CENTRE FOR HUMAN RIGHTS

FACULTY OF LAW

UNIVERSITY OF PRETORIA

ELECTION OBSERVER TEAM REPORT

SOUTH AFRICAN LOCAL GOVERNMENT ELECTIONS

18 MAY 2011

25 May 2011

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EXECUTIVE SUMMARY

The Centre for Human Rights (CHR), Faculty of Law, University of Pretoria, South Africa deployed an Election Observer Team to observe the South African Local Government Elections (LGE), which were held on the 18 May 2011. This is the Team's assessment of the municipal elections. The assessment covers the election period from voting, including counting and excluding the transmission of results. The Team comprised Mr. Mxolisi Makinana, Mr. Eric Lwanga representatives of the CHR staff and Mr. Jacob Ssali an LLB final year student at the faculty of Law, University of Pretoria. Members of the Team observed events in **Muckleneuk** (Temporary Voting Station, Muckleneuk Park, Walker Street), **Lynwood Ridge** (Temporary Voting Station Park, cnr Cedar and Beech Street), **Murrayfield** (Laerskool Skuilkrans), **Eesterust** (Norridge Park Primary School and Temporary Voting Station, Labour and Peggy Barnes) **Mamelodi** (F.F. Ribeiro Primary School; Temporary Voting Station, Storeroom Hostel No. 4; Balebogeng Primary School; Refentse Primary School) and **Soshavungu** (Lesedi Primary School and Love World International Church) around Pretoria, South Africa on 18 May 2011. The Team's assessment of the South African 2011 LGE was based on the Principles for Election Management, Monitoring and Observation in the Independent Electoral Commission (IEC). This report gives the main findings of the Team and makes recommendations to relevant election stakeholders for future elections. The report will be shared with the IEC, political parties that contested the elections and civil society organisations in South Africa as well as with government authorities, election management bodies and civil society organisations across the region, so that lessons can be drawn.

TERMS OF REFERENCE

The Terms of Reference of the Team were:

- Assess whether the conditions existed for the conduct of elections that reflected the will of the South African people.
- Assess whether the elections were conducted in accordance with the electoral legislative framework of South Africa.
- Assess whether the elections met the benchmarks set by the IEC.

In order to achieve the above, the Team was to:

1) obtain information from the IEC on the electoral process;
2) report accurately on its observations;
3) observe all aspects of the election in the areas it visited;
4) assess whether all registered voters had easy access to voting stations and whether they were able to exercise their vote in freedom and secrecy;
5) assess the logistical arrangements to confirm if all necessary material was available for the voting and counting to take place efficiently

1. VOTER REGISTRATION

1.1 Relevant Legal Provisions

The Electoral Act 73 of 1998 (s 5) provides that the IEC must compile and maintain a common voters' roll. Although the minimum voting age is 18, all South African citizens are eligible to register as voters from the age of 16. To register, the applicant must hold a bar-coded identity document or a temporary certificate issued by the Department of Home Affairs in terms of the Identification Act (68 of 1997). In order to cast local government ballots voters must register in the voting district in which they normally reside.

1.2 Assessing The Registration Process

Voter registration is a continuous process that takes place during offices hours at municipal electoral offices throughout the country. The voters' roll is closed temporarily during election periods between the announcement of the election date and the time when the process is deemed complete. Over and above the normal and continuous registration process, for the 2011 LGE elections the IEC conducted targeted registration campaigns over two weekends, namely, 5-6 February 2011 and 5-6 March 2011, with a view to encouraging voters to exercise their democratic right to vote, thus enhancing public participation. A commendable feature of these registration drives was the involvement of political parties as well as civil society organisations in mobilising voters to register. According to the IEC there were 23.6 million registered voters on the LGE voters' roll.

According to the IEC, of the more than 53 000 candidates, 19 731 women stood compared to 15 718 registered women candidates in the 2006 local government elections. This is only a two percentage point increase and poses a lot of questions around why the proportion of female candidates increased by such a small amount in the past five years. The low representation of women as political candidates indicates that this is still a major area to be addressed within local government. These low numbers are likely due to a number of factors: the political arena continues to be male-dominated, making it hard for women to access the political domain without fear or prejudice. Women are also not recognised as leaders even by other women within their political parties.

1.3 Party Registration And The Nomination Process

1.3.1 Party Registration

The Electoral Act provides that parties that intend to contest an election must be registered with the IEC and must submit a list of candidates for that election to the Chief Electoral Officer in the prescribed manner and within the period provided for in the election timetable.[1] To register each

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[1] Electoral Act 73 of 1998 sec 27.

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party must submit to the IEC forms containing details of its name, symbols and abbreviated name. Attached to the forms should be the deed of foundation of the party signed by at least 50 registered voters, the party's constitution and proof of its publication in the *Government Gazette* and payment of R500.00.[2]

1.3.2 Compilation Of Party Lists

According to the election timetable, parties contesting LGE had to pay a number of deposits to contest LGE elections:

- R4 000 per metropolitan council;
- R2 500 per local council with wards;
- R1 500 per local council without wards and per District Council;
- R1 000 per independent ward candidate;
- R1 000 per ward candidate nominated by a party who is not contesting the election of the relevant municipal council by way of a party (PR) list.[3]

When submitting party lists, the parties had to sign an undertaking binding the party and its candidates to the electoral code of conduct. The documentation also included a declaration that each of the candidates was qualified to stand for election and that each candidate accepted the nomination. The electoral legislation establishes general criteria to be met by potential candidates: they must be a minimum of 18 years old and South African citizens of sound mind.[4] Although there are some similarities in the ways the parties nominate candidates, the procedures differ from party to party.

1.4 Voter Education and Information

The Electoral Commission Act stipulates that the responsibility for voter education accreditation and information rests with the IEC. In compliance with this provision the IEC may accredit voter educators, provided that their services comply with IEC standards of competence and effectiveness. Accredited voter educators are provided with resources in order to run voter education programmes.[5] In addition, other stakeholders, such as NGOs, political parties and the media play an important role in voter education. The IEC, in close cooperation with the media, placed voter information advertisements in daily newspapers, Facebook, Twitter and on radio and television. The media also contributed to voter education and information through news items, special articles, live debates, voter education drama series, and so on. Political parties also used every opportunity to pass voter education and information messages on to their supporters. Among these efforts was an emphasis on the importance of registering in order to vote. A number of NGOs also participated in a variety of voter education and information programmes.

1.5 The Election Campaign

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[2] See section 15 of the Electoral Commission Act of 1996 and Regulation 2, 3 and 4 for the Registration of Political Parties of 1998; Amendment to Regulations for the Registration of Political Parties; Local Government: Municipal Electoral Regulations – 2011 Amendment

[3] See http://www.elections.org.za/content/new.aspx?id=1662 (accessed 24 May 2011)

[4] Electoral Act 72 of 1998 sec 6.

[5] As above, sec 96.

1.5.1 Rules Governing Canvassing

The Electoral Act contains a binding code of conduct for political parties, their members and candidates which governs election campaigning.[6] The code commits political parties and their agents to non-coercive campaigns and includes a prohibition on any party obstructing another's access to voters. It also compels parties to refrain from using language that might incite violence and intimidate voters or other political parties, including any inducement to voters other than political appeals. Non-compliance or breach of the code is punished by a range of penalties[7] to be enforced either by the normal court system or by the electoral court.

1.5.2 The Campaign

Political parties submitted their candidates lists to the IEC, with a total of 121 contesting political parties, which has seen the numbers of contesting political parties increase from 79 in 2000 to 97 in 2006. The common themes were poverty alleviation, HIV/AIDS, unemployment, crime, education, corruption, social welfare and the economy. Most party manifestos dealt with the same issues, the only difference being in emphasis and the order of priority. What has been disappointing is the manner in which women's issues were (or were not) addressed in election manifestos. Political parties release manifestos in order to drum up support, making promises and pledges for a better life for South Africa's communities. Only the ANC made specific reference to women's issues and set targets as to how it plans to improve the lives of women. None of the other political parties stated how they would work with women.

The Democratic Allaince (DA) – which has a woman leader, a young woman spokesperson and a woman mayoral candidate (all prominent in election advertising) – did not even mention the word 'women' anywhere in its manifesto. This goes to show that it cannot be assumed that because a political party is led by a woman it will automatically take on the interests of women. What is also unacceptable is that even during campaign rallies and election debates none of the political parties have put forward a clear agenda around tackling the issue of getting women into local government. Instead, infrastructural and development issues such as housing, sanitation and healthcare took key priority. It is not that these are not important aspects within local government – they certainly are. However, political parties have failed to indicate how these will benefit women, who are the main beneficiaries of these utilities.

The ANC remains dominant in South African politics but its voters dropped in its overall majority from 66% in the 2006 municipal elections to 63% in the 2011 LGE.[8]

1.5.3 Violence and intimidation

Economic pressures, as well as the deteriorating rate of service delivery has created an environment of discontent across the country evident in the recent spate of service delivery protests which have taken place across the various provinces in the past three years. The pre-election period has been relatively calm with the exception of Kwa Zulu-Natal, where the ANC and the Inkhata Freedom Party (IFP) clashed periodically during campaigns and at rallies, though not to the same degree as previously.

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[6] As above, sec 94.
[7] As above, sec 98.
[8] Sourced at http://www.elections.org.za/content/LGEPublicReports/197/Detailed%20Results/National.pdf (24 May 2011)

1.6 Media Coverage Of The Electoral Process

South Africa has institutional and legislative mechanisms in place to regulate media coverage of elections. The Independent Broadcasting Authority Act 153 of 1993[9] sets out the rules for coverage by the electronic media in order to ensure the freedom and fairness of the process and establishes the Independent Communications Authority of South Africa (ICASA) to enforce the legislation.[10] In October 2003, ICASA published a set of broadcasting regulations pertaining to election coverage.[11] The main thrust of the regulations was the need to ensure that broadcasters afforded political parties the opportunity to present conflicting views and treated them all equitably. Over all, media coverage of the election process was characterised by a high standard of professionalism which contributed to creating the level playing field on which the elections took place.

2. OBESRVING OF VOTING AND COUNTING

The members of the Team were deployed in the field from 18 May and observed voting on 18 May and counting of ballots on 18 May 2011. This report describes the findings of the Team as informed by the abovementioned activities.

2.1 The Election

VOTING PROCESS
2.1.1 Special Voting

The Electoral Act (33(1)(a)) provides for the IEC to make arrangements for physically disabled, infirm or pregnant voters; those absent from South Africa on government service; election staff; those absent from South Africa for purposes of holiday, business trips or attending a tertiary education institution, to cast special votes. As per the election timetable, the IEC received applications for special votes (15 April–3 May 2011) and held these between 16-17 May 2011. Voting stations were open for those voters to cast their votes. IEC election officials also visited voters in their homes. CHR observer team was not able to observe special voting at voting stations. Therefore, this report will not cover incidents during the special voting process.

ELECTION DAY
2.1.2 CHR Observer Team

By the day of the election, 18 May 2011, the CHR had deployed one (1) Observer Team in Pretoria, Gauteng. The political and demographic dynamics of each place determined the areas covered in each. On 18 May 2011 the members of the Team visited (11) eleven voting stations in both suburbs and townships around Pretoria.

2.1.3 Opening of the voting stations and provision of election material

Overall, the CHR team reported a peaceful, orderly and smooth voting process in all the polling stations visited. In some long queues were reported mainly during the early hours of the day but

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[9] Independent Broadcasting Authority Act 153 of 1993 sec 58(1).
[10] As above, sec 3.
[11] As above, secs 53(2), 53(4) and 53(5) read with sec 78(1).

these had generally eased down by the afternoon. In all the polling stations visited the election staff followed the procedures for opening and sealing the ballot boxes in full view of party agents. The team did not witness the presence of international observers in the stations visited. Almost all the polling stations visited opened on time and there was no shortage of essential election material or election staff. There were no delays at polling stations relating to a lack of voting material such as ink, stamp pads, ballot papers, scanning machines and so on. Among those that opened late was Lynwood Ridge (Temporary Voting Station Park, cnr Cedar and Beech Street) in Pretoria, which opened around 07h30. The most serious delay was reported at Soshanguve (Lesedi Primary School and Love World International Church) polling station where voters spent two hours on the queue because the presiding officer was not proactive and seemed not to be able to use the scanning machine. Only in Mamelodi, Refentse Primary School polling station did the team observe a scanning machine which was not working and the election officers were using the manual system to verify registration of voters. In overcoming the delays, the presiding officer prioritised the disabled and senior citizen who were on the line to cast their vote.

2.1.4 Voters' Roll

In a few instances voters' name did not appear in the voters' roll. In all those instances voters were allowed to cast their vote once proof of registration had been established by verification of the sticker in their ID books. Voters who had never registered or those who registered in different municipalities were not allowed to vote. There were no reported problems related to short periods of stoppage either because of a shortage of ballot papers or a shortage of forms, which allows voters to cast their vote at a polling station.

2.1.5 Voting Stations

Our observers noted that the movement of voters through the polling station was, on the whole, quick and smooth. In some instances, voters moved through the station in two minutes. However, in Temporary Voting Station, Muckleneuk Park voters complained of people jumping the queue and the Presiding Officer quickly intervened with the assistant of South African Police Services and the problem was resolved. The transformation of these stations into counting stations when polling closed enhanced the transparency of the process as there were no fears of ballot boxes being tampered with while in transit to central counting centres. The Team did, however, note some inconsistencies in the layout of polling stations. In some the voting booths were six and others only three, however all of them were not positioned facing the electoral staff and queuing voters, which ensured the secrecy of the ballot. In most stations the voting booths faced the wall.

2.1.6 Voting Staff, Party Agents And Security Personnel

The Team noted with satisfaction the gender composition of the election staff. Overall, the efficiency with which the election staff operated convinced the Team that training was generally adequate. The Team noted that the security arrangements at all visited polling and counting stations visited were appropriate. All polling stations visited had South African Police Services officers present, none of whom could be regarded as intimidating voters or interfering with the voting process. The Team therefore felt that the security arrangements contributed to the peaceful, orderly and free atmosphere in which the elections took place. The Team noted that there were party agents at all polling stations visited though not all the contesting parties were represented at every polling station. Parties tended to field party agents where they had strong support. The Team learnt that, since it was impossible to cover all the polling stations, parties made inter-party arrangements to ensure wide coverage in monitoring the voting and counting process.

In general all political parties adhered to the code of conduct issued by the IEC. There was no explicit attempt to unduly influence the voters at the polling stations. Party agents did not carry party propaganda material to the polling stations, thus adhering to the 50 meters rule. However, in isolated cases party agents placed posters and other propaganda materials in the vicinity of the polling stations. In some polling stations the Team noted that some party agents were observed playing the role of election officials (this was especially noted in Temporary Voting Station, Muckleneuk Park) and some party agents did not have political party or individual names written on their tags.

2.1.7 Observers

According to IEC, international observer groups were deployed with observers around the country. However, the Team notes the absence of international observers in polling stations it visited. In the face of decreasing international observer presence, the Team felt that it is very important that civil society organisations strive to enhance their monitoring and observation capacity to ensure that elections are adequately supervised and as an additional measure to lend credibility and legitimacy to the process.

3. COUNTING PROCESS

The law provides for the ballots to be counted at the station immediately after polling ends, except when the polling station is a mobile one or when, in the interest of freeness and fairness, it is decided that counting should take place at a different venue. Once the polling station closes, the presiding officer becomes the counting officer and the voting officers become counting officers. In all stations visited counting started immediately after closure at 7 pm and continued into the early hours of 19 May. Party agents and observers were allowed to observe all the counting procedures.

The Team noted that, although the legitimacy of the counting process was not compromised, efficiency was adversely affected by the fact that the staff were exhausted. There were no significant deviations from the prescribed conduct during the counting process except in regard to tallying before counting started. In some stations the Team noted that presiding officers paid insufficient attention to the need to reconcile used and unused ballot papers. In most cases counting only ended at about 3 am on 19 May. The Team felt therefore that voting hours should be reduced and the numbers of voting stations increased in order to avoid the situation where staff become exhausted and the potential for error increases. This is particularly important in rural areas, where, in addition to being exhausted, staff may also be working in poorly illuminated rooms.

3.1 Auditing The Results

Auditors were stationed in MEOs to audit result forms as they were received from the presiding officers. The results from each municipality were only made available at the results centre once all result forms from all polling stations had been audited. This system, which created an additional and independent mechanism for checking the accuracy of the counting process, was another feature of the IEC's efforts to ensure the accuracy of the results.

3.2 Results Centres

The Team noted that the establishment of results centres throughout the country improved the transparency of the tabulation of the results and contributed to their acceptance by all parties. In

the main, the counting and tabulation process took place in an efficient, transparent and cooperative manner and the IEC must be commended for a job well done.

3.3 The Results

A little more than 48 hours after the polls closed the IEC announced the results (21 May 2011).

4. CONCLUSIONS AND RECOMMENDATIONS

The Team concluded that the LGE in South Africa were conducted in conformity with the IEC legal framework and in a peaceful, orderly, efficient and transparent manner. Hence, the Team was satisfied that the outcome of the elections was a true reflection of the will of the people of South Africa. The CHR Observer Team therefore congratulates the IEC, the political parties, civil society and the people of South Africa on securing an appropriate and conducive environment in which free, fair and legitimate elections could take place. The Team hopes that this environment will be conducive to further human rights and to meeting the challenges that lie ahead for South African municipalities. The Team noted with interest the remarkable strides made in the democratisation process as evidenced by the maturity of political parties, the IEC, civil society organisations and the people of South Africa who came out in large numbers to choose the municipal government that will guide them for the next five years. The Team also noted with great satisfaction the substantial participation of women, person with disabilities (PWD) in the electoral process as voters, and noted the absence by the same group as elections officers. This shows the kinds of advances in gender participation in the country that are recommended in the SADC Gender and Development Declaration. This observation is limited to the polling stations visited by the CHR Team.