

‘This was no election, it was a census’: The IEC declaration of the April 1994 general election as free and fair in South Africa – a complex process?

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Samevatting

Alhoewel die eerste demokratiese verkiesing in Suid-Afrika reeds 12 jaar gelede gehou is, is die kriteria gebruik deur die Onafhanklike Verkiesingskommissie (OVK)¹ om die April 1994 verkiesing “vry en regverdig” te verklaar nog nooit waarlik deur historici en politieke wetenskaplikes nagevors nie. ‘n Vraag wat reeds ‘n lang tyd by studente van die geskiedenis en politiek bestaan is of die OVK geoorloof was om die verkiesing van April 1994 in Suid-Afrika as “vry en regverdig” te verklaar “ondanks geweld en intimidasie wat gedurende dié tyd voorgekom het”? Het dit oor die nodige kennis en menslike hulpbronne beskik om die verkiesing “vry en regverdig” te verklaar? Het dit die vermoë gehad om daadwerklik die veelvuldige probleme insluitende geweld, intimidasie en verkiesingsbedrog gedurende die verkiesingsperiode die hoof te bied? DL Horowitz, lid van die Demokratiese Party (DP), het nadat hy van die talle probleme ondervind deur die OVK te hore gekom het, verklaar dat die April 1994-verkiesing in werklikheid geen verkiesing was nie, maar eerder ‘n sensus. In dié artikel probeer die navorser Horowitz se stelling én die komplekse proses rondom die 1994-verkiesing ontleed.

Introduction

From its World Trade Centre (Kempton Park) headquarters, the (Independent Electoral Commission) had to reach across the country, coordinating, monitoring, training and setting in place all the structures essential for the election. The IEC was faced with a mammoth task of pronouncing the election

¹ The 11 members of the IEC based in South Africa were: Judge Johann Kriegler (Chairperson), Adv. Dikgang Moseneke (Vice-chairperson), Rev. Frank Chekane, Charles Nupen, Rosil de Jager, Helen Suzman, Dawn Mkhobobo, Ben der Ross, Johan Heyns, Zac Yacoob and Oscar Dhlomo.

'free and fair'. Once this decision was made and announced, no other body in the country had the legal power to challenge or overturn it. With the political climate that prevailed at the time and with political parties gunning for each other on the results of the election, the legitimacy of the election results was not going to be easily accepted.² Uncertainty about the future characterized the political and social climate. This had an impact on the declaration of the election free and fair by the IEC. For Judge J Kriegler, chairperson of the IEC, the task which laid ahead was to conduct a free and fair election and also to overcome the legacy of inter-ethnic and inter-political mistrust that existed amongst the South African citizens prior the election.³ With Inkatha Freedom Party (IFP) entering at the eleventh hour in the election race, Azanian Peoples Organization (AZAPO) deciding not to take part, it was clear that pronouncing the election to have been free and fair was going to be contested.

The concepts 'free' and 'fair' election

The concepts free and fair should be clearly defined and distinguished from the other preconditions of democracy. This should also be translated into specific criteria that can be used to evaluate elections. *Freedom* contrasts with coercion. Freedom entails the right and the opportunity to choose one thing over another. Coercion implies the absence of choice, either formally or in reality. *Fairness* means impartiality. It involves both regularity (the unbiased application of rules) and reasonableness (the not-too-unequal distribution of relevant resources among competitors). In practice, it is not always easy to distinguish between freedom and fairness, and any categorization of various elements of the electoral process should be approached with caution. However, the freedom dimension should include elements relating to voters' opportunity to participate in the election without coercion or restrictions of any kind.⁴

If one considers these two main dimensions of freedom and fairness, it seems evident that some elections can be characterized as free and fair, even if they are not perfect. It is also evident that some elections are not free and

2 L Henning and JA Coetzer, "The Independent Electoral Commission," *Journal for Contemporary History*, 19(2), September 1994, p.213.

3 J Kriegler, "Referee for free and fair elections," *RSA Review*, 7(1), January/February 1994, p.2.

4 J Elklit and P Svensson, "What makes elections free and fair?", *Journal of Democracy*, 8(3), p.34.

fair owing to the violation of a large number of key criteria. Between the extremes, however, lie many cases in which elections cannot be labeled 'free and fair' because of any number of shortcomings, but in which it would be unreasonable explicitly to declare them not 'free and fair'. Perhaps they are free in a formal sense, but fairness is limited in practice, or perhaps they are free only to some extent, but rather fairly conducted within those particular limits.

In competitive elections like the April 1994 in South Africa, the opportunities available to various groups were important in determining the freeness and fairness of the election. There should be no question of any particular group or political party having a greater chance of winning the election than any other group. According to C Mepha, Chief Electoral Officer in the Free State province, the standard formulation used in the preparatory phase of the April 1994 election in South Africa, the notion of 'leveling the playing field' epitomizes this aspect of fairness. For the IEC to have had the guards in declaring the election free and fair, the assessment of the pre-election period was important to verify as to whether the relevant resources were not too unequally distributed among competing parties and candidates. What happens before and after polling day is as important as what happens on polling day itself. He further indicated that the period after the actual polling was also important for the IEC with emphasis on the control of counting ballots to prevent fraud, immediately reporting the results and the complaints about the electoral process be handled impartially.⁵

Criteria used by the IEC in declaring the election free and fair

Immediately after the voting process was finished, the IEC encountered great pressure from overeager journalists and politicians to judge whether the election was free and fair. Although criteria for declaring an election free and fair have been developed in various contexts, translating such theoretical concepts into a comprehensive list of factors to consider proved difficult for the IEC. Equally daunting were the methodological problems of determining whether a particular electoral process meets the established criteria and combining the different measurements on various dimensions into a single score. One approach as stipulated by GS Goodwin-Gill is to study various aspects of the process, namely, the electoral system, the voter-registration

5 C Twala, personal collection, Interview with C Mepha, (Chief Electoral Officer in the Free State, Bloemfontein), 19 June 1997.

system, media access, campaign rules, ballot counting, etc, and then access whether conditions within each area promote or hamper the freedom and fairness of the election.⁶

Although the election was plagued by a host of logistical difficulties, one is convinced that the first non-racial election in South Africa was still a considerable triumph, particularly when one considered the apocalyptic forecast being made by the political commentators, both local and international that the IEC would have it tough to effectively administer these election. These commentators based their arguments on the fact that the polls had been surrounded by fears of widespread violence and concern was especially acute in the two areas most likely to be affected by the threatened boycott of the Zulu-based Inkatha Freedom Party (IFP)⁷ and by the East Rand region through the ongoing conflict between largely ANC supporting townships and the adjacent migrant workers' hostels which since 1990 had effectively become regional military bases for the IFP.

Once the wave of relief and euphoria over South Africa's April 1994 election had receded, one question was taboo: if, as many people agreed, there were so much incompetence, intimidation and fraud, therefore was it fair to say, as most people did, that the voting process was 'free and fair'? Many sources on this subject merely dwell on the more familiar journalism of jubilant results which succeeded in averting Zulu and Afrikaner boycotts, rather than scrutinizing the validity of the statement of 'freeness and fairness' of the election. Giving an answer to the question of defining what is meant by 'free and fair', and what are the criteria for a 'free and fair' election, Kriegler had the following to say: 'There are broad areas that we will have to look at in consultation with the foreign observers, such as the percentage poll, the amount of violence in any given area, or if results are radically different to what the polls show we can expect. But essentially each operation of this kind is unique, we will have to make our decision based on the information we have. Free and fair are absolute words that have to be applied in a relative context from time to time. Quite clearly, no election can ever be wholly free and fair, since the results might be affected by aspects such as intimidation, stay-aways or no-go

6 GS Goodwin-Gill, *Free and Fair elections: International law and practice*, (Inter-Parliamentary Union, Geneva, 2006), pp.27-35. See also N Steytler (et.al.), *Free and fair elections* (Kenwya, Juta, c. 1994).

7 It should be noted that Inkatha Freedom Party (IFP) and Chief Mangosuthu Buthelezi, its president, initially launched a boycott against the election. He demanded federalism, and the recognition of the Zulu monarchy in the new dispensation. Buthelezi appreciated that the IFP's image as the resolute defender of the Zulu monarchy was absolutely vital in its campaign to mobilize the Zulus and he could therefore not afford to be cut adrift politically from the King.

areas'.⁸ Departing from this statement by Kriegler it was therefore clear that the attainment of free and fair election was a far fetched reality.

The above statement by Kriegler was also endorsed by R Gould, an Elections Canada's Assistant Chief Electoral Officer who indicated that the ideal free and fair election does not exist. He stated that to expect free and fair election was a too simplistic expectation and explained that nothing of such election ever existed anywhere in the world. He further stated that as long as there are inequitable financial and material resources among the political parties and candidates, the reality of fair election remains a dream. It therefore appears to be unrealistic to expect the April 1994 election to fulfill all the criteria of freedom and fairness. According to Gould, the focus should be on the extent to which the election, with all its flaws, contributed to the democratic evolution of South Africa, rather than evaluating the freeness and the fairness of the election.⁹

Without doubt, the first non-racial democratic election in South Africa was a unique event, an election without voter's rolls and without a similar election preceding it which could act as a barometer, posed challenges to the IEC when it had to declare it free and fair. The more free and fair the election was, the less its validity would be questioned and the more the envisaged Government of National Unity (GNU) would be considered legitimate after the election.¹⁰ As early as February 1994, the *Mail and Guardian* remarked that the ballot would never be absolutely 'free and fair'. The question was whether the disruption due to violence could be limited enough for the IEC and the international observer mission to agree on the legitimacy of the election and declaring them free and fair.¹¹

When the 11 members of the IEC sat with the leaders of the 4 main international observer missions to decide the fate of the nation, there were no rules and no guidelines to follow, not even any written criteria that described what was or was not 'substantially free and fair'. Despite the above mentioned predicament, by the end of March 1994, the IEC had been granted the power of discretion in the declaration of a free and fair election but indicated that this

8 J Kriegler, "Referee for free and fair elections", *RSA Review*, 7 (1), January/February 1994, pp.5-6.

9 R Gould, "Towards free and fair elections: the role of international observers", *Focus*, 2 (9), pp.4-8.

10 R De Kock, C Schutte, "Free and fair?", *Indicator South Africa*, 11 (2), Autumn 1994, pp.27-28.

11 *Mail and Guardian*, 25 February 1994.

discretion would involve a detailed evaluation of the 'electoral environment' as well as the events preceding and following the actual day of voting.¹²

To facilitate the afore-mentioned expectations of free and fair election, the IEC stipulated some elements for free and fair election which included the following:

- freedom of association, expression, and assembly; freedom from violence and coercion;
- freedom of access to the voting stations for voters, party agents, election monitors and observers; and freedom to vote in secret;
- equitable treatment of the electorate, political parties and candidates by the electoral officials, police, military and judiciary;
- and extensive voter education programme; equitable access to financial and material resources for party campaigning; and a transparent ballot counting procedures.¹³

Electoral processes differ, as do political and social conditions and democratic-transition processes themselves. Thus it is not possible to attach absolute weights to the above mentioned elements for their importance varies with the electoral context. Therefore in declaring the election 'free and fair', the IEC had to take the above mentioned elements into consideration. There were, however, doubts as to whether the IEC adhered to these stipulated elements or not.

Criticisms on the IEC declaration of the election as free and fair

Although the election was eventually declared 'free and fair', a cold assessment of the election did not cast a particularly complimentary light on the IEC as its administrators. The early days of voting were chaotic in some areas as the IEC's machinery barely stuttered along. According JA Coetzer of the Institute for Contemporary History at the University of the Free State, it was difficult to measure the magnitude of the chaos that prevailed during the polling period. She further indicated that it was also difficult to comprehend how vast numbers of ballot papers went missing and the required voting equipment which did not arrive at some polling stations. This, according

¹² J Kriegler, "Referee for free and fair elections," *RSA Review*, 7(1), January/February 1994, pp.5-6.

¹³ *Cape Times*, 3 March 1994.

to her compromised the legitimacy of 'free and fair' election.¹⁴ The problem seemed to be not so much that the commissioners were unprepared for the election. Judge Kriegler himself highlighted the problem without realizing it when he stated: 'The election is not about vote reconciliation, it is about national reconciliation'. This statement by Kriegler meant that so long as the elections were inclusive, efficiency was less important.

On Friday 6 May 1994, Kriegler after consultation with the international observer missions declared the election free and fair despite all the muddles and irregularities experienced during the entire electioneering and election period. The outcomes were however endorsed by leaders of the two main parties, namely, FW De Klerk of the National Party and N Mandela of the African National Congress.¹⁵ The *Sunday Times* argued that although there were some problems during the election, it would be suicidal to dispute the clear expression of the will of the people, hence the IEC was bound to declare the election 'free and fair'. It continued to indicate that the people who voted, did so to end apartheid. It therefore became clear to the IEC, the political leaders and the majority of the electorate that South Africa needed democracy and that the need for political instability outweighed everything else, hence the IEC was bound to declare the election free and fair.¹⁶ The IEC was criticized that because of irregularities and the so-called sabotage of its computer system, it is alleged that it was forced to make some adaptations to the election outcomes so as to be peacefully accepted by the electorate.

A political analyst Jan du Plessis wrote in the *Volksblad* that it was misleading to make assessment of the election after voting. He declared that the foundation for the successful election and the acceptance of the entire election process as having been 'free and fair' was laid by the negotiators who created a conducive political climate of give and take.¹⁷ One tends to disagree with this statement by Du Plessis because although there were possible signs of give and take attitude, the high level of violence and intolerance during the voting period negated that.

Professor DP Wessels, a political scientist from the University of the Free State stated that to solely let the IEC carry the blame for the problems experienced

14 C Twala, personal collection, Interview JA Coetzer (Institute for Contemporary History, University of the Free State, Bloemfontein)/C. Twala, 31 March 1996.

15 ACP Strauss, "Reaction to the 1994 South African general elections," *Journal for Contemporary History*, 19 (2), September 1994, p.299.

16 *The Sunday Times*, 1 May 1994.

17 *Volksblad*, 11 May 1994.

during the election period was unjust because the IEC was performing this task for the first time in South Africa, therefore problems were inevitable, although some problems were aimed at discrediting the Commission. He alluded to the fact that the IFP made a late entry to the election race made it difficult for the IEC to cope with the logistics of the election process. For example, at the eleventh hour the IEC had to organize IFP stickers to be inserted at the bottom of each and every ballot paper. With this process, some voting stations in KwaZulu-Natal claimed not to have received such stickers. Another problem was the fact that the country had set absurdly high standards for the conduct of these founding election.¹⁸ Both the IFP and the Pan Africanist Congress (PAC) cried 'foul' due to the wide assortment of administrative problems experienced during the voting period. The whole blame for this administrative chaos was apportioned to the IEC as the body which was charged with all the logistics concerning the election.

The International Observers also concurred with the decision by the IEC in declaring the election free and fair but never committed themselves as to whether there was cheating or not.¹⁹ One could also indicate that most of the logistical problems were the inevitable consequence of a country entering uncharted electoral territory without accurate census figures to guide its progress.

It should be noted that during the campaign, political parties were hampered by several factors. One of the major challenges was the need to educate the electorate, particularly those who had never voted before, in basic elements of democracy and electoral procedures. For example, there was a great deal of skepticism about democratic practices such as the secret ballot, particularly in rural areas where literacy rates were low, and where traditional leaders and white employers had often manipulated political participation in the past. In addition, the political violence leading up to the election threatened to keep many potential first-time voters away from the polls.

The ANC voters felt especially vulnerable in KwaZulu, Bophuthatswana, and Ciskei, where the apartheid era homeland leaders and security forces harassed and intimidated them. Similarly, in ANC-controlled areas, some of that party's activists intimidated IFP, NP, and even liberal Democratic Party

18 C Twala, personal collection, Interview, DP Wessels (Department of Political Science, University of the Free State, Bloemfontein)/C. Twala, 13 February 1999.

19 J Hamill, "South Africa: Election '94 and the rogue provinces," *Contemporary Review*, 265 (1543), p.57.

(DP) organizers and disrupted their campaign rallies.²⁰ The IEC was criticized for having being aware, of course, of this state of affairs, but decided to proceed cautiously in order to avoid jeopardizing the entire electoral process which was seen as crucial to achieving peace and stability in the long term. Both the NP and the DP submitted reports to the IEC of electoral fraud and concluded that they had been penalized by the large scale secret manufacture of fraudulent ballots, allegedly by the ANC and IFP whose results were inflated by shrinking the proportional share of the smaller parties.²¹ They blamed the IEC for having failed to reconcile ballot boxes with supporting paperwork from the polling stations.²²

The NP's complaint was long expected by the IEC but what made the NP think of a respectable support when the election outcomes were released, was the fact that this party managed to portray its leader FW De Klerk as the slayer of apartheid. This strategy by the NP did not work in the country in general but only in the Western Cape where it won in the majority and took control of that province. With the IFP boycotting the election, the NP was convinced of a majority support. Both the NP and the DP agreed that there had been massive fraud in the former homeland of Transkei where both parties suggested a 250 000 vote reduction. The NP stated that during the election campaign, it was too dangerous to campaign in the black townships of the Transkei.²³ They further demanded 100 000 vote reduction in the former homelands of KaNgwane and KwaNdebele. In the former homeland of Bophuthatswana the DP wanted 120 000 votes to be declared invalid but the NP only asked for 100 000 reduction. In Lebowa, Gazankulu and Venda, the NP wanted to invalidate and extra 300 000 votes and the DP demanded only 200 000.²⁴ These two political parties not only targeted the above mentioned homelands but places like Soweto, Katlehong, Natalspruit, Atteridgeville, Soshanguve, Thabong and Botshabelo also became targets. Many of these places were ANC strongholds. So, both the NP and DP were alleging large-scale cheating by the ANC as these parties had it tough to access some of the above mentioned areas to campaign.²⁵

20 C Twala, personal collection, Interview, Mr D Ntombela/C Twala, s.a.

21 Republic of South Africa, IEC, Report, The South African Elections of April 1994, October 1994, pp.113-114.

22 *Natal Witness*, 7 May 1994.

23 *The Star International Weekly*, 17-23 March 1994.

24 RW Johnson and L Schlemmer, *Launching democracy in South Africa: the first open election, April 1994* (New Haven, Yale Univ. Press, 1996) p.324.

25 *Rapport*, 27 March 1994.

In KwaZulu-Natal, a wide array of irregularities completely polluted the process and produced a final result which came close to absurdity. That also led to the questioning of the IEC's credibility to declare the election free and fair. James Hamill contended that the IFP's victory in the area with 50,3 percent of the vote as compared to the ANC's 32,3 percent had more to do with political expediency than with any respect for the actual democratic process in the province.²⁶ The irregularities in KwaZulu attracted most controversy in both the 'freeness and fairness' seemed more likely to have affected the results. Due to multiple and under-age voting and the abuse of the temporary voters' cards (TVCs), a number of KwaZulu rural polling stations recorded polls far in excess of the estimated number of voters residing there and the IFP was blamed for that. The IFP bitterly complained that the TVCs were given only to those who could prove allegiance to the ANC.²⁷ Although this was the case, the IFP expected victory in the province despite the party's late entry in the election. Therefore, in many areas dominated by the IFP, voter education could not begin until the weekend before the election. In remote rural areas of the northern Natal, people who reportedly had been told by their Chiefs to boycott the election because of a call made by the IFP did not realize that they could vote when the party decided to part take in the election. The decision by the Chiefs in determining whether their subordinates should vote or not, posed challenges for the IEC. T Lodge of the University of the Witwatersrand in his article, *'The South African General Election of April 1994'* stated that the IEC admitted at one point that cheating was widespread in KwaZulu-Natal and reduced the IFP's regional tally by 250 000.²⁸ The IFP held the IEC at ransom when it indicated that it would reject the election process to have been 'free and fair' if other ballots were disputed on the recommendation of the ANC, therefore, a compromise had to be reached by both the IFP and the ANC in accepting the results of the election.²⁹ The IFP also cried foul that its members in the Reef townships where intimidated by the ANC supporters.³⁰

Like the IFP, the ANC also complained about the electoral process in KwaZulu-Natal. It claimed that the poll in the Durban townships where it commanded a large following was suspiciously low, due, it alleged, to the

26 J Hamill, "South Africa: Election '94 and the rogue provinces," *Contemporary Review*, 265 (1543), p.57.

27 RW Johnson and L Schlemmer, *Launching democracy in South Africa...*, April 1994, p.327.

28 T Lodge, "The South African General Election of April 1994: results, analysis and implications," *African Affairs*, 94 (377), 1995, pp.475-500.

29 M Szeziel, "Negotiated elections in South Africa, 1994," *Review of African Political Economy*, 21 (61), 1994, pp.1-14; T Lodge, "South Africa 1994: Election of a special kind," *Southern African Review of books*, 6 (2), March/April 1994, pp.3-5.

30 J Eddings and E Ransdell, "Free at last", *US News and World Report*, 9 May 1994, p.1.

disappearance of many ballot papers before they could reach the counting station.³¹ The ANC alleged that the abuses were so bad at Mpangeni that four IEC officials in the area petitioned their superiors to declare the election in the area null and void. Their petition which landed in the ANC hands formed one of the cornerstones of the ANC court action after the election.³² Further complaints included the removal of the ballot boxes from polling stations by the IFP supporters and KwaZulu-Police (ZP) who owed their allegiance to the IFP and polling stations with the ZP providing the sole security and thus under the control of the IFP. Following these complaints, the ANC's Southern-Natal region appealed to the IEC on 6 May to treat Natal separately from the rest of South Africa because the Zululand part of the province was the only part of the country where a political party and its police force (ZP) had a prominent and controlling role in the election. The ANC urged the IEC that proper investigations should be conducted to ascertain itself about irregularities in the area. The ANC singled out KwaZulu-Natal and declared that the election in this area should not be embraced under the statement of 'free and fair'. The party also accused the IEC as having avoided disclosing and admitting that intimidation really took place at some voting stations in the area. The IEC defended itself that it had capable officials to deal with malpractices if there were any, to an extent of closing some of such stations down. In practice, however, the IEC would have found the latter course politically impossible, and that meant that they would, in the last analysis tolerate intimidation. According to R Southall, this political imperative worked at every level of the election, any irregularity was always more likely to be swept under the carpet in the interest of national reconciliation.³³

KwaZulu-Natal was reported to have had pirate polling stations in some areas. Disputing this claim, the Adjudication Secretariat Report of the IEC compiled by Professor M Mchunu and Adv. L Theron stated that there was no single report from any person who witnessed an unauthorized station in operation. The claim of the existence of pirate polling stations was treated as a rumour by the IEC because there was no hard evidence to support such a claim, therefore, the IEC continued with the counting of the votes cast in the region.³⁴ The issue of the pirate polling stations was considered in the light of an earlier decision that no votes cast at voting stations not authorized by

32 *Natal Mercury*, 4 May 1994.

33 R Southall, "South Africa's 1994 election in an African perspective," *Africa Insight*, 24 (2), 1994, pp.86-98.

34 Republic of South Africa, IEC, Report, "The South African Elections of April 1994", October 1994, p.70.

the IEC would be valid. Consequently the IEC had to ascertain whether any votes included in the count had indeed been cast at an unauthorized polling station. The investigative team of the IEC concluded and agreed that it was not possible to make such a finding on the information they had on their disposal. In the first instance, the reports and complaints showed considerable confusion about the ultimate list of authorized polling stations. This was due to the fact that extensive amendments had to be made and proclaimed at the eleventh hour, once it had been agreed to admit the IFP to the electoral contest. Secondly, largely for the same reason, there was uncertainty as the precise names and locations of authorized polling stations resulted in unsuitable sites being proclaimed and polling stations having to be moved by direct electoral officers. In the fourth instance, the reports and complaints were of the vague, contradicting or speculative and could not be verified adequately in the time available.³⁵

The above mentioned controversy sometimes applied to the IEC officials too. One IEC area coordinator for the Emolweni-Ngcolosi area indicated that he had entirely failed to notice one polling station, sited at the Ngcolosi Tribal Court, until two days into the election. This in fact led to the uncertainty about the precise name and location of some stations, which were occasionally falsely described. Some of these stations proved unsuitable and were changed on the authority of the relevant IEC district election officer.³⁶

However, experiencing the alleged problems which confronted the IEC, Kriegler obtained the full backing of the IEC in declaring the election 'free and fair' although in its report it acknowledged the problems experienced throughout the whole election process. Between the 25-29 April the IEC agreed that because it panicked that some people may be disenfranchised, it issued 1,5 million TVCs across the country for people who claimed to be in need of them. In its report, the IEC commented with the following:

(T)here can be little doubt that the abuses of the system for the issuing of the temporary cards occurred on a substantial scale. But this was prevalent in remote areas of Transkei and KwaZulu where a single party controlled the administrative structures.³⁷

The IEC was also accused of pumping out advance propoganda on television simply asserting that the election would be 'free and fair'. The television

36 RW Johnson and L Schlemmer, *Launching democracy in South Africa...*, pp.337-338.

37 Republic of South Africa, IEC, Report, "The South African Elections of April 1994", October 1994, p.42.

advertisement ran by the IEC stated: 'We are ready! Are you?'. This pre-judgement by the IEC produced some doubtful thoughts to the political parties. Having prejudged the outcome of the election, it was questionable as to how could it be that it again judge the validity of the election. When it experienced electoral problems, it became difficult for one again to ascertain oneself on its validity of the preparedness and readiness. To other political parties like the PAC criticisms leveled against the IEC were that it had failed to execute its functions but instead it wanted to give the ANC power on a golden plate.³⁸ The PAC claimed that it was however strange for the IEC to fail in dealing with the problems emanating from the electoral processes. This was in contrast with the IEC's initial stance and commitment of dealing head-on with such problems. This was endorsed by A Jeffery by quoting Kriegler having said the following before the election:

Those who wish maliciously to disturb and disrupt the overall electoral process may merely find themselves in the position that in their own no-go areas, where they have maximum support, there will be no count in the eventual tally of votes.³⁹

It was therefore because of such statements that the IEC was criticized to the latter for all the problems emanating from the electoral process. It should also be indicated that some of the above mentioned problems that the IEC experienced were to a certain extent caused by the political parties which later complained about the ineffectiveness of the Commission.

Besides the afore-mentioned problems, a high poll among the South Africans living overseas had been anticipated in the 187 polling stations abroad, but in fact only 96 268 voted out of an estimated émigré electorate of 428 461. More serious were the deficiencies in the special voting on the 26 April that nearly spoiled the first day of the election.⁴⁰

Conclusion

In South Africa's April 1994 election for parliament and regional assemblies, considerable efforts were made to involve all citizens and parties in the process of democratization and reconciliation. Yet it was difficult to ensure equality of opportunity for the country's many different political formations and

38 C Twala, personal collection: Interview (telephone), Dr. M Pheko (Former president of the PAC)/C Twala, 13 February 1999.

39 A Jeffery, *The Natal story: sixteen years of conflict*, (Johannesburg, Institute of Race Relations, 1997)p.420.

40 RW Johnson and L Schlemmer, *Launching democracy in South Africa, the first open election*, April 1994, p.328.

social groups. There were plenty of administrative and procedural problems as well. This article attempted to show the extent of the IEC's predicament in declaring the April 1994 election as having been 'free and fair'. It also tried to answer the question as to whether was it appropriate the IEC itself issued the verdict of 'free and fair' election. The article wants to accentuate that the phrase 'free and fair', though complex, cannot denote compliance with a fixed, universal standard of electoral competition as no such standard exists. Furthermore the complexity of the electoral process makes the notion of any simple formula unrealistic. In South Africa the IEC faced a dilemma of in future avoiding using the phrase 'free and fair'. Although it received its share of criticisms after the declaration of the election to have been 'free and fair', there is no doubt that this commission has played a crucial and valuable role. However, the problems experienced by the IEC in 1994 showed that in any future election in South Africa, a voters roll was needed.