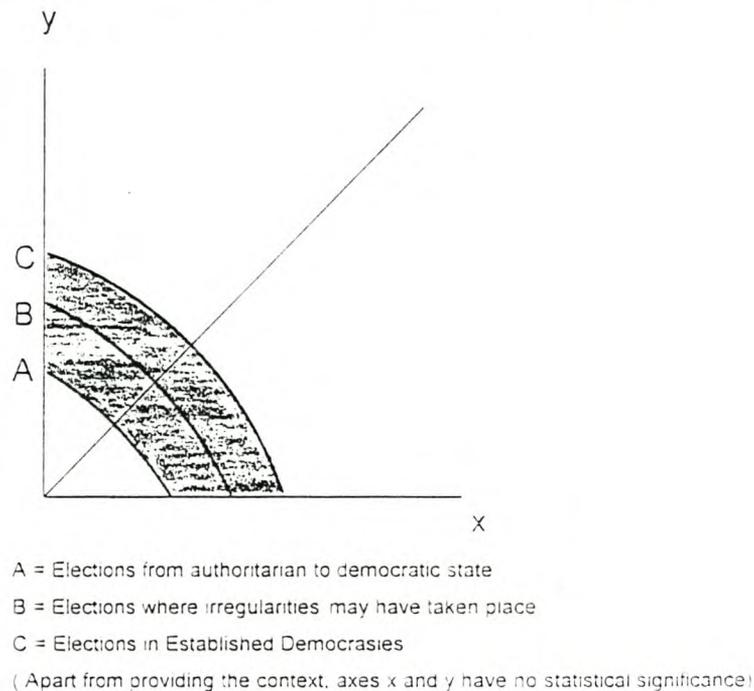
⁶⁹See Elklit and Svensson 1997, p. 38.

⁷⁰See Elklit and Svensson 1997, p. 38.

⁷¹See Elklit and Svensson 1997, p. 42.

standards for evaluation can and should not be applied arbitrarily to encourage democratic consolidation. In the words of Geisler, “ a flawed election must be called a flawed election.”

Figure 3.1.: Elklit and Svenson's Graph for Election Classification



Elections that are represented by Curve C signify elections that take place within established and consolidated democracies. Since they have both a democratic experience and a well-developed electoral infrastructure, stricter standards should apply to electoral conduct. It should nevertheless be noted that Curve C does not lie where the optimum points of freeness and fairness meet. As has been asserted by the two authors, the complete fulfilment of both conditions is unheard of.

The complexity of making a clear distinction between what is free and fair, and what is not, is represented by the straight line that runs from the bottom left to the top right corner of Figure 1. The crucial point is where the straight line leaves the border of the shaded area at Curve C. It is here where the distinction is made between acceptable and not acceptable. All elections that can be categorised as falling within the grey area should be regarded as acceptable. Elections falling in the area to the left of Curve A have been

conducted in an unacceptable fashion, while those falling to the right of Curve B should be regarded as having been conducted in an acceptable fashion.

The author regards this model as functional for the purpose of this work. It succeeds in taking cognisance of both the immediate political environment and universally accepted electoral standards. While acknowledging the virtual impossibility of setting empirical standards to evaluate all elections, Elklit and Svensson nevertheless provide a helpful parameter that goes far in providing a set of guidelines that can be utilised within different contexts. These guidelines will also be employed by the author to evaluate the pronouncements of international election observers in South Africa's 1994 and 1999 general elections.

3.2 *Amateurs at Work*

Carothers remarks with regret that "like any high-growth industry, election observation has become hindered by an excess of supply".⁷² During the last decade the number of organisations participating in international election observation has mushroomed. A small number of these have made substantial contributions to democratic consolidation around the world. Many others have unfortunately displayed a high degree of unprofessional conduct.

Carothers notes that whenever a high-profile election is being conducted, large numbers of small, poorly coordinated, observer missions swoop down on the relevant country to make their presence felt. Many of these consist of high-profile politicians with little or no experience of election observation. Their motivation, they claim, is "the desire to express solidarity" with a newly democratised country. He views these groups with a fair amount of scepticism, and maintains that the only explanation for their presence is political curiosity, or electoral tourism, as he calls it.⁷³ Instead of enhancing the elections, they contribute little and sometimes even obstruct the smooth running of electoral procedures. In many instances it has happened that

⁷²See Carothers 1997, p. 22.

⁷³See Carothers 1997, p. 22.

during the most crucial administrative preparations these groups will overrun electoral commissions with requests for briefings. More than often seeking the spotlight, they are also the first with hasty post-election statements that in some instances detract from statements made by experienced observer groups at a later stage.⁷⁴

A trademark of inexperienced observer missions is that they tend to spend a disproportionate amount of time on the election itself, forgetting that it is just one constituent part of a more expansive electoral process.⁷⁵ Three or four days before the election day they jet in, only to hold a short news conference at the closing of the polls and leave straight afterwards – in some instances even before the votes have been counted. As has been mentioned in subsection 3.1, many things can happen both before and after election day that can jeopardise an acceptable electoral outcome. Institutional defects, restrictive electoral laws and intimidation are all factors that can have a substantial influence on the outcome of an election, even if polling took place without incident. An unbalanced focus on election day may well lead to a favourable evaluation of an otherwise unconvincing electoral process. Entrenched leaders have picked up this weakness, and the manipulation of election procedures preceding the actual voting is becoming ever more sophisticated.

Apart from the irregularities that might go undetected if observers merely focus on election day, there is another important argument in favour of more comprehensive observer missions that give equal attention to all phases of the electoral process. It is important for individual observers to get used to the country, its people, and more importantly its political climate. In this period a relationship of trust has to be fostered between observers, local NGOs, and political parties contesting the election.

⁷⁴See Carothers 1997, p. 22 and Geisler 1993, pp. 618-619.

⁷⁵See Carothers 1997, p. 22

The unflattering image of international election observation as a largely uncoordinated practice, based on uninformed assumptions and run by people that leave as suddenly as they arrive, is not doing the observation practice any good. It should in all fairness be noted that short-term observation is often enforced by lack of funds to stay for the duration of the whole electoral process. Nevertheless, if they wish to retain (some would argue, regain) its credibility among democratising states, practitioners of electoral observation are well advised to search for ways that will foster greater cooperation amongst themselves. Not only will it enhance greater uniformity in the use of standards, if organised effectively, but it can also be cost saving. Things have, however, been changing over the past four years.

At the IDEAs 1995 conference on international election observation a number of general recommendations, aimed at the enhancement of professional observation missions, were made. The following are some of the main conclusions of the conference. ⁷⁶

- a. The need has been expressed for a central mechanism through which information can be exchanged and shared.
- b. Although differences in approach and methodology will always exist, greater cooperation should be achieved through the establishment of some kind of coordination team on which all credible organisations can be represented.
- c. Each observer group or institution may issue its own statements, conclusions, judgements and press reports at its own discretion. However the collective sharing of information and observations is essential and will enhance the quality, accuracy and credibility of individually issued statements.

⁷⁶IDEA and U.N., 1995: **International Election Observation: Seventeen organizations share experiences on electoral observation** Stockholm: IDEA p. 20.

- d. A joint cooperative approach to election monitoring and observation is not only desirable but also necessary, particularly in large countries.
- e. A multilateral approach is generally favoured as a more effective and credible basis for international election observation.

Since these recommendations were made in 1995, their central thrust (i.e. inter-organisational cooperation) has become part of international electoral observation practice. The U.N. has taken a leading role in the creation of JIOG's that facilitate better cooperation and sharing of information between participant observer groups. These missions usually arrive a month or two before an election is due to take place. They familiarise themselves with the political climate, and when short-term observers arrive, the knowledge gathered by the JIOG can be passed over to them.

As has been mentioned in Chapter 2 this practice is being used more regularly for the simple reason that it is more cost effective. Another less obvious advantage of JIOGs is that a commonly agreed upon purpose and terms of reference are established before observation starts. Throughout the election all observer missions share information. At its conclusion, electoral observers are therefore in a better position to do a better-informed evaluation of the election.

3.3 *Partiality of Observers*

The presence of international election observers has become a *sine qua non* for the quest for political impartiality at transitional elections. As has been mentioned in the first chapter, the international legitimacy that it affords to elections is arguably the most obvious argument advanced in favour of an international presence during an electoral process.⁷⁷

⁷⁷ Mair, S. 1997: **Election Observation: Roles and Responsibilities of Long-term Election Observers** ECDPM: http://www.oneworld.org/ecdpm/pubs/wp22_gb.htm 15/7/1999

This unsullied image has, however, been scathed during recent years. According to Carothers many observers do not hesitate to pursue partisan political agendas to the overall detriment of the practice of international election observation around the world.

In her critical 1993 article about the state of election observation in Africa, Geisler suggests that Western standards with regard to electoral conduct and democratisation generally seem to be at odds with what is happening in practice.⁷⁸ In support of her statement, she asserts that pronouncements by both the Commonwealth Observer Team and the American ambassador about the standards being used in Kenya's 1992 election point to a number of contradictions. Initially international standards were set, but as soon as it became clear that under these standards the elections were doomed to failure, they reverted to standards that she considers questionable. In addition, she also points to dubious election standards that have been applied by France in its former colonies, the clearest example being Cameroon in the October 1992 elections. She concludes that the mantra of good governance, so ardently propagated by the West to African countries, may have more to do with accepting the right economic policies than with adhering to recognised economic principles.⁷⁹

Also hinting at this possibility is *The Economist*, which suggests that the highly controversial re-election of Jerry Rawlings in Ghana's 1991 presidential elections might have been influenced by similar considerations. It remarks that good democratic practices could well have ruined the country's admirable performance in economic restructuring achieved under Rawlings.⁸⁰ In essence these contentions by academics and the press suggest that pro-

⁷⁸See Geisler 1993, pp. 630-631

⁷⁹See Geisler 1993, p. 631

⁸⁰The Economist 1992: In Geisler (ed.) in *The Journal of Modern African Studies* Vol. 31 No. 4 p. 618.

democracy campaigners in host countries are increasingly viewing election observation as 'free market policing,' rather than democratic assistance.

This phenomenon is not peculiar to Africa. Haiti's local and legislative elections of 1995 also provided ample backing for claims that institutional partiality is alive and well in the practice of international election observation. The official U.S. observer delegation, representing a government that had to prove that its democracy promotion initiatives had been successful, found that the elections had been conducted in favourable conditions. It was not surprising then that the International Republican Institute (NRI), that was highly critical of the mentioned policy, pointed to a substantial number of irregularities that tarnished the outcome. Similarly Carothers points to observer missions of European political parties – such as the Socialist International and the Liberal International – that tend to cast their judgements along the lines of ideological affiliation. This, he contends, has especially been the case in Eastern Europe and Latin America.⁸¹

Examples like the above have cost the international election observation project some of its former prestige. Pro-democratic forces in transitional countries regard these actions as a betrayal of ordinary voters and have been fierce in their criticism of it. Gradually a growing number of organisations are opting for greater cooperation between international observers and their local counterparts. This trend has gained impetus, especially since the 1995 IDEA Conference where strong emphasis had been laid on the need for closer cooperation between observer groups.⁸² Although not all international missions are guilty of partiality, they feel that increased cooperation will go a long way in dispelling the distrust that may lead to conflicting pronouncements and eventual resentment between groups that are campaigning for the same cause.

⁸¹See Carothers 1997, p. 26.

⁸² IDEA and U.N. 1995, p. 20.

Local groups around the world have for some time now been involved in domestically driven election observation activities. These missions have generally been organised by civic organisations or networks of NGOs that provide the organisational infrastructure and logistical support; do the recruiting and training of observers and gather, communicate and analyse all forms of data. Maybe the most significant aspect of domestic observation efforts is that they make their own conclusions about the conduct of the elections and present their findings to the electoral authorities.⁸³ Even though domestic observation has become a common phenomenon, very little attention has up to now been given to its accomplishments. There are a number of reasons for this.

Firstly domestic observers can't compete with their international counterparts when it comes to the availability of funding, training and logistics. International observers have a clear advantage in matters relating to the technical and organisational aspects of election observation. They can draw on a vast source of expertise encompassing all aspects pertaining to electoral assistance. Sufficient funding also allows them to import everything that might be lacking in local infrastructure.⁸⁴

Arguably one of the more significant contentions in the discourse about the relative value of domestic observers is the notion that international observers will have much more legitimacy than locals. It is especially here where domestic observers in transitional societies will have an up-hill battle in convincing fellow citizens of their credentials. It is to be expected that levels of mutual trust between citizens will be low after prolonged periods of internal political division. It is most likely that domestic observers will under these circumstances find it hard to convince the populace of their impartiality. An international presence on the other hand, the common perception goes, is more likely to draw confidence and trust from a wider cross-section in post-

⁸³Nevitte, N. and Canton, S. 1997: *The Rise of Election Monitoring: The Role of Domestic Observers* **Journal of Democracy** Vol. 8 No. 3, p. 48.

⁸⁴ See Nevitte and Canton 1997, p. 49.

conflict societies. As has been indicated earlier, these contentions do not stand on the same firm ground as they did in previous times. Still there might be those who will argue that the conflict potential is much lower when international observers make a pronouncement on the acceptability of an election than would be the case with their local colleagues.

These arguments, convincing as they might be, must, however, be viewed within a wider context. It is inconceivable that foreign observers will be present to observe each and every election following a transitional election. Even if they should choose to observe a second and third election, practical experience has shown that the number of observers will decrease with each election. Should they solely concentrate on the actual observation and technical assistance where the host nation falls short, the contribution of international observers can at most be regarded as infrastructural. A good infrastructure does however not guarantee the long-term aspiration of democratic consolidation. Neither does one election that was conducted in an acceptable fashion. As in the case with most established democracies, the road to democratic consolidation has not been a brief one. In some instances it took place over centuries that included bloody wars.

When an assessment is made of the contribution that international election observers can make to this process in a newly established democracy, it can be argued that whatever it is, it must be something lasting that outlives their relatively short stay. The author concurs with Guillermo O'Donnell when he remarks that the essence of conducting an election does not only lie in conducting it in an acceptable fashion, but also that there is a "generalised expectation that a fair electoral process and its surrounding freedoms will continue into an indefinite future."⁸⁵

Nevitte and Canton share this concern that a series of free and fair elections alone may not break the grip that authoritarianism can have on a society.⁸⁶

⁸⁵O'Donnell, G. 1996: *Illusions About Consolidation* **Journal of Democracy** Vol. 7 p. 36.

⁸⁶Nevitte and Canton 1997, p. 50.

They believe that the nurturing of other elements essential to a vibrant democracy is just as important as the actual conduct of an election. This must always be kept in mind whenever discussing the virtues and drawbacks of domestic election monitoring. For this reason they argue that close co-operation between domestic and international observers is not only advisable, but a dire necessity. Both stand to benefit.

For international observers the knowledge of the location, language and culture that their local counterparts have, is essential to conduct a successful observation mission. Due to their superior numbers, domestic observers can also cover more polling stations in their observation effort. They can in turn benefit from the international experience that foreign observers have, and importantly, they can become *au fait* with the latest technology being used to make elections quicker and more fool proof. It is however a number of recurring themes in the practice of domestic observation identified by Nevitte and Canton which suggest that closer cooperation between international and domestic observers might have an enhancing effect on democratic consolidation.

One such a pattern is that domestic observer groups seldom disband after the conclusion of an election. They generally emerge from the first round of elections with more visibility and credibility than when they entered. In many instances this newly found credibility serves as encouragement to become more involved in the political life of a country.⁸⁷ It has become almost customary that the organisation of a domestic observation mission is only the first phase in a group's organisational life. From here, they start to participate in other efforts promoting the cause of institutional democracy. These efforts may take on the form of a variety of activities, but there are a number of traits that they have in common.

Firstly, nation-wide election observation is almost always followed by other observation efforts, be they municipal, general or presidential elections. The

⁸⁷Nevitte and Canton 1997, p. 56.

more they become involved, the faster their credibility will rise among all segments of society.

Secondly, most groups tend to become involved to some degree in citizen education programmes.⁸⁸ Some programmes are low key and consist mostly of the distribution of literature regarding voter rights and election law. Other programmes are more challenging in nature. Those falling in the latter group often use sophisticated tools such as the electronic media to transmit their message.

A third activity often undertaken by domestic observer groups is the lobbying for electoral reform.⁸⁹ This is usually a natural consequence of their practical experience in election observation. Lobbying may be done in informal ways, amounting to quiet consultation with election commissions, or alternatively it might be directly focussed on the media and/or political parties.

Domestic observation activities are not limited to the main categories mentioned in the above paragraphs. Apart from observing, citizen education, and lobbying they also make contributions with regard to civic education in school programmes, training of local government officials, while others strongly campaign for greater involvement of women in government.⁹⁰

A second distinctive pattern that is taking shape is the increasing cooperation among different civic groups within a particular region. This trend is manifested in a growing number of civic coalitions that are being formed for the purpose of election observation and civic education programmes. Whereas it has been mentioned that electoral NGO's are becoming more specialised, it is only fairly recently that they have shed some of the institutional pride that characterise this sector. The cross-fertilisation of

⁸⁸ Nevitte and Canton 1997, p. 57.

⁸⁹ Nevitte and Canton 1997, p. 57.

⁹⁰ Nevitte and Canton 1997, p. 57.

different approaches, which is the product of such co-operation, can only be to the benefit of the long-term process of skill development.

Given the above considerations, the author contends that the empowerment of domestic observer groups is a long-term objective that international observers should invest in. The contribution that they can make to kick-start democratic development is significant and cannot be overlooked. They are not in a position to keep a democracy alive superficially. In the long-term it will be the responsibility of the civil society to facilitate the acceptance of democratic practices among the general population. Helping it on its feet through the initial stages of democratic transformation will be the best possible legacy that international observers can leave behind. Whether an international observer mission has contributed to this end should undoubtedly be one of the yardsticks against which their performance should be measured.

4. CRITERIA FOR THE EFFICIENT CONDUCT OF ELECTION OBSERVATION

Under the preceding headings I have highlighted some of the major criticisms against the practice of international election observation. The major objections relate in essence around three issues: a lack of universal electoral standards, unprofessional observers and partiality by observers. By looking at the responses of international think tanks and scholars to some of these charges, I have distilled three prerequisites for the efficient conduct of international observation missions. These conditions, that will now be reviewed in brief, will be employed to evaluate the conduct of international observers in the two South African general elections that they have borne testimony to.

A. Flexible Electoral Standards

I concur with Elklit and Stevenson when they assert that there is no single universal standard that can be followed point by point to attest to the freeness and fairness of an election. The amount of country-specific variables that may impact on an election are simply too many to fathom with a single, clear-cut measure. Indiscriminate enforcement of such a measure will be to the detriment of democratisation attempts worldwide.

This does not imply that there are no broad standards that should be set to evaluate elections. Any election still has to be founded on basic democratic principles that are common to all democracies. The measure of “acceptability” that Elklit and Stevenson employ provides for a yardstick that scrutinises all stages of the electoral process, but acknowledges the context within which it takes place. Since the level of ‘democratic maturity’ in the established Western democracies are far more advanced than that of recently democratised countries, it will be unfair to employ the rigid standards of the former to states that are still in the process of building up a democratic infrastructure. A negative finding on the part of the international community may only discourage those states that have embarked on their first hesitant steps to democratic reform.

When assessing the South African experience with international observers, an evaluation of the standards that they have applied should thus take cognisance of the context within which the 1994 and 1999 elections took place. Since circumstances to both these elections were unique, their impact on the actual electoral process cannot be ignored.

B. Professional Practices

The reputation of international election observation has on a number of occasions been tarnished by unprofessional conduct by its practitioners. The sight of observers arriving a couple days before the election and leaving shortly afterwards, cannot but leave the observer of observers sceptical of what they could realistically have achieved in such a short space of time. Such behaviour not only compromises the moral authority they have as neutral third parties, but can be to the detriment of the electoral campaign in its entirety.

Most of the problems with regard to this matter stem from a lack of a coordinated observation effort by international observation missions. It should be noted that although there are a number of organisations that appear to be conducting their observation efforts more for the sake of organisational

prestige than in the interest of the host country, there are many efforts that fail simply due to a lack of proper funding.

As has been mentioned earlier, an observation mission is incomplete without attention being paid to all possible factors that might impact significantly on the results, both before and after election day. A shortage of funds, however, makes it difficult to cover a period that might span over several months. Some of the organisations that have a permanent presence within the relevant countries are less affected, but to those that will be present only for the duration of the campaign, the expenses to be incurred are a significant consideration. Many are thus forced to make their stay as brief as possible, and consequently they never get a proper feel for the political climate of the host country.

To overcome the abovementioned problem, it is suggested that a co-ordinating body be established, which allows observer groups to draw from each other's information and experience. Short-term observers thus stand to benefit from their colleagues that represent long-term missions or organisations that have a permanent presence within the host nation. It is to be expected that institutional pride might be an inhibiting factor to such cooperation, but the savings in costs will become increasingly important if the declining trend in funding for observation missions continues.

The UN, by means of its JIOG's, has up to now been the only organisation with the organisational and financial capabilities to establish these co-ordinating bodies. It also established a JIOG to co-ordinate foreign observer efforts in South Africa's 1999 general elections. Whether it achieved its objectives will be established in the following chapter.

C. Observer Impartiality

The primary motivation forwarded for the presence of international observers in transitional elections has always been that it provides for neutral oversight of the electoral process. As has been indicated, the actual practice has shown that this has not always been the case. Charges of economic and ideological

tutelage have become a regular feature of elections that have been conducted in politically volatile areas.

To counter the resentment and distrust that have arisen as a consequence of the perceived partiality of some observer groups, it is suggested that a close working relationship be established between international observer missions, the relevant electoral commission, and especially local observer groups. The fruits of such co-operation may eventually stretch beyond the fostering of mutual trust.

Since international observation will not be a permanent feature of elections, it is conceivable that at some stage the conduct of observation will become the sole responsibility of local observers. For this reason, it is vital that less experienced local observer missions be assisted in both the methodology and technology involved in the conduct of observer missions. Most importantly though, cooperation and association with international observer groups provide an ideal opportunity for them to establish trust and legitimacy among the populace. Should they succeed, experience has shown that many of these groups have moved on to become permanent fixtures that make active contributions to democratic initiatives in civil society. Such initiatives will in the long term contribute to democratic consolidation and should be encouraged accordingly.

CHAPTER 4

International Election Observation in South Africa's 1994 and 1999 Elections – An Assessment of their Contributions

1. INTRODUCTION

In the preceding chapters I assessed the current state of international election observation and the debates surrounding it. Aspects such as the rationale for international observation, the manifestation thereof, and the major criticisms levelled against it were addressed. These discussions have culminated in the identification of three key requirements for the conduct of effective international observation efforts. These are: 1) sound, but flexible, electoral standards; 2) professional conduct by observers and observer missions and 3) observer impartiality. It has to be emphasised that although the author does not claim that these are the only conditions, they are central to any observation effort of this nature.

The aim of this endeavour so far has been to create the required context for the evaluation of observation efforts in South Africa's two democratic general elections in 1994 and 1999. In both instances a number of intergovernmental and non-governmental organisations were invited to witness the conduct of the electoral process.

Although the underlying rationale for international observation (i.e. compliance to international human rights standards, as discussed in Chapter 3) remained the same in 1999, the changes in the South African political landscape were marked. In addition, the legislative environment governing electoral conduct also underwent a number of far-reaching adjustments. These pieces of legislation had important implications not only for voters, but also for the future conduct and mandate of election observers in general. For the sake of comprehensiveness it is essential to take cognisance of these factors.

This chapter will be subdivided into two sections: Section A assessing the 1994 effort, and Section B looking at events pertaining to the 1999 elections. Both sections will be similar in structure. Firstly a background sketch will be provided, which describes the political climate, the legislative environment and the participants in observation efforts. Within the context provided, I will proceed with an assessment of the actual observation effort by means of the identified criteria. On completion of both evaluations, a short summary of the major findings will be provided.

2. SECTION A: THE 1994 INTERNATIONAL ELECTION OBSERVATION EFFORT

2.1 The Political Climate

The 1994 general election was the culmination of a process that started in 1990 with the unbanning of the major liberation movements by former President F.W. de Klerk. At the time De Klerk also signalled his commitment to a negotiation process aimed at the attainment of a political dispensation that would enjoy the support of all South Africans. The resulting multi-party Convention for a Democratic South Africa (CODESA), dominated by the ruling National Party (NP) and the African National Congress (ANC) commenced in December 1991.

Four years later on 27 April 1994, the country's first democratic election brought it to the threshold of a new era that signified a decisive break with its turbulent history. The relative calm in which the elections were conducted, however, belied the fierce confrontations at the preceding CODESA talks, where the peace process had been on the verge of breakdown on a number of occasions. The violent contest for political support, especially in KwaZulu-Natal, also pointed to a potentially disastrous election campaign. If one reflects on the number of occasions the process hung in the balance, the now all too common description of the election as a "miracle" still holds true.

After the initial success at CODESA, a second round of talks, CODESA 2 was scheduled for May 1992.⁹¹ This second round, though, came to a standstill when negotiators failed to agree on the composition of a future constitution-making body.⁹² Further talks failed to resume in the wake of increased violent conflict between the Inkatha Freedom Party (IFP) and ANC in the Zulu heartland of KwaZulu-Natal. Exacerbating the political deadlock, were incidents like the Boipatong massacre which sparked off a campaign of 'rolling mass action', initiated by the ANC and its alliance partners, the South African Communist Party (SACP) and the Congress of South African Trade Unions (COSATU).⁹³

A renewed bid to salvage the negotiation process was launched in April 1993 when 26 political parties gathered at the World Trade Centre in Johannesburg. In the course of this third round of talks, which became known as the Multi-Party Negotiation Process (MNP), the IFP and the Conservative Party (CP) made their exit from the process due to their opposition to the agreed-upon transitional process. Probably the biggest breakthrough at these talks was the agreement reached on the election date of 27 April 1994. September of that same year also saw the enactment of four key pieces of legislation by parliament that provided for the creation of institutions, which together with the interim constitution would be responsible for governing the electoral process.⁹⁴ These were the Transitional Executive Council (TEC), the interim executive body created to supervise government actions in the run-up to the elections; the Independent Media Commission (IMC), monitoring all sources broadcasting electoral content, as well as state-financed publications and communications services; the Independent Broadcasting Authority (IBA),

⁹¹ Napier, C.: **The Origins and Implementation of the South African Constitution** <http://www.unisa.ac.za/dept/press/politeia/152/origins/html> 15/01/2000

⁹² Commonwealth Secretariat, 1994: **The End of Apartheid: The Report of the Commonwealth Observer Group to the South Africa Elections 26–29 April 1994**, London p. 7.

⁹³ Anglin 1995, p. 522.

⁹⁴ Suggot, M and Hess, S. 1997: *Tampering With Pre-1994 History* **Daily Mail and Guardian** <http://www.web.sn.apc.org/wmail/issues/970227/NEWS110.html> 14/01/2000

regulating the electronic media, and the Independent Electoral Commission (IEC) responsible for the conduct and administration of the election.⁹⁵ The last mentioned had specific bearing on the mandate and participation of foreign election observers within the South African context. The act made specific provision for the witnessing of both the voting and counting stages by independent observer groups.⁹⁶

Even though the green light for international election observation was given only in 1993, a significant number of IGOs and international NGOs were already established in the country well before year-end 1992. Initially the NP Government brushed aside suggestions by the ANC and prominent community leaders, like Archbishop Desmond Tutu, for an international observer presence. The 1992 deadlock at CODESA 2, and the Boipatong massacre, which highlighted the inability of local parties to contain political violence brought a turning point in the government's approach to foreign election observation.⁹⁷ Another factor that provided momentum to the process was the visit of a U.N. fact-finding team which succeeded to allay some of Pretoria's fears on the issue.

This team was mandated by UN resolution 772 to investigate the demands that would be made by an observer presence of the U.N. The particular resolution that was adopted by the Security Council on 17 August 1992, underlined the Council's agreement on the necessity of the deployment of an international observer contingent in South Africa.⁹⁸ The resolution also called on other international organisations to send their observer groups to South Africa. The success of the fact-finding mission paved the way for the first contingent of 50 observers of the U.N. Observer Mission to South Africa (UNOMSA) to arrive in the last quarter of 1992.

⁹⁵ See Commonwealth Secretariat 1999, p. 7.

⁹⁶ Electoral Act (No. 202) of 1993

⁹⁷ See Anglin 1995, p. 520.

⁹⁸ See Geldenhuys 1998, p. 84.

Other missions soon followed. The European Community Observer Mission in South Africa (ECOMSA) deployed 15 observers by the end of 1992, and became only the second EC observer mission to be deployed since Yugoslavia. A Commonwealth Delegation of 12 observers also arrived in October 1992, and was followed by an 11-member contingent of the Organisation for African Unity (OAU) in November of that same year. By the end of 1992 all of these organisations operated under the mandate of Security Council resolution 772, which required them to monitor political violence and the negotiation process. In practice this amounted to the monitoring of public political activities and the reaction of the security forces to it; ensuring the compliance of all signatories to the code of conduct for political parties and organisations; and scrutinising the implementation of recommendations by the Goldstone Commission on matters pertaining to the peaceful conduct of the electoral process.⁹⁹ In addition to the intergovernmental organisations, a substantial amount of international NGOs also started arriving in the country.

At this stage the mandate of the four IGOs was limited to the peace-monitoring function that they have been performing since their arrival in 1992. It did not include matters pertaining to the electoral process itself. This was still the domain of the IEC, whose Election Monitoring Directorate (EMD) had been given the task of monitoring matters that might impinge on the electoral process, but significantly also on the IEC's internal performance. In practice the EMD's task translated into monitoring each step of the electoral process, investigating complaints, and resolving these by mediation or reference to an adjudication tribunal.¹⁰⁰ Most significantly though was the fact that at the conclusion of the electoral process, the IEC was the only body that could legally make a ruling on the freeness and fairness of the electoral process. There is no international precedent for this practice.¹⁰¹

⁹⁹ See Geldenhuys 1998, p. 85.

¹⁰⁰ The Independent Electoral Commission, 1994: **Report of the Independent Electoral Commission: The South African Elections of April 1994** Johannesburg p. 43.

¹⁰¹ Stober, P. 1994: The pressure's on to declare the poll fair **Weekly Mail & Guardian** 29 April – 6 May p. 5.

What observer groups were, however, lobbying for was an expanded mandate, which *inter alia* would have provided for supervising the electoral process. Since observation as a means of electoral assistance was provided for in the Electoral Act of September 1993, international missions were dependent on an invitation from the South African authorities. This invitation came on 9 December 1993 when the four IGOs were requested to make available an adequate number of international observers that could provide verification of all stages of the electoral process.¹⁰² As indicated in Chapter 2, verification implies that the electoral process is organised and administered by the national election authority, while the relevant organisation(s) is asked to verify the acceptability of all aspects of the process. However, the latter did not have any legally binding powers. On 14 January 1994 UN Security Council Resolution 894 was passed, which provided a mandate for the coordination of observers from the four IGO's and foreign governments.¹⁰³

The new expanded mandate added a significant number of responsibilities to the peace-monitoring function already performed by the IGO observer groups. These included the monitoring of the IEC, the Independent Media Commission and the security forces; the verification of voter education programmes, the issuing of ID documents; the secrecy and security of the ballots; and finally to scrutinize the freedom to participate in any form of legal political activity.¹⁰⁴ To cope with the additional duties some of the major IGO observer bodies underwent a number of structural changes. The U.N. opted to divide its operations into two branches. The work performed by UNOMSA under the U.N.'s original mandate was to be continued by the newly formed Peace Promotion Division, while an Electoral Division, similar to that which had been used four years earlier in Namibia, was created to deal with its electoral responsibilities. The Commonwealth similarly designated the Commonwealth Observer Group (COGSA), to observe all possible factors and activities that might have bearing on the eventual outcome of the electoral

¹⁰² See Anglin 1995, p. 527.

¹⁰³ See Commonwealth Secretariat 1994, p. 4.

¹⁰⁴ See Anglin 1995, p. 527.

process.¹⁰⁵ In line with previous missions, the Commonwealth observer contingent consisted of a so-called “eminent persons group” that was representative of its member states. In addition the European Union also established an electoral body, the European Union Election Unit (EUNELSA) that operated separately from ECOMSA.

Each of the four intergovernmental organisations maintained its own identity during the electoral process, but nevertheless cooperated very closely in the execution of the observation effort. Four months prior to the election date, the TEC requested the U.N. and IEC to jointly coordinate the deployment of international observers from the various intergovernmental and nongovernmental organisations. To accede to this request, three additional bodies were formed under the auspices of UNOMSA’s Electoral Division.¹⁰⁶ These were a Coordinating Committee, consisting of the heads of mission of the four IGO’s; a Technical Task Force, made up of electoral experts from these missions; and a Joint Operations Unit.

Over a period of two years the international presence of observers grew steadily, and the addition of election observation to those tasks already performed resulted in a new burst of observers arriving in the country. At the height of their activities UNOMSA had a staff of 2 120, the EU 326, the OAU 150 and the Commonwealth (see Table 4.1).¹⁰⁷ Apart from the IGOs there were 97 international NGOs that ranged in nature from specialist electoral organisations, like the International Foundation for Election Systems (IFES), to the International Council of Free Trade Unions and the World Council of Churches. When all the groups were taken together they amounted to a grand total of 6 000 international observers. Add to this the almost 20 000 monitors hired by the IEC, and it becomes clear why this election has been termed the most monitored in history. In the week preceding election day, a heading in

¹⁰⁵ See Commonwealth Secretariat 1994, p. 7.

¹⁰⁶ See Geldenhuys 1998, p. 91.

¹⁰⁷ See Anglin 1995, p. 519.

the *Weekly Mail & Guardian* newspaper aptly remarked in response to this large observer turnout that “All the world is an observer in SA’s poll”.¹⁰⁸

Also worth mentioning is international involvement in other aspects of the 1994 election. The IEC that was monitored throughout the electoral process by international and national observer bodies, had 5 of its 16 members coming from abroad (Canada, Eritrea, United States, Zimbabwe and Denmark).¹⁰⁹ Even though they had no voting powers, their presence in the body that was responsible for organising, conducting and monitoring the election process not only ensured a significant amount of transparency, but also made available expertise to a relatively inexperienced commission.

Table 4.1: Total Number of Intergovernmental Observers in South Africa (1994)

Organisation	Peace Observers	Election Observers		
		Nr.		Nr.
<i>United Nations</i>	UNOMSA	50	UNOMSA	1985
<i>European Union</i>	ECOMSA	20	EUNELSA	322
<i>Commonwealth</i>	COMSA	17	COGSA	104
<i>Organisation of African Unity</i>	OAU Observer Mission	13	OAU Observer Mission	108
		100		2513

¹⁰⁸ Stober, P. and Powers, C. 1994: *All the world’s an observer in SA’s poll* **Weekly Mail and Guardian** April 22 – 28, p. 8.

¹⁰⁹ See Geldenhuys 1998, p. 92.

Technical and financial support was also forthcoming from the international community.¹¹⁰ Both the U.N. and the EU seconded technical experts in the fields of security, mediation, police investigations, logistics, information analysis and voter education. The Commonwealth made its contribution in the technical field by providing training to electoral officials and monitors. In addition it also drew on British policing skills to establish a communication network for the employment of the large amount of international observers. Election day dawned on 27 April 1994, and over the following four days during which voting took place (due to infrastructural problems voting had to be extended) South Africa experienced its most peaceful period in months. In a last ditch effort the IFP was also persuaded to participate in the election, thereby ensuring the prevention of further bloodshed in the troubled province of Natal (currently KwaZulu-Natal). It was estimated that the four major IGOs succeeded in reaching 90% of the 8 478 polling stations. Despite major administrative problems, ranging from the non-delivery of ballot papers to irregularities during the counting process, the IEC saw it fit to declare the election process “substantially free and fair”.¹¹¹ All of the major international observer groups concurred with this finding and congratulated both the people of South Africa and the IEC with this accomplishment.¹¹²

In the following section I will look at the *modus operandi* of the major observer groups that participated in South Africa’s 1994 elections. This review will be done by assessing some of the criteria earlier identified in this paper.

2.2 Evaluation

2.2.1 *Electoral Standards*

It has been asserted in the preceding section that an acceptable standard for free and fair elections does not exist. To judge whether these traits (free and fair) have been part of an electoral process, it has been suggested that an

¹¹⁰ See Geldenhuys 1998, p. 93.

¹¹¹ See The Independent Electoral Commission 1994, p. 1.

¹¹² See Anglin 1995, p. 541.

encompassing method of reaching a conclusion would be to take into consideration country-specific factors and reading them within the context of the basic democratic requirements for the conduct of an election. Such a system would ensure that a newly democratised country does not become discouraged by external standards used in settled democracies.

What standards have been used in the 1994 elections and how effective have they been in their application? When looking at the reports and comments of observer missions to the country, it appears as if they did acknowledge the unique political predisposition in which South Africa found itself in the run-up to the April election. The joint final statement by the heads of mission of the Commonwealth, OAU as well as the final report of the Secretary General of the UN, revealed sensitivity for the conditions under which the elections have been conducted.¹¹³ Both statements referred to irregularities and administrative shortcomings that were exposed during the process, but after weighing up the positive and negative factors, both came to the conclusion that “the outcome of the elections reflected the will of the people of South Africa”.¹¹⁴ Significantly though, both refrained from using the expression, “free and fair”.

The Commonwealth in its separate statement acknowledged the unique context within which the process had taken place. Aspects mentioned were short deadlines, lack of population data, and complex legal structures. It echoed the view voiced in the joint statement that the process reflected the will of the South African people, but ventured a step further in declaring that it was “substantially free”.¹¹⁵ Although the semantics differed, all the major international missions therefore stood by the IEC’s evaluation that the electoral process and its own conduct, amounted to an election legitimate in its outcome.

¹¹³ United Nations, 1994: **Final Report of the Secretary General on the question of South Africa** <http://www.anc.org.za/U.N./undocs4b.html> 20/10/1999

¹¹⁴ See United Nations 1994, <http://www.anc.org.za/U.N./undocs4b.html> 12/8/1999

Not as complimentary, was an editorial published in the *Weekly Mail & Guardian* of 29 April to 6 May 1994, which launched a stinging attack on the IEC's handling of the process. According to the weekly, "there is no point in mincing words about that organisation. Despite hundreds of millions of rands, lavish salaries and massive popular support, they have messed it up through sheer incompetence."¹¹⁶ The castigation continued in the following week's editorial: "What happened? An incompetent IEC bungled the administration of the election wholly and completely – it couldn't even get ballots to the voters, its security systems were inadequate, its counting plans non-existent. This opened the way to fraud on a massive scale – but so hopeless was the IEC organisation that it had been unable to pinpoint the fraud and deal with it in any normal way."¹¹⁷

Even though not put as bluntly, the major international missions also substantiated in observer reports some of these accusations.¹¹⁸ In its final report on the South African elections the Commonwealth also highlighted aspects like the IEC's inability to provide about 20% of polling stations with electoral materials in time, irregularities that took place during the voting process, and the slow and sloppy counting of the votes.¹¹⁹ Similar concerns were raised in the report of the U.N.'s Secretary General. Geldenhuys also notes that a secret EU report pointed to evidence of 'serious administrative problems', 'serious irregularities' and 'chaos which invited to cheat'.¹²⁰ Despite these reservations, all observer bodies eventually gave the process their stamp of approval. It must be assumed that in order for them to do so, there had to be very convincing reasons which cancelled out the detracting factors mentioned above. If not, arguments like those of Geissler could well be

¹¹⁵ See Commonwealth Secretariat 1994, p. 71.

¹¹⁶ **Mail & Guardian**, 1994: *Free-ish and fair-ish, despite the IEC* 29 April – 5 May, p. 20.

¹¹⁷ **Mail & Guardian**, 1994: *Judge and be Judged* 6 – 12 May, p. 16.

¹¹⁸ See Commonwealth Secretariat 1994, pp. 67 –71. and United Nations 1994, <http://www.anc.org.za/U.N./undocs4b.html>

¹¹⁹ See Commonwealth Secretariat 1994, p. 70.

¹²⁰ See Geldenhuys 1998, p. 94.

brought up to contend that yet another African electorate had been let down by the double standards of the international community.

A large part of the answer to this pressing question can be found in considerations of the context within which these elections took place. It can well be argued that context-specific factors carried disproportionate weight in the decisions of both the IEC and the international community to give South Africa's 1994 election the thumbs up.

Estimates put the total casualties of political violence since it erupted in September 1984 at 20 000.¹²¹ In the run-up to the polls it once again increased in intensity, and boiled over in tragic events like the Shell House shootout and deaths in the confrontation between ANC protesters and the police of the former homeland of Ciskei. So much therefore depended on a successful outcome of the election that few dared to contemplate anything to the contrary. Accordingly there was also a large amount of political pressure on the IEC to declare the elections free and fair.¹²²

Steven Friedman, head of the IEC's information analysis department at the time refuted claims that a decision on the outcome of the election had been taken in advance of the poll.¹²³ According to him there is no such thing as a perfect election. The free and fair criteria, he stated, should be an attempt to establish whether the results of an election truly reflected the will of the people. The IEC had a list of standards that ranged from human rights and proper administration, but he nevertheless believed that any violation of these would have to have a substantial impact on the outcome of the electoral process before it could be declared null and void. Even so, he conceded that a large part of the final decision would be political in nature. Should any of the parties contest the outcome of the election or any aspect thereof, political

¹²¹ Henning, L. and Coetzer, A. 1994: The Independent Electoral Commission **Journal for Contemporary History** Vol. 19 No. 2 p. 216.

¹²² Stober, P. 1994: The pressure's on to declare the poll fair **Weekly Mail & Guardian** 22–28 April p. 5.

¹²³ See Stober 1994, p. 5.

intervention would have to take place to avert any complications. This was indeed, according to the *Weekly Mail & Guardian*, also what had decided the final outcome of the April 1994 election.¹²⁴ It is alleged that after major complaints of irregularities, the IEC chairperson, Judge Johan Kriegler, had to abort a number of rules and procedures in order to reach a result. What all of this amounted to, the paper contends, is that the election outcome was not an numerical indication of party support, but rather the result of horse-trading among the parties.

Such direct accusations are not to be found in observer reports, and it is therefore unclear whether they viewed some of the proceedings in the same light. The fact is that they were aware of a number of irregularities, which it can be argued, would not have been tolerated in most of the more settled democracies. It is the opinion of the author that most of the observer missions felt the same urgency as the IEC for the process to work. The international community, be it governments, IGOs or NGOs, have been campaigning decades for the abolition of apartheid, and the election was for many the culmination of their efforts over many years. For some of the observers who were personally involved in the struggle, a successful poll was also a personal quest.

Another factor, less altruistic, that cannot be overlooked is the notion of international prestige. A telling remark by an international observer, who for obvious reasons wanted to remain anonymous, was that "Our governments want the election to succeed. They need a policy success after Bosnia."¹²⁵ Since the April '94 election was been the most observed ever, a failure in the conduct of the poll, would have been an indictment against the practice of international observation, and the organisations conducting it. Especially in the light of the fumbled 1992 Angolan elections that catapulted the country into its worst period of civil war ever, it was vital for the UN to re-establish some of its lost prestige in this field.

¹²⁴ See *Weekly Mail & Guardian* 6 – 12 May 1994, p. 20.

¹²⁵ See Stober 1994, p. 5.

For the above reasons the author argues that the major international observer missions used the same lenient standard as the IEC to establish whether the election had been conducted in a legitimate fashion. The common measure used by both groups was: "Did the election outcome reflect the will of the South African people?" In the process both had to bend backwards to ensure that this has was indeed the case. The contextual factors eventually outweighed those of good electoral conduct. *The Economist* comments with reference to the 1994 elections that "sometimes a satisfactory result is more important than an election that meets technical standards of fairness." In this specific case they contend that "the monitors wisely kept their criticisms to themselves".¹²⁶

2.2.2 Professional Conduct

The observation of an election of the magnitude of the South Africa's 1994 election required an extraordinary effort. Being the most observed election in history did not necessarily mean that it would also be the best co-ordinated. As mentioned in the preceding chapter, large numbers can in some instances complicate, rather than support an electoral process.

Although the four inter-governmental organisations, as well as their non-governmental partners and representatives of individual governments maintained their separate identities during the election period, the co-ordination of the international observation effort fell on the shoulders of UNOMSA. This request to co-ordinate the process together with the IEC came from the South African Transitional Executive Council in late December 1993. Although the IEC contributed in a number of ways, the bulk of the co-ordination effort was the responsibility of UNOMSA.

The three bodies created subsequent to the request formed the backbone of UNOMSA's operations. The Co-ordinating Committee of the four heads of mission, chaired by the U.N.'s special representative, met on a weekly basis

¹²⁶ **The Economist** 1997: *Seeing that its all fair and above board* August 23rd p. 30.

to discuss matters concerning preparations for the elections and other responsibilities of the IGO missions. The Technical Task Force (TTF) was chaired by the Head of the Electoral Division of the U.N. and staffed by the electoral experts of the four missions. Their brief was to scrutinise the IEC's preparations and to assist with advice where required. The Joint Operations Unit (JOU) was responsible for the actual deployment of observer groups to the field and all practical arrangements relating to them. To facilitate this effort, a joint operations room was created to monitor all reports coming in from the various observer missions during the voting days.¹²⁷ In this way information that was gathered by a specific mission were made available for the benefit of other missions, and consequently contributed to the overall efficacy of all observer teams.

Since all four IGO's had an extended presence in the country since at least 1992, the new contingent of observers that arrived after the passing of Security Council Resolution 894 were not completely left to their own devices. The fact that they were briefed, made their entry to the process much smoother than what would have been the case otherwise. Short-term observers from international NGO's and individual governments that co-operated with UNOMSA, also benefited from the established data-base that had been built up by the respective long-term missions. Some of the better established electoral NGOs like IFES and the NDI chose to operate separately from UNOMSA. Both have had a presence well in advance to the election and could therefore draw on their own experience and resources. Co-operation between these groups and intergovernmental organisations occurred mainly on an ad hoc basis.

A problem that persisted right throughout the election campaign was the uncertainty with regard to the exact role that international observers had to play.¹²⁸ Despite the mandate under which they were observing the elections, there still was confusion about whether members of the respective missions

¹²⁷ See Commonwealth Secretariat 1994, p. 4.

¹²⁸ See Anglin 1995, p. 534.

should regard themselves as observers or monitors. As has been indicated in the conceptual clarification of Chapter 1, these concepts encompass two distinctive activities. Some regarded their brief as being restricted to the observation of election-related occurrences, reporting perceived transgressions and eventually delivering a verdict on the legitimacy of the process in its entirety, while others did not share this minimalist view, and maintained that their role should be more than mere spectators to the process. The latter argued that observation should be combined with guidance and assistance to officials of the host country. This they believed was essential, especially in a country that had no previous experience of conducting an election of this magnitude.¹²⁹ According to Anglin, many envisaged themselves as “political actors influencing the course of events in constructive ways”.¹³⁰ Yet, many of the functions that were performed by observers in the run-up and during the election campaign amounted to monitoring, and many observers therefore also regarded themselves as such.¹³¹ The official line from UNOMSA was nevertheless that it was mandated to observe and report on the run-up to the election and the election itself. UN observers were to refrain from mediating, but could assist, if called upon to do so. The special representative of the UN Secretary General during the April '94 elections, Lakhdar Brahimi, summarised it by saying that he viewed the U.N.'s role in SA as “preventative diplomacy and international assistance to a political process, which is different from the peacekeeping and peacemaking role that the UN usually plays.”¹³²

In his assessment of the impact that election observers had on the electoral process, Anglin contends that the mere presence of international observers did not necessarily facilitate a climate for free political participation. Although their presence was critical in a couple of instances, it became less of a deterrent the longer they were present in the country. Another possible reason for this can be found in one of the most common complaints that local

¹²⁹ See Geldenhuys 1998, p. 92.

¹³⁰ See Anglin 1995, p. 534.

¹³¹ See Geldenhuys 1998, p. 92.

observers had about their foreign counterparts, the observation that many observers were keen to avoid potential danger areas.¹³³ According to these accounts, apart from the fact that the UN sometimes refused their observers permission to dangerous areas, they were also not allowed to remain in townships after 17h30. It is Anglin's opinion that the dramatic decline in violence at the end of the campaign therefore had little to do with their presence.

A more substantial contribution by international missions, he argues, was the reporting of their findings to the responsible authorities.¹³⁴ The extent to which observer groups were requested to verify the activities of monitoring bodies like the IEC, IBA and IMC, was a special feature of their responsibilities. Unlike the international NGOs, IGOs were not obliged to share their findings with the IEC. They nevertheless confronted the commission on a number of occasions with regard to concerns they had with regard to the evolution of the process. According to the UN Special Representative Brahimi, the IEC were 'very appreciative of this' and welcomed the views of the respective observer missions. This was also reflected in the IEC's final report on the election, where they expressed their gratitude towards international observers and missions for their "invaluable advice and support".¹³⁵

2.2.3 *Observer Impartiality*

Most incumbent authoritarian governments are generally opposed to the participation of international observers in first democratic elections. Knowing full well that all observers come from pro-democracy institutions that have stood at the forefront in campaigns against their policies, incumbent governments often try to avoid or limit their impact on the electoral process as far as possible.

¹³² De Villiers, H. 1994: *Peaceful Presence* **People Dynamics** April, p. 11.

¹³³ Scott, C. 1994: I spy with my little eye: Something beginning with an X **Leadership** Vol. 13 No 2, p. 65.

¹³⁴ See Anglin 1995, p. 535.

¹³⁵ See The Independent Electoral Commission 1994, p. 13.

The National Party Government showed the same inclination when it was first confronted with the question of international assistance for the April '94 elections. Initially Pretoria took a hard-line and insisted that observers would not be required since it believed that South Africans should be in charge of their own destiny. The lack of legitimacy that the NP Government enjoyed from the majority of the South African population, however, prompted the ANC and a delegation led by Archbishop Desmond Tutu to intensify their appeals for the presence of an international observer contingent. As has been indicated earlier, the allayment of government fears by a special UN task force, together with the untenable security climate that had arisen in the wake of the Boipatong shooting, eventually convinced the government to give in to these requests. Although at the outset they were only peace-monitors, their mandate was later expanded to include election observation.

The general attitude of local pro-democracy groups was therefore welcoming towards the international observer presence, with government being the only party watching it with a cautious eye. Research done in the run-up to the election and on election day itself indicated that the largest section of the general public also viewed their presence favourably.¹³⁶ Only a quarter of South Africans thought that the foreign presence made little or no impact on the process, while an almost insignificant percentage believed that their presence was harmful. Of those doubtful about the accomplishments of foreign observers, about 55% was white and only 13% black. In the light of the above it can therefore be argued that despite some suspicion from government, international observers enjoyed the trust and confidence of the majority of South Africans. The task of having to establish its credibility as an impartial actor was consequently less demanding than has been the case in earlier instances. Compared to experiences in the Zambian general election of 1991 where observers were labelled by the Kaunda-government as participants in an "international imperialist plot," or the 1992 Angolan elections

¹³⁶ Moller, V. and Hanf, T. 1995: **Learning to Vote: Voter Education in South Africa's 1994 Elections** Durban: Indicator Press p. 27.

where their presence were simply ignored by UNITA, the attainment of credibility was therefore fairly straightforward.

A review of the international literature indicates that once credibility has been established, observer missions should not concern themselves solely with observation. They also have an important capacity building function to perform. Since international expertise and technology cannot be guaranteed for all future elections, it becomes essential for a country to create its own impartial observation capacity. At this level foreign observers can make an invaluable contribution. Firstly it can provide advice and technical assistance to the host country's election authorities. This was indeed the case in the April 1994 elections, where millions of rands were made available for the electoral effort.¹³⁷ The second requirement quoted in the literature is the need for co-operation between international and local observers. With regard to this second requirement, it appears that there was some room for improvement.

Anglin remarks that a lack of co-operation with NGO observers, especially those from South Africa, was a major shortcoming. He contends that compared to other observation efforts in the recent past, the South African experience did not feature a 'close and mutually beneficial relationship' between IGOs and domestic observer groups. It is, however, his belief that a large part of the blame should be apportioned to a lack of preparedness on the part of the National Election Observer Network (NEON), the largest local observer organisation.¹³⁸ Shortly before the election it went on a massive national recruitment drive and eventually managed to acquire the services of 50 000 independent observers which were to observe the approximately 9 000 polling stations.¹³⁹ Within a period of three weeks NEON had to establish an administrative infrastructure and train all 50 000 recruits. The end result of this hurried attempt was that some observers had only two days of training that ended less than 48 hours before the opening of the polls. During the

¹³⁷ See Geldenhuys 1998, p. 86-87

¹³⁸ See Anglin 1995, p. 543.

¹³⁹ See Scott 1994, p. 61.

election, the organisation was also hit by observers who refused to continue their duties unless they got their salaries from the IEC.¹⁴⁰ The Commission, however, denied that it had promised them salaries.

Local observers on the other hand complained about the cautious approach of their foreign counterparts. The fact that international missions were hesitant to deploy their observers in potentially dangerous areas, contributed to a significant increase in the workload of local observers.

Whereas IGOs co-operated more closely than ever before in the April '94 elections, a regression in terms of relations with NGOs had, according to Anglin, taken place during the same period.

3. SECTION B: THE 1999 INTERNATIONAL ELECTION OBSERVATION EFFORT

3.1 The Political Climate

The South African political environment has undergone a fundamental transformation since the April 1994 elections. Probably two of the most influential documents accepted in this period have been a new constitution and a bill of rights that protects the democratic rights of all South African citizens.¹⁴¹ The cumulative effect of these documents has been legislative changes aimed at levelling the political playing field.

Although far-reaching, most of these changes occurred purely on an institutional level. Since these were one-sided measures, initiated in parliament, we were told very little about the extent to which the democratic values that they reflect have taken root in ordinary South Africans and those individual legislators who have passed them. It is here where the importance

¹⁴⁰ Henning and Coetzer 1994, p. 203.

¹⁴¹ South African Constitution, 1996: **The Constitution of the Republic of South Africa** http://www.constitution.org.za/b34b/b34b_con.htm

–also to the international community - of South Africa's June 1999 elections lies. Whereas the 1994 elections has been described as South Africa's liberation elections, the 1999 poll has been termed by scholars as its consolidation elections.¹⁴² The latter was to provide the best opportunity so far to establish whether most South Africans had come to accept the democratic rules of the game. When viewed in this context, it can be asserted that the 1999 elections should be regarded just as important, if not more important than the first round in 1994.

Also significant is Africa's record on the way it conducted second elections has been dismal thus far. According to Bratton, it is not so much the quantity, but the quality of second elections on the continent that is cause for concern.¹⁴³ Research conducted by him has indicated that democratised countries in Africa have experienced fewer acceptable elections in the period 1995–1997 (30%) than in the first round of democratising elections in the period 1990-1994 (55,5%). With the exception of Kenya and Cameroon where there have been a deliberate tampering with votes, he asserts that incumbent parties have not meddled with rules of political participation as a means to retain power. Problems with regard to political participation were in most instances due to hasty preparations, insufficient systems of voter education and outdated voter rolls.¹⁴⁴

Most irregularities, he contends, arose from attempts to manipulate the rules of political competition. One such example has been the disqualification of former Zambian president, Kenneth Kaunda, from participation in his country's legislative elections due to his Malawian ancestry. Another more recent instance pertaining to the alteration of political rules has been in Namibia where the ruling South West African Peoples Organisation (SWAPO), with its large parliamentary majority changed the constitution to provide for a third

¹⁴² Bro Thuetsad, A. and Seich, C. 1999: What do we mean by free and fair elections? **EISA Election Update 99** No. 2, p. 7.

¹⁴³ See Bratton 1998, p. 57.

¹⁴⁴ See Bratton 1998, p. 57.

term in office for President Sam Nujoma.¹⁴⁵ According to Bratton, examples like these underline the need for bringing about genuine political competition in Africa. This he regards as the biggest challenge for democratic reform in Africa, noting that although the principle of broad participation has become widely accepted, the same cannot be said about the rules for open political contest.¹⁴⁶

Seen within the wider African context, it is therefore understandable why scholars in the field of democratic consolidation have been looking forward with anticipation to witness the conduct of South Africa's June 1999 elections. Was the South African miracle, as many liked to refer to it, going to last or was it going to follow the same declining trend established elsewhere in Africa?

When assessing the conduct of the 1999 elections, it is important to take cognisance of the legal framework within which it operated. Five pieces of legislation governed the conduct of the 1999 electoral process. These were the Constitution that was approved by the Constitutional Court in September 1996; the Public Funding of Represented Political Parties Act of 1997 that governed the funding of political parties; the Independent Broadcasting Authority Act of 1993 that had to ensure fair exposure by the by the broadcasting media, the Electoral Commission Act of 1996, and the Electoral Act of 1998.¹⁴⁷

The Constitution provided for the conduct of the 1999 elections according to the stipulations of the interim constitution that preceded it. The Independent Electoral Commission Act of 1993, as amended in 1996, in turn provided for the permanent establishment of an electoral commission that inherited the name and logo of its temporary predecessor of 1994 campaign. The new IEC

¹⁴⁵ Interview conducted with David Pottie

¹⁴⁶ See Bratton 1998, p. 57.

¹⁴⁷ EISA, 1999: **A Handbook of South African Electoral Laws and Regulations 1999**
EISA: Johannesburg, p. 3.

was to be independent and charged with the strengthening of constitutional democracy and the promotion of a democratic electoral process.¹⁴⁸ Other new obligations that the commission was required to perform under the amended act, was the compilation of a new voters role, the demarcation of wards for local government and polling stations, the further review of legislation and the conduct of a programme of extensive voter education.¹⁴⁹ An important feature of the new act was that although it provided authority to adjudicate disputes, it did not afford the commission adjudication and monitoring divisions.¹⁵⁰ In future all decisions by the IEC and disagreements regarding the electoral process were to be presented before the Electoral Court that had the same status as the Supreme Court.¹⁵¹ It was no longer responsible for the certification of the process, and consequently the act did not make any provision for a monitoring division in the IEC. Monitoring, instead, would become the responsibility of provincial monitoring panels that were to be appointed by the IEC in consultation with provincial NGO forums.¹⁵²

The Electoral Act, passed in 1998, made specific provision for the observation of the election by both local and international observers. Articles 84 and 85 expressly deal with the accreditation of observers. Article 84 states that the accreditation of observers must promote conditions that will be 'conducive to a free and fair election', requiring observers to be impartial and independent of 'any registered party or candidate contending the election.'¹⁵³ It is expected of all observers to subscribe to a code, governing the conduct of all observers. Article 85 pertains to jurisdiction and allows observers to observe proceedings related to voting, the counting of the votes, and matters concerning the determination and declaration of the election results.¹⁵⁴

¹⁴⁸ See EISA 1999, p. 11.

¹⁴⁹ Lodge, T. 1999: **Consolidating Democracy: South Africa's Second Popular Election** EISA: Johannesburg, p. 22.

¹⁵⁰ See Lodge 1999, p. 22.

¹⁵¹ See EISA 1999, p. 15.

¹⁵² See Lodge 1999, p. 22.

¹⁵³ **The Electoral Act** No. 73 of 1998, p. 54.

¹⁵⁴ See the Electoral Act, p. 56.

International observers were once again invited to observe the South African elections of 1999. This time around it was not the government who extended the invitation, but the IEC, who felt that the international presence could add to the international legitimacy of the country's electoral process.¹⁵⁵ The mandate of observer groups was however much more restricted than was the case in 1994. Whereas the mandate of observers in the 1994 elections bordered on those responsibilities which are usually associated with monitors (verification, confidence building and low level mediation), the 1999 mandate was one purely of observation in which the international community was requested merely to observe and assess polling and counting on election day.¹⁵⁶

In total about 350 international observers, from a variety of IGO, NGO and diplomatic backgrounds, participated in the observation of the election (see Table 4.2).¹⁵⁷ The largest inter-governmental group was the OAU with a contingent of 60 observers, followed by the Commonwealth Observer Group with 22 members and the African Caribbean and Pacific Group of States having 4 observers. For the first time an official SADC Observer Group also witnessed South African electoral proceedings. Their efforts were a continuation of the efforts of the SADC Electoral Commissions Forum, that had been launched almost a year earlier in Cape Town.¹⁵⁸ According to David Pottie, senior researcher at the Electoral Institute of South Africa (EISA), which also co-ordinates SADC's observation efforts, the organisation intended

¹⁵⁵ Interview Tselane Mokuena and Alex Msitshana

¹⁵⁶ Response to questionnaire sent to Stefanie Lüthy, Deputy Coordinator/Chief of Operations, United Nations Electoral Assistance Secretariat in Johannesburg, South Africa, 24 June 1999

¹⁵⁷ IEC 1999: List of accredited institutions/organisations to observe the 1999 elections, obtained from the IEC, 24 June 1999

¹⁵⁸ **Business Day Online**, 1998: SADC launches electoral body, <http://www.bday.co.za/98/07/28/world/w20.htm> 2/12/1999

to be present at all five elections that were to take place in the SADC region during 1999.¹⁵⁹

Table 4.2: Foreign Observers in South Africa's 1999 Legislative Elections

Type of Organisation	Name of Organisation	Number of Observers (where available)
<i>IGOs</i>	Commonwealth Observer Group	22
	Organisation of African Unity	60
	African Caribbean and Pacific States (ACP)	4
	SADC	15
<i>NGO's, Lobbies and Other Electoral Institutions</i>	IFES	16
	AWEPA	36
	NDI	30
	IRI	9
	Independent National Electoral Commission of Nigeria	5
	Jurado de Nacional de Elecciones – Peru	1
<i>Governmental Representatives</i>	Embassy of the Russian Federation	7
	Embassy of Switzerland	n/a
	High Commission of India	10
	Embassy of Japan	6
	British High Commission	23
	Republic of Angola	4
	Embassy of the Federal Republic of Germany	4
	Royal Netherlands Embassy	6
	High Commission of Namibia	6
	Ministry of Foreign Affairs Malaysia	1
	Embassy of the Democratic Republic Algeria	2
	Embassy of France	5
	Embassy of the United States of America	78
	High Commission of Nigeria	2

¹⁵⁹ See interview conducted with David Pottie

Of the larger established electoral NGOs the IFES, NDI and IRI once again participated in the observation effort, but like its IGO counterparts in far smaller numbers than in 1994. Another prominent observer group, also observing South Africa's general elections for the second time, was AWEPA (European Parliamentarians for Africa) who sent a 40-member delegation, consisting of members from 11 European and 11 African nations.

A last group of foreign observers were those who represented individual governments. Observers from the last-mentioned group were mainly forthcoming from embassies of their respective countries.

Most of the missions mentioned above, arrived only shortly before the actual election was due to start. Compared to the controversy surrounding the IEC and the subsequent resignation of its chairperson only months before the election date, the actual polling day was fairly uneventful. Since the Electoral Commission Act was passed in October 1996, only three years ahead of the 1999 election, the organisation of the election was due to be a hurried affair. Six months after the act had been passed the commission's five commissioners, with Judge Johan Kriegler as its chairperson, were appointed.

At year-end 1997, the Chief Electoral Officer, Prof. Mandla Mchunu was appointed, and only in April 1998 the commission began hiring subordinate layers of managers.¹⁶⁰ In effect, the IEC's national bureaucracy only started to function in January 1999.

The centrepiece of controversy that had dogged the IEC right through the preparatory phase of the elections, was the registration of voters. In April 1998 Judge Kriegler presented Mangosutho Buthelezi, Minister of Home Affairs with the Electoral Bill. A controversial stipulation of the relevant was its insistence on the possession of bar-coded identity documents as a requirement for entry on the common voters role. Kriegler suggested that

¹⁶⁰ See Lodge 1999, p. 25.

such a proviso would curb possible instances of electoral fraud.¹⁶¹ After the bill had been approved by cabinet, a study by the Human Sciences Research Council (HSRC), commissioned by the IEC, indicated that as many as 20% of eligible voters were not in possession of bar-coded ID documents. A subsequent study by the Centre for Policy Studies, and the results of the Opinion 99 survey, released in November 1998, both supported the results provided by the HSRC.¹⁶² An exclusion of these voters, according to the reports, could have amounted to the disenfranchisement of a significant part of South Africa's voting population. The results of the HSRC survey moved Kriegler to reverse his view on bar-coded IDs in the last quarter of 1998.¹⁶³ The ANC however decided to continue supporting the legislation as it has been presented to the minister.¹⁶⁴ Home Affairs maintained that there were shortcomings in the methodology of the HSRC poll that grossly inflated the number of potential voters. It was confident that it could address the backlog that existed according to its figures.¹⁶⁵

In response to the subsequent enactment of the Electoral Bill, both the National Party and Democratic Party failed in their court bids to have the bar-coded ID stipulation declared unconstitutional. The registration process had a shaky start, but gained momentum that eventually resulted in the registration of 18,3 million voters.¹⁶⁶ Kriegler's confrontations with Home Affairs, however, continued, and in a letter written to Deputy President Mbeki on 22 January 1999, he claimed that the IEC had lost its power to complete the voters' roll free from government intervention.¹⁶⁷ Four days later Kriegler announced his resignation and was replaced by dr. Brigalia Bam, Deputy Chairperson of the

¹⁶¹ See Lodge 1999, p. 27.

¹⁶² Barrell, H. 1999: One-in-four potential voters excluded **Daily Mail and Guardian**, May 7
<http://www.sn.apc.org/wmail/issues/99050//NEWS29.html>

¹⁶³ See Lodge 1999, p. 27.

¹⁶⁴ **Sunday Times Online**, 1999: *Party Games and Alarming Truths*
<http://www.suntimes.co.za/suntimesarchive/1998/12/06/insight/in02.htm> 16/01/2000

¹⁶⁵ **Sunday Times Online**, 1999: *More Guests Will Not Spoil Election Dish at Home Affairs*
<http://www.suntimes.co.za/suntimesarchive/1999/03/07/insight/in09.htm> 16/01/2000

¹⁶⁶ See Barrell 1999, <http://www.sn.apc.org/wmail/issues/99050//NEWS29.html>

IEC shortly thereafter. From the point onwards relations between the IEC and government started to normalise.¹⁶⁸

The elections went ahead as planned on 2 June 1999 and was marked by a 68% voter turnout. Voting took place without any major incidents and with less than half the number of complaints that was registered with the IEC in the previous election. The only major problem on the day was the unexpected high turnout in some wards, which was responsible for long queues, and consequent extra voting materials that had to be delivered.¹⁶⁹ Despite this, Lodge asserts that in terms of procedure, the 1999 election effort was a vast improvement on the 1994 attempt. He identifies the existence of the newly compiled voters' roll as the greatest contributing factor.

All the international observation missions also agreed with the view expressed by Lodge. Although most pointed to some aspects of concern (most notably voter registration and voter education), all were unanimous in their assessment that the election had been conducted in an acceptable fashion, that it reflected the will of the South African people, and importantly also, that it had been an improvement on the 1994 exercise.

From the above it is fairly clear that the political environment within which June 1999 election took place, differed significantly from the 1994 scenario. It can well be asked whether international observers also changed the nature of their operations to be in sync with the new demands of election observation in South Africa. In the following three subsections their observation effort will be evaluated in terms of the same conditions that were used in Section A.

¹⁶⁷ See Lodge 1999, p. 25.

¹⁶⁸ See Lodge 1999, p. 50.

3.2 Evaluation

3.2.1 Electoral Standards

The best way to judge electoral standards in this context, is to compare the criteria used for observer missions in 1999 with those applied during the 1994 elections. Over the years, the term “free and fair” has become the buzzword in electoral circles, but as has been indicated, it is rapidly losing its popularity among scholars who suggest that on its own it has become too superficial a measure. This trend in thought has also been visible in the way observer missions have assessed the conduct of the 1994 elections. Most of the missions refrained from labelling the process “free and fair”, but rather opted for pronouncements that testified of considerations that gave thought to the specific context within which the elections took place, without ignoring those basic democratic values that underpin all democracies.

A sense of urgency had been evident among the overwhelming majority of South Africans in the run-up to its first democratic election. Everyone, including the IEC and the international community, knew that the stakes were high. Undoubtedly this consideration played a major role in the way the process was judged. It is the opinion of the author that disproportionate attention had to be given to contextual factors in order for it to be declared legitimate. Despite a vast number of irregularities the election was nevertheless given the thumbs-up by all who were called upon to make an assessment.

Apart from clashes between the UDM and ANC in Richmond, KwaZulu Natal, the 1999 election campaign was conducted in a far more peaceful atmosphere than in 1994. The stakes were not nearly as high in 1994 election, and it can therefore be asked whether the standards applied to judge the recent election, especially those used by the international community, were more stringent than the first time around.

¹⁶⁹ O’ Grady, K. 1999: IEC battles to handle turnout Business Day Online
<http://www.bday.co.za/99/0603/news/news1.htm> 5/12/1999

A useful starting point is to look at the standard conduct that the IEC was required to observe. The Independent Electoral Commission Act of 1993 pertinently required of the IEC to certify whether the 1994 election was substantially free and fair. The new act of 1996 differs in that the IEC is required to ensure and promote conditions that are conducive to free and fair elections.¹⁷⁰ In 1999 the IEC was, therefore, no longer required to make a judgement on the freeness and fairness of the election. Instead it had to promote the conditions that contributed to such a situation. Little is however known about the content of the free and fair criteria within the South African context.

According to Bro Theutsad and Seich, the concepts of free and fair had not been clarified up till then in South African legislation. Although the Constitution, Electoral Commission Act of 1996 and the Electoral Code of Conduct use it in a number of instances, none of these documents clarify what they mean by it. Since South African jurisprudence cannot provide an answer (the 1999 election is the first under the new constitution), it is therefore necessary to resort to the Electoral Court if clarity is needed on the freeness and fairness of a specific action. Where, they ask, will the Electoral Court go to find interpretations of these criteria? They suggest that some answers can be found in a number of indirect prescriptions made in the Constitution, Electoral Law and Electoral Code of Conduct, that by and large correspond with international norms on the issue. These they suggest should deserve sufficient attention when interpreting local differences on whether or not an action falls within the scope of free and fair or not.¹⁷¹

The UN, although only responsible for the observer co-ordination in the 1999 elections, also subscribes to internationally accepted standards when making assessments about the freeness and fairness of an electoral process. These are codified in documents like the Universal Declaration on Human Rights and the International Covenant of Civil and Political Rights. Stefanie Lüthy, Chief

¹⁷⁰ See Bro Thuetsad and Seich 1999, p. 9.

¹⁷¹ See Bro Thuetsad and Seich 1999, p. 9.

of Operations in the U.N. Electoral Assistance Secretariat's (UN-EAS) South African co-ordination effort in 1999, however states that when an evaluation is made, the local context has to be taken into account.

Asked about the electoral standard used by the Commonwealth Observer Group in the 1999 elections, Lorna McClaren of the Commonwealth Secretariat also insists that there is no such thing as an absolute free and fair election.¹⁷² She believes that there will always be factors that detract from the acceptability of the process as a whole. The challenge is to ensure that any one or a combination of these factors do not substantially inhibit the freedom of voters to express their preferences. Accordingly the Commonwealth Observer Group's brief for the South African elections of 1999 was to observe relevant aspects of the organisation and conduct of the National and Provincial Elections in accordance with the law in South Africa."¹⁷³ In addition it had to inspect all factors that might have had an impact on ability of voters to express their preference freely. Although it had no executive role, the group was free to make suggestions on procedural, institutional and others matters that could contribute to the smooth running of the process. Ultimately it had to establish whether the results reflected the will of the majority of South Africans. According to its report to the Commonwealth Secretary General, this was indeed the case in the June 1999 elections. Barring certain aspects, such as a lack of sufficient voter education, logistical problems on voting day and prescriptions with regard to party funding, it was found that the final result was an accurate indication of the voting preferences of all South Africans.¹⁷⁴

The SADC Observer Group viewed its participation as part of a long-term engagement aimed at democratic consolidation within the Southern African region. Since the organisation is rooted in the subcontinent, the group believes that its role is not in the first instance to evaluate the conduct of an

¹⁷² Interview conducted by Prof. Hennie Kotzé with Lorna McClaren

¹⁷³ Commonwealth Secretariat, 1999: **The National and Provincial Elections in South Africa: The Report of the Commonwealth Observer Group 2 June**, Commonwealth Secretariat: London, p. 2.

¹⁷⁴ Commonwealth Secretariat 1999, p. 41.

election in relation to international standards, but rather to encourage the development of co-operation that will contribute to the improvement of electoral processes in Southern Africa.¹⁷⁵ Therefore it aims to function as a capacity building resource that can provide both technical and evaluative assistance to a host country. Although giving the conduct of the election a positive evaluation, it nevertheless refrained from using the term free and fair. Like the Commonwealth Observer Group it chooses to commend the efforts of the IEC and state that in their opinion the result of the election was a 'fair expression of the wishes of the people of South Africa.'

In a similar vein the OAU expressed its satisfaction with the outcome of the election, asserting that the process by which South Africans expressed their choices through the ballot box took place in a 'transparent, free and unfettered atmosphere.'¹⁷⁶ Other member missions falling under the JIOG also expressed their satisfaction in a joint statement, remarking that the elections constituted a positive step towards the consolidation of the South African democracy.¹⁷⁷

AWEPA was the only major grouping that felt comfortable with the pronouncing the freeness and the fairness of the process. In its statement on 2 June, it commended South Africans for the 'freedom of the process in relation to the lack of censorship, intimidation coercion and restricted access or opportunity' and the 'fairness of the process in relation to the guaranteed secrecy and accessibility of the vote; equal treatment under the law and transparency in the count.'¹⁷⁸

In the light of the above, it has been interesting to note that the overwhelming majority of South African voters viewed the conduct of the elections in exactly

¹⁷⁵ SADC Electoral Commissions Forum 1999: **SADC Electoral Observation Missions: Terms of Reference**, Johannesburg: EISA, p. 2.

¹⁷⁶ Press Release by the Organisation of African Unity, Johannesburg, 4 June 1999

¹⁷⁷ See UN-EAS Press Release 1999

¹⁷⁸ AWEPA, 1999: Statement on the 2 June 1999 South African Elections by Senator Jan-Nico Scholten, President of AWEPA

the same way.¹⁷⁹ In an exit poll conducted by the HSRC a total of 96% of voters were of the opinion that the election procedures were conducted freely and fairly. Significantly within the South African context is the fact that this perception was shared across provincial and racial boundaries. Other important findings were that 85% of voters believed that their vote was secret, and 99% indicated that they did not experience any pressure to support a particular political party. With regard to the convenience of the voting process 92% indicated that they were able to reach the polling station within an hour, while just over half of the respondents waited for less than 30 minutes in voting queues. In an overall assessment of the process, 84% of those interviewed indicated that the entire electoral process was conducted in a more professional way than in 1994. Also with regard to this view, there is no difference in the perceptions of whites and blacks.¹⁸⁰

The findings of the HSRC thereby confirm the pronouncements of the major observer missions regarding the conduct of the election.

3.2.2 *Professional Conduct*

The UN was again requested by the IEC to co-ordinate and support the international observation effort for its June 1999 elections. It accepted the invitation, but did not designate any of its own observers to participate in the actual observation of the process. According to Stefanie Lüthy, Deputy Co-ordinator/Chief of Operations of the United Nations UN-EAS mission for South Africa's June 1999 elections, the UN finds this type of involvement least intrusive to national sovereignty, but at the same time provides the benefits of an international presence. According to Lüthy the co-ordination provided by the UN-EAS during the 1999 elections entailed much more than the mere deployment of observers. It was the aim of the organisation to provide a co-ordinated, harmonised professional approach to ensure a credible observation effort. Additional tasks, therefore, included the provision of training and

¹⁷⁹ Human Sciences Research Council, 1999: **An Evaluation of South Africa's Second Democratic Election Process – Preliminary Report** 6 June, p. 6.

¹⁸⁰ See HSRC Report 1999, pp. 16 - 17

briefing to observers, and the organising of logistical support such as hotel bookings, airport transfers, accreditation procedures, and the mapping of visitation routes.¹⁸¹

Observers that were part of the UN co-ordinated and trained observation effort mainly represented inter-governmental organisations (OAU, SADC, APC) and other representatives came from individual countries (Algeria, Canada, Finland, Japan, Malaysia, Mexico, Nigeria, Norway, Peru, Sweden, Switzerland and the United Kingdom). The group totalling 128, operated within the framework of the Joint International Observer Group (JIOG) that was co-ordinated by the UN-EAS. On Election Day the group was paired in groups of two, and were deployed in all of the country's nine provinces to observe voting, counting and collation in both rural and urban areas.¹⁸² This method of deployment allowed the group to conduct random sampling observation, which the UN-EAS believes gave it a reliable overview of the process.

Apart from the UN-co-ordinated effort, the Commonwealth Observer Group under the leadership of Scottish parliamentary Speaker, Sir David Steel, was the other major observer mission that attracted the attention of the South African media. Although it co-operated closely with the UN-EAS, it conducted its observation effort separately from the UN body. Its members assembled in Pretoria nine days before the poll and used the time to have a series of meetings with the IEC, political parties and other important stakeholders in the process. On 28 May members of the group were paired in 10 two-person teams and deployed to the nine provinces. The Chairperson and the Secretariat team leader remained in Pretoria where the group had its base. It also covered part of the North West Province. In the period before polling day all teams travelled extensively to familiarise themselves with their deployment areas. On the 31 May and 1 June the casting of special votes were witnessed,

¹⁸¹ See interview with Lüthy

and on 2 June voting was observed at 166 polling stations.¹⁸³ A debriefing took place on 3 June and on 4 June members started to depart from the South Africa.

Other organisations that operated separately from the UN-EAS were AWEPA and IFES. Whereas AWEPA, a European parliamentarian lobbying group for the African cause, had sent 400 observers for observation in 1994 elections, it only designated a 40-member delegation to the 1999 elections. As had been the case in previous observer efforts elsewhere in Africa, it believes that the teamwork between its members, coming from 11 African and 11 European countries, was a definite feature of its mission in South Africa. According to the organisation's statement on departure, the group tried to interact as much as possible with local observers.¹⁸⁴

The IFES mission consisted of 12 members: six from Congolese civil society organisations; three high-level government officials from the Democratic Republic of Congo (DRC); and three members from IFES. The rationale behind the composition of the team was to expose the Congolese officials to the South African process, in the hope that with the experience gained, a positive contribution could be made to the democratisation of the DRC.¹⁸⁵ Its mission was divided into three teams of four persons each, which were deployed in the provinces of KwaZulu Natal, the Northern Province and the Eastern Cape. Like most of the other missions, the IFES group also observed the voting at 34 polling stations, the counting thereof and the consequent transmission of the election results.

¹⁸² UN-EAS Press Release 1999: Statement by the Joint International Observer Group, delivered on its behalf by Pres. Nicephore Soglo, former Head of the State of Benin, 4 June 1999

¹⁸³ Commonwealth Secretariat, 1999: **The National and Provincial Elections in South Africa – 2 June 1999** Commonwealth Secretariat: London, pp. 3-4.

¹⁸⁴ See AWEPA 1999, p. 7.

¹⁸⁵ IFES Press Release, 1999: Declaration of the observation and training mission of the Democratic Republic of Congo and IFES to the South African General Election of 2 June 1999, 5 June

Two features stand out with regard to the co-ordination of the 1999 international observer effort. The first is the drastic decrease in observer numbers from an astounding 6 000 in the 1994 election, to a mere 350 in the 1999 election. The 1999 campaign certainly did not have the high international profile that it had 5 years earlier, but when one looks at its meaning within the context of democratic consolidation in Africa, it can be asked whether the cause didn't justify a stronger international contingent.

Another noticeable aspect of the observation effort was the short period that most of the missions stayed within the country. It is true that institutions like the Commonwealth, AWEPA and the IFES had a presence in the country that preceded the election, but the observers that were designated by their respective organisations did not. Most of the observers arrived not more than a week in advance of the election, and it can well be asked how much they knew about grassroots politics in South Africa. It can be argued that briefings at cocktail parties in Pretoria and three days in the field are insufficient to form a clear picture of the dynamics at work beneath the public face of South African politics.

Budgetary constraints are one possible explanation why observer teams shrunk and their period of stay decreased since 1994. The fact that the political environment within which the election took place was less intimidating than in 1994 can also serve as reason for the smaller numbers and shorter period of coverage. Much can however also be attributed to the mandate that was given by the IEC to observer groups. The 1999 mandate limited observers only to observing and assessing the conduct of polling and counting on election day.¹⁸⁶ According to Stefanie Lüthy, this mandate might have been somewhat too limited. She contends that a group of long-term international observation experts could have made a meaningful contribution by observing the whole electoral cycle. However, she concedes that professionalism in the practice of observation has grown in leaps and bounds

¹⁸⁶ See questionnaire to Stefanie Lüthy 1999

since 1994, and it would therefore not be unthinkable to conduct a credible observation effort with more economical means.

3.2.3 *Observer Impartiality*

One of the more disappointing aspects of the observation effort in the 1999 South African elections has been the lack of co-operation between local and international observers. Having been identified as a shortcoming in the 1994 elections, it is therefore the more disappointing that little progress was achieved on this level.

According to the UN-EAS, the short time span within which it had to operate did not allow for the kind of co-operation with local observers that is customary in international observation missions.¹⁸⁷ Observers that were part of the JIOG, were, however, briefed on their arrival to South Africa by, amongst others, Ashley Green-Thompson, co-ordinator of the umbrella organisation for local observers, SACSOC (South African Civil Society Observations Coalition), and instructed to communicate with national observers while performing their duties.

SACSOC, consisting of 10 000 local observers, was formed during the first quarter of 1999 as a co-ordinated initiative of South African civil society organisations.¹⁸⁸ At a meeting held in February 1999 it was decided that the focus of their objectives would be twofold: Firstly it had to establish a relationship of critical engagement with the IEC, and secondly it had to report on both the real and perceived problems that might arise during the electoral process. It was envisaged that by these means the South African citizenry would be represented by civil society in the observation of the process. Although the South African Catholic Bishops Conference (SACBC) hosted the programme at a national level, lead agencies in the 9 provinces were made responsible for its implementation. These responsibilities included the

¹⁸⁷ See questionnaire to Stefanie Lüthy 1999

¹⁸⁸ South African Civil Society Observation Coalition, 1999: **1999 Election Report**, p. 8.

recruitment, training, deployment and supervision of observers, as well as the creation of provincial organisational structures.

Due to financial restraints, all polling stations could not be observed. Despite these limitations the organisation nevertheless succeeded in covering 50% of the polling stations and a considerable amount of the counting stations.¹⁸⁹ All SACSOC observers were given structured forms according to which they had to evaluate the witnessed procedures. In the final instance 87% of all observers remarked that the process was free and fair or free and fair with minor irregularities. When asked to give a global assessment of the process, only one percent gave it a negative evaluation.¹⁹⁰

SACSOC, by far the largest national observation organisation, co-operated closely with other accredited organisations. This, according to their final report, often required co-ordination to ensure that a duplication of activities did not take place. Green-Thompson, however, feels that hopes for a co-operative effort between local observers and their international counterparts never materialised.¹⁹¹ He is specifically critical of the UN-EAS decision not to send observers to so-called trouble spots. The result of this was that only 13% of their international contingent was deployed in KwaZulu Natal, a province that has become notorious for its political instability.

This lack of co-operation is disappointing. Despite the fact that international observers could have benefited significantly from local knowledge, it is also a setback for South African initiatives to gain international experience and the expertise needed to establish a strong home-grown observer capacity. Therefore it seems that in future, the onus will rest largely on the shoulders of South African to create their own capacity in this field.

¹⁸⁹ See South African Civil Society Observation Coalition 1999, p. 14.

¹⁹⁰ See South African Civil Society Observation Coalition 1999, p. 14.

¹⁹¹ Interview with Ashley Green-Thompson on Wednesday, 18 August 1999

One such initiative that should be commended is the SADC Electoral Commissions Forum, which aspires to the strengthening of co-operation on electoral matters in SADC region. This forum, coordinated by EISA is committed to the development of capacity within the SADC region to observe one another's elections on a sustainable basis. According to David Pottie this movement should not be seen as resistance against activities of organisations like UN or the Commonwealth, but rather as a capacity building initiative aimed at democratic consolidation in the region.

4. REPRISE

The aim of this chapter has been to assess the activities of international election observers thus far in South Africa. The discussion has been structured to provide the political and legislative context that is required for an assessment of the three aspects (electoral standards, professional conduct, observer impartiality) identified in Chapter 3.

It has been indicated that the background against which the two observations efforts took place differed significantly. In 1994 the atmosphere prior to the election was pregnant with conflict, bound to erupt with the slightest provocation. Miraculously this never happened, and contrary to many expectations the country experienced its most peaceful period in months. The election was declared 'substantially free and fair', despite serious electoral irregularities. It has been asserted that a verdict to the contrary could have been catastrophic. Although being labelled 'election observers', the duties performed by members of international missions bordered on those tasks usually associated with election monitors. These included peace-monitoring, technical assistance, low-level mediation on the ground, and the verification of the process as a whole.

Despite the murder of KwaZulu Natal's controversial UDM leader, Sifiso Nkabinde, and other isolated incidents of violence, the run-up to the 1999 election was less conflict-laden than in 1994. The wars that were fought were between government and IEC officials on electoral particulars like the issue of bar-coded ID documents. These tensions eventually led to the resignation of

the Judge Kriegler, Chairperson of the IEC, 5 months prior to the election. The reins were taken over by Dr. Brigalia Bam whose relationship with government was less conflictual than that of her predecessor, who was very particular in his insistence on the commission's institutional independence. Bam steered the organisation through an electoral process that scholars and observers alike have described as a vast improvement on the 1994 effort.

International observers played a diminished role in 1999. New legislation passed in 1996 and 1998 provided for the possibility of election observation, but to a more limited extent than was the case in the previous election. Whereas the 1994 mandate allowed observers to follow the development of the process over a period of months, they were only requested by the IEC to observe activities on Election Day in 1999. Some involved in the provision of foreign assistance felt that this mandate might have been too limited to perform their duties satisfactorily.

Subsequent to each of the two background sketches, an assessment was made of the three central requirements for the conduct of a successful observation effort.

With regard to the first, electoral standards, it was suggested that any measure judging the acceptability of an election should take into account not only basic democratic standards, but also the context within which these have to be applied. It was found that to a large extent this measure was used in both the 1994 and 1999 elections. Significant has been the fact that the major missions, with the exception of AWEPA, refrained from calling the elections outright free and fair. In some instances it has been qualified as 'substantially free and fair', but the general tendency has been to refer to it in terms of the extent that it reflected the will of the South African people. Such a measure is clearly context bound. In both instances observers judged the results as mirroring the choice of the majority. It must, however, be contended that in 1994, contextual factors played a disproportionately large role in the decision to declare the election free and fair. Any decision to the contrary could have been disastrous for the country's future prospects. Although observers could

only make a judgement on Election Day proceedings in 1999, it judged activities pertaining to this aspect of the process as a vast improvement on 1994.

Two features that distinguished the 1994 observation effort from that in 1999, was the number of foreign observers present and their duration of stay. While the 1994 elections had the reputation of being the most observed in history, the number of observers in 1999 were relatively small. Since the observer mandates differed for the two elections, the period that observers spent in South Africa was also much shorter in comparison to the 1994 effort. Both these factors impinged on the co-ordination of the participating observer groups.

In 1994 UNOMSA, the UN observer mission in South Africa, was requested by the IEC to co-ordinate observer activities of IGOs and international NGOs. It had the advantage of having been present in the country for almost two years prior to the election and could therefore draw on its experience and that of other organisations which were part of the Joint International Observer Group. Some of the major electoral NGO's like the NDI and IFES chose to observe the campaign separately from UNOMSA's administration.

In 1999 the UN was once again requested to provide coordination of international observer efforts. Obligated by this request was the UN-EAS whose officials arrived just more than a month before the election date. The majority of international observers co-ordinated by the UN-EAS were delegated by IGOs, while most of the international NGOs, like IFES, NDI and IRI chose to function separately from UNOMSA. The Commonwealth, although cooperating closely with UNOMSA, also conducted its effort independently from that of the UN agency.

With regard to the mandate under which missions had to operate, there has been far more clarity than had been the case in 1994. As has been mentioned, some confusion did exist about the extent to which observers

could intervene in the process. The 1999 mandate provided by the IEC made it clear that observers were only to witness proceedings on polling day.

A last important aspect that has been assessed was the level of cooperation that exists between foreign and local observers. It has been found that at this level there is still ample room for improvement. Meaningful cooperation between international and the local observer groups was sadly lacking in 1994, and according to accounts of 1999 election, the same seemed to have been the case. Future attention will have to be given to this aspect.

Some lessons are to be learned from the two South African experiences with democratic elections. The following chapter will contain concluding remarks and a number of recommendations and suggestions for future research.

CHAPTER 5

International Election Observation: Its Future in South African Elections?

1. CONCLUDING THOUGHTS

Hardly any election has grabbed international attention as much as did South Africa's first democratic election on 27 April 1994. For a few days in April 1994 foreign eyes were turned to the much-maligned country at the southern tip of Africa that finally seemed to be getting it right. The sight of people dancing in the streets, voting queues snaking around street corners, and an elderly woman being pushed to the polling station on a wheelbarrow to cast her very first vote, will be etched into the memories of the millions of viewers.

The 1994 election was a triumph for all South Africans who were burdened and oppressed under the system of apartheid. At another level it was a victory for all those in the international community who actively campaigned against the policies of apartheid South Africa. The role that foreign organisations and institutions played in the dismantling of apartheid can not be underestimated. The prominence that South Africa's domestic policies received within these bodies over the past decades, ensured that the eventual liberation of the South African black majority was celebrated far beyond South African borders. It was therefore to be expected that, with the 1994 election being the last hurdle to political liberation, the international community was eager to be present to witness South Africans passing it.

This was indeed the case. In 1992 the first IGOs moved into the country to establish their respective observer missions. In the light of the fragile political climate that was pervading the country, their initial mandate was solely to conduct peace monitoring. After the De Klerk government's initial resistance to the idea of foreign election observation, the green light was given in December 1993 for an international presence at the polls. In the wake of this decision a variety of IGOs, international NGOs and governments entered the country to become part of what was to become the most observed election in

history. It is estimated that at the height of the observation effort the number of observers was in excess of 6 000.

The June 1999 election was characterised by much less international attention than in 1994. Events in Kosovo and East-Timor overshadowed all events elsewhere in the world, and thus also South Africa's second democratic election. It has, however, been argued in this paper that although having had a lower profile in the international media, the country's 1999 election was of no less importance than that of 1994. Its significance was in the fact that election would have given the most comprehensive indication so far of the extent of democratic consolidation within the country.

It is for this reason that the IEC once again invited international observers to witness the conduct of the June 1999 elections. According its Director: International Liaison, Tselane Mokuena, it was "important to have an international presence to attest to the strengthening of our democracy." She believes that their attendance had a definite legitimising effect on the process. But apart from giving it international credibility, it can be asked whether the practice of election observation benefited the South African electoral process. It has been the objective of this paper to assess whether this has been the case. Within the extent of four chapters, the author has attempted to evaluate the contributions that have been made by foreign observers in South Africa's two democratic elections.

Chapter 1 has charted the course of action taken by the author. The chapter consisted of three main components. Firstly it contained a statement of the research question that was to be addressed in this paper. It was asserted that the central concern of this paper would be to ascertain the achievements of international observers in South Africa's two democratic elections.

The second important element of Chapter 1 was the provision of a rationale for the study to be conducted. Cultivating a democratic culture and trust in the institutions that promote it is not something that can be accomplished overnight. In the opinion of the author, the contributions of international

observers during elections can assist in the building of capacity and trust in local electoral processes. The rationale of this study is thus to determine whether this can be said of observation efforts in South African elections.

A last important component of the first chapter was the methodological approach to the paper. Although international literature was reviewed in Chapters 2 and 3, very few comparisons were made between the international and South African experiences in election observation. International literature has rather been used to extract a number of good electoral practices that the author argues should be of application to observer missions in South African elections. The nature of this paper is, therefore, essentially descriptive, rather than comparative.

Chapter 2 concerned itself with the relative importance of elections as a measure of democratic reform. A question mark has been put behind the extent to which elections can be regarded as a true measure of democratic accomplishment. The author has stated his view that elections in and by themselves can never be used as a single focus by those who want to assess the level of democratic reform. He believes that the way in which they are conducted is nevertheless a valuable indicator of the extent to which reform has taken place. The responsibility to scrutinise this conduct falls on the shoulders of election observers.

The remainder of Chapter 2 focussed on the types of institutions that conduct election observation and the functions that they perform. It has been indicated that initially IGOs were the primary practitioners of international election observation. The magnitude of post-colonial elections and the resources required by observer missions to cover them has made IGOs the obvious choice to do it. As the rate of countries being democratised became more rapid in the late eighties, it became increasingly difficult, even for large IGOs like UN, to finance their observer missions. This opened the door for the NGO sector to play a more prominent role in the field of electoral assistance. Today international and national NGOs play a significant role in the conduct of elections. Their value lies in the fact that most are specialising in some aspect

of electoral conduct. This has allowed the U.N. to perform its new function of co-ordinating major IGO and NGO missions by means of joint international observer group (JIOG's).

The objective of the third chapter has been twofold. Since it has been contended that international observation might in some instances amount to the violation of an independent country's sovereignty, a justification for international election observation as opposed to domestic observation had to be established. While this complaint was lodged in most instances by incumbent authoritarian regimes, there is also growing resentment among domestic pro-democracy groups against the practice of international election observation. For this reason the second objective has been to review the complaints by pro-democracy groups and the responses thereto. From these the author has isolated three conditions deemed necessary for the conduct of meaningful international election observation.

With regard to the first objective of chapter 2, it has been contended that sovereignty and the principle of non-intervention are subject to the requirements of international law. Election observation seeks to endorse the international right of people to govern themselves, which is to be found in key international documents such as the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the UN General Assembly Resolution on Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections.

A review of the criticism levelled against international observers by domestic pro-democracy groups was the second objective of Chapter 3. These criticisms were categorised in three distinct groups. The first related to the perceived inconsistency in the application of democratic electoral standards. In response to this criticism, it has been argued that there is no universal standard by which the so-called 'freeness and fairness' of elections can be judged. The author suggested that those observing elections are best advised to determine whether basic democratic values have been adhered to within the context that an election takes place. Newly democratised states can for

example not be judged by the same stringent standards that are applied to established democracies.

A second criticism levelled against the practice of international election observation, is the uncoordinated way in which a number of observation efforts have been conducted in the past. This transpired in the duplication of services, conflicting pronouncements, and in some instances even into a burden on local electoral authorities. Recent international election observation efforts have indicated that observation is more resourceful when coordinated by a central institution. This has also been suggested as the best way to approach the South African observation effort. It not only allows for efficient deployment and the sharing of information gathered in the field, but also importantly, the saving of costs.

Another objection noted by local pro-democracy groups, has been the perceived partiality with which some observers operate. Although international observers are widely perceived to be impartial, the literature has indicated that certain considerations have in the past clouded some of their judgements. For this reason it has been suggested that closer cooperation between local observer groups be established. The sharing of gathered information will ensure that the findings of local and international observers do not contradict one another. In this way the credibility of both groups will be enhanced. Moreover, since international observation will not be a permanent feature of elections, it is conceivable that at some stage the conduct of observation will become the sole responsibility of local observers. It is therefore vital that less experienced local observer missions be assisted by international experts in both the methodology and technology involved in the conduct of observer missions.

The suggestions made in Chapter 3 was carried over into Chapter 4 to establish the extent to which they have become part of international observer practice in South African elections. The 1994 and 1999 observation efforts were dealt with separately, since the political and legislative context within which each took place differed significantly.

With regard to the first suggestion, it has been established that in both elections a measure has been employed that takes account of basic democratic values within the political context that the election takes place. It has been contended that contextual factors played a decisive role in the determination of the 1994 result. Although it cannot be contested that the 1994 result has reflected the 'will of the majority of South Africans' (the most common measure used in both observation efforts), it is doubtful whether it would have made the grade if the stakes weren't as big five years ago.

With the observer mandate in 1999 differing significantly from that of 1994, it has not been easy to make a comparison between the coordination of the two respective observer initiatives. In both efforts though the UN played a major role. In 1994 it was responsible for the coordination of the major IGO, NGO and governmental observer missions. In addition it also participated in the practical observation effort with other organisations. Not all missions preferred to fall under the UN umbrella. Electoral NGOs like the IFES, NDI and IRI opted to conduct their observation efforts independently.

Conditions preceding the June 1999 elections were not nearly as volatile as was the case in 1994. The mandate that the IEC entrusted foreign observers with was therefore less comprehensive than the first time around. The effect of the new, curtailed mandate, was that fewer observers were designated, for a shorter period, to the 1999 election. The UN once again coordinated the missions of the major IGOs and governmental delegations. This time it did however not participate in the actual observation effort itself. The only major IGO that conducted its observation effort outside the UN-Coordinated mission was the Commonwealth. As was the case in 1994, the major international NGO's once again chose to observe the process independently. Since most of these groups (IFES, NDI, IRI, AWEPA) have established themselves in the country since the country's first democratic election, they could draw on their own experience and databases of the country.

Matters pertaining to the third suggestion, closer cooperation between national and international observers has shown little improvement. It was indicated that cooperation between major international observer groups and the largest national observer group, NEON, was largely lacking in 1994. Unfortunately the same must be said of the 1999 observation effort. Representatives of both national and international observer groups have recognised the shortcoming. This aspect of election observation deserves more attention in future discussions on the topic.

2. FINAL REMARKS AND RECOMMENDATIONS

It is unlikely that foreign election observation will in future play as important a role as it has in our first two democratic elections. All indications are that the scale of international observation – if at all – will be much smaller in future elections. According to Tselane Mokuena, the IEC feels that the local capacity cultivated in the course of South Africa's first five years of democracy, will play an ever increasing role in South African observer efforts.¹⁹² She does, however, not exclude the possibility of future international observer efforts. One prominent electoral NGO has already indicated that it does not intend to observe the next general election in 2004. Joe Baxter, South African coordinator of IFES, contends that unless the political situation in South Africa worsens dramatically over the next five years, 'it is pointless' to designate another observer mission. He contends that were it not for the DRC observer project, IFES would not have sent observers to the 1999 elections either.

The future chances of large-scale cooperation between international and local observer efforts thus seem to be limited. From observer accounts of the past two observation efforts, it appears as if the opportunity to mutually benefit from each other's capacities has, with the exception of a few instances, gone waste. The burden therefore seems to rest largely on the shoulders of South Africans to build and enhance their own observation capabilities. This, the author suggests, would be the major challenge for future election observation efforts in South Africa, and indeed for the whole Southern African region.

¹⁹² See interview with Tselane Mokuena, 1999

It should not be assumed that local observer groups are generally less able than their international peers. The capabilities to mount professional observer efforts do exist in the country, as several observers have remarked. The need however exists for the timely and efficient coordination of the available skills. This aspect has been lacking in South Africa. Before each of the two elections, large local observation coalitions were formed to provide a comprehensive observer effort. Both of these endeavours were launched so soon before the respective election days, that it could hardly be imagined that training given to observers was sufficient. In 1994, training of NEON observers continued until a day before polling. Similarly the 1999 recruitment of observers by SACSOC only started 40 days before the election. It can therefore be suggested that in order to extend professional conduct to all observers, the groundwork, especially the training will have to be conducted well in advance of Election Day. This will give coordinators the opportunity to spend sufficient time on finer logistical aspects that might enhance the overall effort. The ideal situation would be for such an observation organisation to be a permanent fixture. The costs involved in maintaining an institution of this nature will be too costly for South Africa's cash-strapped civil society organisations.

A development that deserves encouragement is the regional initiative by SADC to manage observation efforts within the region. Coordinated by EISA in Johannesburg, the SADC Electoral Commission Forum's central aim is to develop electoral capacity within the region. As has been indicated, the forum will engage in democratic development initiatives, that includes election observation in SADC. According to David Pottie, this initiative flows from a growing realisation of the need to redefine expectations of international observation.¹⁹³ Indications are that in future a more cooperative approach will be sought, in terms of which foreign assistance will be requested on the basis of a needs assessment conducted by a host country. If the conduct of a regional observation effort is going to be cheaper, Pottie suggests that a

¹⁹³ See interview with David Pottie, 1999

country might want to forego the expenses of an international observer mission, and rather request the presence of a smaller technical team, or send electoral administrators to management courses abroad. He contends that this does not amount to a rejection of foreign observer missions such as that of the UN or Commonwealth, but should be viewed as an attempt to address matters pertaining to funding and how these resources should be spent.

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