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United Nations Observer Mission in South Africa (UNOMSA): Security Council Resolutions 772 (1992) and 894 (1994) and the South African Transition: Preventive Diplomacy and Peacekeeping

Muna Ndulo
Cornell Law School, mbn5@cornell.edu

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UNITED NATIONS OBSERVER MISSION IN SOUTH AFRICA (UNOMSA): SECURITY COUNCIL RESOLUTIONS 772 (1992) AND 894 (1994) AND THE SOUTH AFRICAN TRANSITION: PREVENTIVE DIPLOMACY AND PEACE-KEEPING

Muna Ndulo*

1. INTRODUCTION

This article discusses the implementation of Security Council resolutions 772 and 894 on the question of South Africa adopted by the Security Council on 17 August 1992[1] and 14 January 1994[2] respectively. Resolutions 772 (1992) and 894 (1994) were adopted, by the Security Council, to assist the people of South Africa in their transition from apartheid South Africa to a non-racial, democratic society and to help them stem the political violence and conflict that plagued the country.[3] History has shown that any profound political transformation is bound to provoke resistance and tensions and consequently bring about conflict. It is desirable to ease tensions and to remove the sources of conflict before they result in violence and jeopardise the process of transformation.[4] In many situations where tension exists, the main problem is not so much the existence of tensions but the possibility that when conflicts break out they are

* LLB (Zambia); LLM (Harvard); D.Phil (Oxon); Legal Officer, International Trade Law Branch, Office of Legal Affairs, United Nations; Formerly, Senior Political Adviser to the Chief of Mission (UNOMSA); Senior Political Adviser to the Special Representative of the Secretary-General for South Africa; Professor, University of Zambia and Visiting Professor, Cornell Law School.

1 Security Council resolution, S/RES/772 (1992), 17 August 1992.

2 Security Council resolution, S/RES/894 (1994), 14 January 1994.

3 Violence was considered as the single biggest threat to the democratic process in South Africa. See, Report of the Secretary-General to the Security Council in pursuance of Security Council resolution 765 (1992), S/24389, 7 August 1992 and also Security Council resolution, S/RES/765, 16 July 1992. See also, Goldstone Commission, Report of the Inquiry into the Police Response to, and Investigation of Events in Boipatong on June 19, 1992, issued on 20 July 1992.

4 See, Douglas G. Anglin, Conflict in Sub-Saharan Africa, 1993-1994, Carleton University, June 1994.

mismanaged so as to lead to spirals of negative sanctions to the detriment of all the parties involved in the conflict in the worst case or that the conflict becomes generalised to the extent that a conflict in one area of interaction blocks the possibility for the parties involved in the conflict to find mutually beneficial solutions in other areas of human interaction.

In the 1990s, violence and political conflict in South Africa had reached alarming proportions and threatened to derail the country's transitional process from apartheid South Africa to a democratic and non racial society.[5] The Security Council expressed grave concern at the escalating violence, which was causing heavy loss of human life. It was also concerned at the consequences of the violence for the peaceful negotiations aimed at creating a democratic non racial and united South Africa. It was further concerned that the continuation of the situation in South Africa would seriously jeopardise peace and security in the larger Southern African region.[6] The United Nations went into South Africa in September 1992 to work with the Government, political parties and local peace institutions such as the National Peace Accord[7] structures in taking measures to reduce the level of violence and encourage progress in the constitutional negotiations and the transitional process. With regard to its work with local structures, the United Nations involvement in South Africa was an example of the fruitful co-operation that can be achieved between the international community and local peace initiatives. This could serve as an example for other areas of conflict elsewhere in the world where such co-operation might be applicable. It was also

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5   The period 1990-1991 cost the lives of more South African black citizens than any previous two year period. See, Proceedings of the South African Association for Conflict Intervention, Fifth Annual Conference on Negotiation and Mediation in Community and Political Conflict in South Africa, 25-28 November 1992, University of Port Elizabeth. A fairly reliable source of statistics on violence was the South African Human Rights Commission. The Commission issued a Monthly Repression Report.

6   Security Council resolution, S/RES/765 (1992), 16 July 1992.

7   The National Peace Accord was adopted in 1991. It was a church led initiative to address political violence. Most political parties endorsed the Accord. Even the PAC and AZAPO, which had not participated in the working groups that elaborated the Accord, gave qualified endorsement to the Accord. Parties on the white right such as the Conservative Party did not participate and did not endorse its product. See M. Cleary, Democratic Values in South Africa the Second Track, paper presented at the Fifth Annual Conference on Negotiation and Mediation in Community and Political Conflict in South Africa, 25-28 November 1992, University of Pretoria.

perhaps the first major United Nations initiative on preventive diplomacy i.e. taking measures to prevent the outbreak of conflict.

For ease of treatment of the subject at hand, the article is divided into two parts.

Part I focuses on resolution 772 and Part II on resolution 894.

PART I

RESOLUTION 772: PEACE BUILDING

2.   THE UNITED NATIONS AND PEACE KEEPING

In "Agenda for Peace"[8], published in January 1992, the United Nations Secretary-General analyses and makes recommendations on ways of strengthening and making more effective and efficient within the framework of the Charter, the capacity of the United Nations to engage in preventive diplomacy, peace keeping and peace making. The Secretary-General observed, that since the creation of the United Nations in 1945, over 100 major conflicts around the world had left some 20 million people dead. The United Nations was rendered powerless to deal with many of these crises because of the vetoes cast in the Security Council, 279 in all, a vivid expression of the divisions of that period. Coincidental with the end of the cold war, only one veto has been cast since 31 May 1990. Meanwhile, demands on the United Nations, have grown. There were 13 peace related operations between 1945 and 1987, and 15 between 1988 and 1992. Costs jumped to 3 billion US dollars in the year ending 1992 alone. Since then, several other expensive peace missions have been undertaken. These include missions in former Yugoslavia, Liberia, Somalia, Haiti and Rwanda. The UN presence in the former Yugoslavia alone costs close to five million dollars a day. The United Nations' security arm, now unencumbered by the veto, has emerged as a central instrument for the resolution of conflicts and for the preservation of peace.[9]

In Agenda for Peace, the Secretary-General described the aim of the United Nations in relation to the preservation of peace as follows: to seek to identify at the earliest possible stage situations that could produce conflict,

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[8]   Boutros Boutros-Ghali, An Agenda for Peace, 1992. See also Boutros-Ghali, A Supplement to an Agenda For Peace, 1995.

[9]   Boutros Boutros-Ghali, An Agenda for Peace, supra.

and to try, through preventive diplomacy, to remove the sources of danger before violence erupts; where conflict erupts, to engage in peace keeping aimed at resolving the issues that have led to the conflict; and finally through peacekeeping, to work to preserve the peace, however fragile, where fighting has been halted and to assist in peace building, that is, implementing agreements achieved by the peace makers. In brief, "preventive diplomacy" means taking actions that are aimed at easing tensions before they result in conflict, or if conflict breaks out, to act swiftly to contain it and resolve its underlying causes. Preventive diplomacy requires the taking of measures to create confidence between parties to a conflict; it means early warning of impending conflicts based on information-gathering and informal fact-finding; it may also involve preventive deployment and in some situations may involve the creation of demilitarised zones.

Peace making is in between the tasks of seeking to prevent conflict and keeping the peace. This involves efforts to try to bring hostile parties to agreement by peaceful means. Chapter VI of the United Nations Charter sets out a comprehensive list of means that may be adopted to resolve conflicts. These have been amplified in various declarations adopted by the United Nations General Assembly, including the Manila Declaration of 1982 on the Peaceful Settlement of International Disputes and the 1988 Declaration on the Prevention and Removal of Disputes and Situations which may threaten International Peace and Security and, on the role of the United Nations in this field. They have also been the subject of various resolutions of the General Assembly, including resolution 44/21 of 15 November 1989 on enhancing international peace, security and international co-operation in all its aspects, in accordance with the Charter of the United Nations.

At a further level, peace-keeping is when conflict has broken out and the United Nations intervenes in order to assist in keeping the peace. The nature of peace-keeping operations has evolved rapidly in recent years. The established principles and practices of peace-keeping have responded flexibly to new demands. The basic conditions for the success of a peace keeping operation, however, remain unchanged. These are: a clear and practical mandate; co-operation between the parties implementing the mandate governing the operation; continuing support of the Security Council; readiness of Member States to contribute to the United Nations, military, police and civilian personnel, including specialists, required for the operation; effective United Nations command at headquarters and in the field; continuous analysis and reassessment of the underlying causes of the conflict; contact and open lines of communication between peace keepers

and the role players on the ground in the conflict; adequate financial and logistic support for the operation and the willingness of the parties to a conflict to settle the conflict. Without these minimum conditions a peace keeping mission is bound to fail.[10]

3. CONDITIONS NECESSITATING THE DEPLOYMENT OF UNOMSA

UNOMSA represented the first stage of peace-keeping. The Mission was deployed to contribute to the prevention of the outbreak of conflict. The concept of the Mission, despite the level of political violence that plagued South Africa at the time of the conception of the Mission, was preventive diplomacy. Outright civil war had not broken out. In 1989 various parties in South Africa, including the Government and the African National Congress (ANC), committed themselves to a negotiated political settlement of the conflict in the Country.[11] The international community lent its support and encouragement with the adoption in August 1989 of the Harare Declaration by the Ad Hoc Committee on South Africa of the Organisation of African Unity (OAU), which was endorsed by the General Assembly on 14 December of the same year in its "Declaration on Apartheid and its Destructive Consequences in Southern Africa".[12] The issue and challenge for UNOMSA, therefore, was how to ensure that the transition to non racial, democratic rule would be peaceful and would not be derailed by political violence.

On 2 February 1990, President De Klerk, as a result of increased international and domestic pressure, announced the release of Mr. Nelson Mandela and other prominent political prisoners. The Government also announced the unbanning of several political organisations including the ANC, the Pan Africanist Congress of Azania (PAC) and the South African Communist Party (SAPC).[13] It further announced its intention to repeal

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[10] Ibid.

[11] President de Klerk committed his government to the dismantling of the system of apartheid in an address to Parliament on his assumption of power in 1989. The ANC had already committed itself to negotiations as it always argued that its armed struggle was a result of the South African Goverument's refusal to negotiate an end to apartheid.

[12] General Assembly resolution, A/RES/44/27B, 22 November 1989. This was not a new position on the part of the OAU. See, Manifesto on Southern Africa adopted by Leaders of East and Central African States, Lusaka, Zambia, 14-16 April 1969.

[13] See, South African Government publication, The Process of Political Negotiation, 1990-1993: A brief Overview and Evaluation,1 June 1995.

apartheid and emergency legislation.[14] During 1990 and 1991, discriminatory legislation constituting the pillars of apartheid-the Land Act, Population Registration Act and the Group Areas Act-was repealed.[15] Negotiations initially took the form of talks about negotiations, primarily between the ANC and the Government/National Party (NP).[16] Formal constitutional negotiations on the future of South Africa commenced in December 1991 with the establishment of the Convention for a Democratic South Africa (CODESA).[17] Despite the positive atmosphere of the talks and progress made in some areas, agreement on the crucial issue of a new constitutional dispensation eluded the parties and the talks broke down.[18] Constitutional negotiations resumed on 5 March 1993 in the newly-formed Multiparty Negotiating Forum.[19]

The start of the negotiations in 1991 witnessed an unprecedented escalation in political violence.[20] Thousands of people were killed in conflicts across the country. Political violence became the greatest threat to the transition process. There was widespread speculation that the violence was being orchestrated by a "third force" and the possibility can not be discounted that there were at least some loosely knit groupings of disaffected members of the various security forces in the country, mercenaries or right wing elements that were behind some of these

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[14] Ibid.

[15] See, South African Institute of Race Relations, Race Relations Survey, 1990-1991, 1991.

[16] The first ANC/ Government meeting was in May 1990. The ANC and the Government agreed on the removal of the obstacles to negotiations which were identified. The talks resulted in the Grote Schuur Minute of 4 May 1990 and later meetings resulted in the Pretoria Minute, aimed at facilitating the Commencement of substantive negotiations. This process was continued later to overcome deadlocks in the transition e.g. The Record of Understanding Agreement, September 1992, concluded between the Government and the ANC.

[17] South African Institute of Race Relations, Race Relations Survey 1990-1991, supra.

[18] ibid.

[19] The talks involved most political organizations with a measurable constituency. See, The Process of Political Negotiation 1990-1193: A brief Overview and Evaluation, 1 June 1995, and also Lisa Thornton, The Structural Transition to Democracy in Government in South Africa, Institute for Democratic Alternative for South Africa, (IDASA), 1993.

[20] For instance, the South African Human Rights Commission, Monthly Repression Report (HRC), April 1993. The HRC recorded 528 incidents of politically related violence for the month of April alone. 266 of those incidents were related to the national wide reaction to the assassination of Chris Hani. The number of deaths for the month totalled 259. See also South African Human Rights Commission, Monthly Repression Report, March 1993. It reported that the March death toll was 182.

attacks.[21] Government denials of such collusion were severely undermined in July 1991 with the exposure of classified documents by the Weekly Guardian which revealed that the security police had paid R250,000 to Inkatha Freedom Party (IFP) to organise anti ANC rallies after Nelson Mandela's release from prison. The Government also admitted that the police had given the IFP aligned trade union, United Workers Union of South Africa (UWUSA), a sum of R1.5 million over a four year period.[22] Government denials were further undermined by revelations in the Goldstone Commission report of March 1994 which implicated senior police officers in gunrunning and third force activities.[23] A closely related phenomenon was the inability or unwillingness of the security forces to contain the violence. Political party rivalry made it easy for provocateurs or criminals to exploit the situation. There were a considerable number of areas where political party rivalry rendered free political activity impossible. In Natal/KwaZulu open conflicts erupted between ANC and IFP supporters. Throughout the country key elements in the violence were the conflict between hostel dwellers and residents of surrounding townships, train violence and taxi violence. Recurring themes in relation to the violence were political rivalry between the ANC and IFP, allegations of security force involvement in the violence, political intolerance, poor police community relations, right wing violence and the failure of the police to investigate, apprehend and prosecute perpetrators of political violence in the townships.[24]

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[21]   The Government was accused of pursuing negotiations while at the same time encouraging violence in order to weaken the ANC which had demonstrated overwhelming popular appeal especially in the black community. These suspicions were confirmed by the Goldstone Commission. The Commission reported the involvement of senior police officers in third force activities. See, Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation Report to the International Investigation Team, April, 1994 and also Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, 18 March 1994. In the March report Goldstone named three senior police generals as being implicated in the illegal activities which included the supply of illegal weapons, arms and ammunition. See also Mail Guardian, Newspaper, Vol 11, No. 28, July 7-13 , 1995. See also Preliminary·Report of the Transitional Executive Council Investigation Task Group into the Matter of Hit squads in the KwaZulu Police, flowing from the Fourth Interim Report of the Goldstone Commission, dated 6 December 1993.

[22]   The disclosures were made by the Weekly Guardian in 1991.

[23]   The Goldstone Commission Report, March 1994.

[24]   In a report on political violence in South Africa, published in June 1992, Amnesty International concluded that "the police have passively and at times actively colluded in IFP attacks on people believed to be ANC supporters and that the principle aim of the police appears to have been to perpetuate conflict and prevent peaceful transition", see, Amnesty International, Southern African Report, Vol 10, No. 23, June 1992.

4.   THE UNITED NATIONS AND SOUTH AFRICA

The United Nations had been involved in the question of South Africa from its inception. In the very first session of the General Assembly in 1946-at which decisions were taken that led to the adoption of the Universal Declaration of Human Rights-a complaint was lodged by India against South Africa's increasing discrimination against people of Indian origin.[25] However, the first General Assembly resolution specifically aimed at apartheid was adopted in 1952.[26] Between 1948 and 1966 the General Assembly regularly appealed to the South African Government to reconsider its apartheid policies.[27] The period after 1960 was marked by an increasingly more determined approach by the General Assembly as well as by the beginning of the involvement of the Security Council in the matter. The International revulsion which followed the killing of 68 peaceful protesters in Sharpeville in March 1960 prompted the Security Council to adopt its first resolution deploring the killings of unarmed and peaceful demonstrators at Sharpeville who were protesting racial discrimination and segregation in South Africa and actions of the Pretoria Government.[28] In November 1962, the General Assembly for the first time recommended specific diplomatic and economic measures to press the South African Government to abandon apartheid.[29] In 1963, the Security Council called

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[25]   General Assembly resolution, A/RES/44 (1), 8 December 1946; Letter dated 12 July 1948 from the representative of India to the Secretary-General Concerning the treatment of Indians in South Africa, A/577, 16 July, 1948: General Assembly resolution, A, A/RES/395 (V), 2 December 1950.

[26]   General Assembly resolution, A/RES/616/A/(VII), 5 December 1952. The General Assembly established a Commission consisting of three members to study the racial situation in the Union of South Africa in the light of provisions of Article 1, paragraph 2 and 3, Article 13, paragraph 16, Article 55 C, and Article 56 of the Charter, and the resolutions of the United Nations on racial persecution and discrimination, and report its conclusions to the General Assembly at its eight session.

[27]   See, General Assembly resolution, A/RES/616 (VII), 5 December 1952; General Assembly resolution, A/RES/1598 (XV), 13 April 1961 and General Assembly resolution, A/RES/1761 (XVII), 6 November 1962.

[28]   Security Council resolution, S/RES/134 (1960), 1 April 1960.

[29]   General Assembly resolution, A/RES/1761 (XVII), 6 November 1962. It requested States to break off diplomatic relations with the Government of South Africa and close their ports to all vessels flying the South African flag and boycott South African goods and refrain from exporting goods and refuse landing rights and passage facilities to all aircraft belonging to the Government of South Africa. It also established a special committee to keep the racial policies of South Africa under review when the Assembly was not in session and requested the Security Council to take appropriate measures,

on all States to cease the sale and shipment of arms to South Africa.[30] In later years the range of sanctions widened and included: the Oil embargo and the sports and cultural boycott.[31] During this period the condemnations of apartheid grew stronger.[32] In 1973 the General Assembly declared apartheid a crime against humanity.[33] South Africa's intransigence eventually led to the suspension of its credentials and which in turn led to its non participation in the work of the General Assembly until after the rehabilitation of South Africa in the international community after the 27 April elections in 1994.[34]

Between 1989 and 1992, the Secretary-General undertook a number of initiatives to assist the parties in South Africa in bringing about an effective end to violence and in creating conditions for negotiations leading towards a peaceful transition to a democratic, non racial and united South Africa.[35] These initiatives included the dispatch of United Nations staff members to observe the week of mass action organised by the ANC Alliance in August 1992.[36] The Mission established in 1992,[37] however, represented the most immediate result, of the Security Council's consideration of the situation in South Africa at the request of the Organisation of African Unity (OAU) and

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including sanctions, to ensure South Africa's compliance with the resolutions of the General Assembly and the Security Council on this subject.

[30] Security Council resolution, S/RES/181 (1963), 7 August 1963. See also Security Council resolution, S/RES/148 (1977), 4 November 1977, which imposed an arms embargo.

[31] General Assembly resolution, A/RES/44/27K, 22 November 1989. See also General Assembly resolution, A/RES/44/27H, 22 November 1989.

[32] General Assembly resolution, A/RES/43/ 50 D, 5 December 1988 and General Assembly resolution, A/ RES/2923 E (XXVll;) 15 November 1972.

[33] General Assembly resolution, A/RES/3068 (XXVlll), 30 November 1973.

[34] In resolutions 2636 A (XXV) of 13 November 1970 and 286 (XXVl) of 20 December 1972, and 3207 (XXIX), 30 September 1974 and its decision of 5 October 1973 the General Assembly rejected the credentials of South Africa. This led to the ruling by the President of the General Assembly, Mr. Abdelazi Bouteflika (Algeria), that South Africa should not participate in the work of the Assembly. A/PV.2281, 12 November 1974.

[35] See for instance, General Assembly resolution, A/RES/44/27 K, 22 November 1989 and Report by the Secretary-General on Progress made in the implementation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa. The report includes a statement by Nelson Mandela, Deputy President of the African National Congress, in the Special Committee against Apartheid on 22 June 1990.

[36] See, United Nations Observer Mission in South Africa (UNOMSA), First Quarterly Report, September to December, 1992.

[37] Ibid.

the subsequent adoption of Security Council resolution 765 on 16 July 1992.[38]

Resolution 765 was adopted following the Boipatong massacres on 17 June 1992. It, *inter alia*, invited the Secretary-General to appoint a Special Representative for South Africa in order to recommend, after discussion with political parties in the country, measures which could assist in bringing about an effective end to the political violence that plagued the country and in creating conditions for negotiations leading towards a peaceful transition to a democratic, non racial and United South Africa.[39] Immediately after the adoption of the resolution, the Secretary-General, appointed Mr. Cyrus Vance as his Special Representative for South Africa. Mr. Vance visited the country from 21 to 31 July 1992. On 7 July 1992, the Secretary-General submitted a report to the Security Council on the basis of Mr. Vance's discussions with a wide range of political players and parties in South Africa.[40]

5.   RESOLUTION 772 (1992)

After considering the Secretary-General's report, the Security Council adopted resolution 772 of 17 August 1992.[41] In resolution 772, the Security Council *inter alia* authorised the Secretary-General to:

> "deploy, as a matter of urgency, United Nations Observers in South Africa, in such a manner and in such numbers as he determined necessary to address effectively the areas of concern noted in his report, in co-ordination with the structures set up under the National Peace Accord" [42]

The Security Council also invited the Organisation of African Unity (OAU), the Commonwealth and the European Union (EU) to deploy their own observers to work in close co-operation with those of the United Nations.[43] The deployment of observers by the Commonwealth, the OAU and the EU in South Africa and the United Nations deployment of

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[38] Security Council resolution, S/RES/765, 16 July 1992. See also letter dated 13 August 1992 from the Secretary-General to Mr. Abdou Diouf, President of Senegal and Chairman of the Organization of African Unity.

[39] Security Council resolution, 765, ibid.

[40] Report of the Secretary-General to the Security Council in pursuance of Security Council resolution 765 (1992), S/24389, 7 August 1992.

[41] Security Council resolution, S/RES/772 (1992), 17 August 1992.

[42] Supra, paragraph (4)

[43] Supra, paragraph (8)

UNOMSA was probably the first time that these four inter governmental organisations worked together in an international operation. The organisations deployed joint teams of observers in the field and planned common approaches to problems. This method of work greatly increased their credibility and effectiveness in their dealings with South African institutions and political parties as it meant that the four intergovernmental organisations spoke with one voice on the problems confronting the South African transition.[44]

Deployment of United Nations observers started with the arrival of the first 13 observers on 13 September 1992.[45] By October 1992 the United Nations had established a team of observers in all 11 regions into which the country had been divided under the National Peace Accord and by November 1992 the full compliment of 50 observers had been deployed. The figure was increased to 100 in December 1993.[46] The OAU, Commonwealth and the EU deployed an average of 18 observers each. The United Nations policies regarding the specific areas in which observers were to be deployed was to a large extent based on the level and incidence of violence in various parts of the country.[47] The Pretoria /Watersrand/Vaal(PWV) and KwaZulu/Natal areas remained the most volatile regions through out the mission period and were consequently allocated a higher proportion of observers than other parts of the country.

Under resolution 772, UNOMSA, as already observed, was intended to render assistance to the people of South Africa as a whole in their legitimate struggle for a non-racial, democratic society. This assistance was given in two principal ways:

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[44]   United Nations Observer Mission in South Africa(UNOMSA), Third and Fourth Quarterly Report, September to December, 1992.

[45]   See statement by spokesman for Secretary-General Boutros Boutros-Ghali Concerning loss of life in Ciskei, and details on the United Nations Observer Mission in South Africa (UNOMSA), UN Press Release, SG/SM/4807-SAF/141, 9 September 1992. See also United Nations Observer Mission in South Africa (UNOMSA), First Quarterly Report, September to December, 1992. The Mission was led by Ms. Angela E.V. King as Chief of Mission.

[46]   United Nations Observer Mission in South Africa (UNOMSA), Third and Fourth Quarterly Report, June to December 1993.

[47]   Ibid.

a) by working with South Africans to address areas of concern relevant to the question of violence in South Africa, including the issues of the hostels, dangerous weapons, the role of security forces and other armed formations, the investigation and prosecution of criminal conduct, mass demonstrations and the conduct of political parties; and reporting thereon to the Secretary-General of the United Nations; and

b) by helping strengthen mechanisms set up under the National Peace Accord, so as to enhance their capacity in the building of peace, both in the present and in the future.[48]

UNOMSA sought to identify at the earliest possible stage situations that could lead to conflict and tried to remove the sources of danger before violence erupted. It also examined weaknesses and engaged in institutional building in order to support and strengthen the peace structures set up under the National Peace Accord.

6. NATIONAL PEACE ACCORD

The Peace Accord Structures were set up as a result of an initiative by a group of concerned church and business leaders who on 22 June 1991 convened a preparatory meeting of all the major church and business leaders in the country, to develop an agenda for the way forward[49] for South Africa in the wake of the violence engulfing the country. The meeting resolved to adopt the National Peace Accord. After the preparatory meeting, the original facilitators were joined by representatives of the major political parties apart from the white right wing political parties. These groups collectively considered the topics identified at the preparatory meeting as needing attention if the flow of violence was to be stemmed. The groups recommended the adoption of a code of conduct for political parties and institutions, a code of conduct for the security forces, the creation of an institutional framework for social-economic development and the development of mechanisms for the monitoring and implementation of the various codes and the Peace Accord itself.

The Accord was adopted on 14 September 1991. It sought to combine two of the most important aspects of conflict resolution by negotiation, by

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48   Security Council resolution, S/RES/772 (1992) 17 August 1992.

49   The National Peace Accord was signed on 14 September 1991. On 4 November 1992, The Internal Peace Institutions Act, No.135 of 1992 came into operation.

securing the parties endorsement of and commitment to important and relevant common values, which were intended to provide a transcendent reference point for the settlement of future disputes, and to comprise at least part of the foundation of a future national political culture in a democratic society. The Peace Accord adopted the various codes recommended by the preparatory meeting and also established a joint process of implementation, monitoring and enforcement of the agreements reached under the Peace Accord in which all parties were represented. This ensured that no party was asked to place itself at the mercy of others in the application, interpretation and organic development of the agreement and that each retained "ownership" of and commitment to the process. In all the structures of the Accord, all political parties that wished to part'cipate were represented. The attainment of the widest possible participation was the aim of all the structures.

At the heart of the Accord were the code of Conduct for political parties and organisations and that of the security forces. These codes were derived from explicitly liberal democratic values and were aimed at the guarantying of the rights of the individual, recognising the essential role of political parties as mediators in a democratic political process, respecting their political activities in facilitating the expression, aggregation and reconciliation of the views and interests of different segments of society, and recording their obligation to refrain from incitement to violence and hatred. The National Peace Accord structures and UNOMSA and the other observer groups pressed for a clear and explicit commitment – not mere lip service – to compliance with the code of conduct for political parties and organisations by the leaders of political parties and with the code of conduct for the Security forces by the Government and the security forces. This was central to the success of the Accord and the effectiveness of the operations of the observer missions. Each of these institutions was pressed to ensure that its members, followers, or persons for whom it was responsible complied in full with the provisions of the relevant code and that violations by its members were roundly criticised and punished where appropriate. UNOMSA made representations to political parties and security forces to protest violations of codes. It must be admitted that political parties found it easier to condemn wrongful activities of their members than to mete out punishments to them. The important point in such situations though, is that no political party likes to look bad. This is an important factor in the effectiveness of codes of conduct.

7. ORGANISATIONAL STRUCTURES OF THE NATIONAL PEACE ACCORD

(i) Key Institutions

The National Peace Accord drew upon three key structures for its effectiveness as a consensus frame work. These were the National Peace Committee, the National Peace Secretariat and the Commission of Inquiry Regarding Public Violence and Intimidation (popularly known as "Goldstone Commission" after its chairperson).[50] The National Peace Committee supervised the Peace Process in keeping with the provisions of the National Peace Accord. The National Peace Secretariat was responsible for organising, servicing and financing the network of regional and local peace committees whose on going grassroots efforts were key to the successful implementation of the National Peace Accord. The Goldstone Commission had the responsibility of investigating causes and acts of violence and making recommendations as to measures to be taken to reduce the level of violence. The Commission issued a number of very important reports and made a significant contribution to exposing the underlying causes of the political violence that plagued the country.[51] The National Peace Accord established Local Peace Committees in as many communities as possible through out South Africa.[52]

The peace committees served as community forums for the discussion of community concerns relating to all aspects of life in the community, in particular, policing, community development and political activity. At meetings of the committees all role players in the community were represented. This included the political parties, police, the army, trade unions, civic organisations, women groups, youth groups and other community based organisations. The Committees also served as forums for the resolution, through mediation, of community disputes and for formulating joint responses to issues confronting the community such as the provision of utilities and other services to the communities. In addition, the peace structures trained thousands of monitors to monitor and control crowds at public meetings and thereby prevent the development of conflicts. The National Peace Accord structures played a vital role in the transition period in South Africa especially in addressing the question of

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50   See, Report National Peace Secretariat, November 1992 to 30 April 1993.

51   See, e.g. Report of the Inquiry Into The Police response to, and Investigation of, Events in Boipatong on 17 June 1992, issued on 20 July 1992.

52   Report National Peace Secretariat, November 1992 to 30 April 1993.

violence. They became a vital forum for mediation efforts between political parties, and between various communities in conflict. With regard to political parties that did not participate in the constitutional negotiations, e.g. Azania Peoples Organisation (AZAPO), they became the only forum for discussing their concerns about the South African process. Later, during the elections, many of the officials of the peace structures served as elections officials and monitors and put to use the skills they had learnt and contacts they had developed under the National Peace Accord structures to the great advantage of the conduct of the election process.

(ii) Social and Economic Reconstruction Committees

The drafters of the Peace Accord realised that a lasting peace is conditional on meeting pressing basic needs of the people within the communities. These ranged from the provision of food, clothing, shelter and public amenities, to the generation of employment opportunities, training for new skills and capacity building for local communities. The Social and Economic Reconstruction and Development Programme (SERD),[53] an arm of the National Peace Accord focused on socio-economic reconstruction and development. Concerted efforts were exerted in various regions to establish regional and local SERD committees and appoint regional co-ordinators, through out South Africa particularly in the Pretoria/Witwatersrand/Vaal (PWV) and KwaZulu/Natal regions which had suffered most destruction from political violence. These structures, unfortunately, were not always well equipped to mobilise resources, especially in terms of generating local interest and political support for project formulation, planning and implementation and in identifying appropriate sources of funding. Political violence made it very difficult for communities to work together. There was also an electoral aspect, in some communities, project assistance from the NP Government was perceived as campaigning on the part of the NP. SERD committees, never the less, became important structures in which strife torn communities could work together in community projects and through work get to know each other and develop tolerance for each other.

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[53]   National Peace Accord, supra.

8. UNOMSA'S ROLE AND ACTIVITIES

(i) Observing Political Events and Flash Points

UNOMSA observers with monitors from the peace structures attended and observed mass actions and other forms of political activity, as well as the work of the South African Police Defence Forces related to those activities. One way in which the rise in violence was addressed was to ensure that security forces and political organisations alike abided by the respective codes of conduct as outlined in the National Peace Accord, as well as by the Guidelines established by the Goldstone Commission on the conduct of marches and political gatherings.[54] As pointed out earlier these codes were designed to ensure that the security forces and political organisations abided by certain minimum standards in their conduct thereby reducing that part of violence or the likelihood of violence[55] that emanated from clashes between the police and members of the public engaged in political activity. In addition to marches and other forms of political activity, UNOMSA observers visited potential flash points of violence and observed efforts aimed at resolving conflicts and bringing peace to troubled areas. Observers supplemented these field observations by establishing and maintaining informal contacts at all levels with formal government structures, political parties and organisations, as well as community-based "alternative structures" such as civic associations. These contacts underscored the importance of the peace structures and strengthened the notion that all these groups had to seek common ground for resolving problems. In those instances where observers noticed problems which, unless resolved, could lead to violence, they offered advice on how to resolve the problems and avert such situations developing into violence.[56] Obviously, observing events offers an easier and less problematic role. Intervening and offering advice, either on the initiative of the observer or on request at the scene, could be fraught with difficulties and therefore had to be approached with care and only after weighing all the factors involved. It had to be done judiciously and in a manner which preserved UNOMSA's

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[54] Goldstone Commission Guidelines on Marches and Political Events for Political Parties, 1992.

[55] The Codes were developed with the participation of all relevant organizations e.g security forces and political parties. They were written in the form of mandatory provisions.

[56] United Nations Observer Mission in South Africa(UNOMSA) First Quarterly Report, September to December 1992.

impartiality and did not impair its ability to be of assistance to all parties in the South African political spectrum in future.

The mission issued guidelines to all the observers with regard to the method of work[57] and observation of political activity. Observers tended to offer their assessment of any given situation solely to the representatives of the peace structures and other community leaders present at the event. Observers also communicated their assessment of the conduct of the parties and security forces to UNOMSA headquarters as well as to the security forces themselves. The Chief of Mission and her headquarters staff, evaluated the reports. The more serious ones were brought to the attention of the relevant ministries, the political parties, the police commissioner and the National Peace Secretariat for follow up action. Observers played a very active role in the work of the peace structures. A purely passive role would not have been in line with the letter and spirit of resolution 772 (1992). Moreover, a purely passive role would have failed to live up to the expectations of the people of South Africa who expected the United Nations to assist them in the removal of obstacles to the transition to a democratic society. It would also have led to frustration and negative attitudes with regard to the role of the United Nations and its presence in South Africa.

(ii) Strategies for Combating Violence

In its work UNOMSA developed several strategies for combating violence and dealing with flash points of violence. It found for instance that major incidents of violence could be reduced and even totally avoided at marches/rallies and other public events if there was effective pre-planning of events involving all the parties (organisers of the event, the police and, members of the Local Peace Committees), with the aim of drawing up detailed plans about matters such as routes to be used by marchers, numbers of marshals and peace monitors, measures to contain flash points and arrangements regarding the dispersal of crowds after the event. During the event, and at the end of the marches or public meeting if there was strict compliance with plans and agreements reached by all the parties concerned, followed by a debriefing session attended by all concerned parties to evaluate the situation and learn from the event. UNOMSA also emphasised the need for a close working relationship between the leaders of the

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57   UNOMSA, Guidelines on the Implementation of Resolution 772 (1992). See also
      UNOMSA, Planning and Preparations for Public Marches and Demonstrations,
      Guidelines for UNOMSA Staff, 15 June 1993.

community, the peace structures and the police.[58] It focused its attention on encouraging the Government to act on issues it considered important in relation to the reduction of violence. The list included: urging the Government to enact legislation which prohibited the carrying of dangerous weapons in public; public destruction of weapons confiscated or collected from the public in an effort to reduce the prevalence of weapons in the community[59]; and the dismantling of special units of the army which had a reputation for involvement in violence. In part, as a result of the persistent insistence of UNOMSA, on March 7, 1993, the 31 Battalion, a controversial unit from the South African army, which was composed mainly of San people from Namibia, was officially disbanded and on 26 March 1993, the 32 Battalion, a similarly controversial unit from the South African army, which was composed mainly of Angolans from the former Front For the Liberation of Angola Army (FLNA), was disbanded. Both of these battalions had been implicated by the Goldstone Commission and by the public in political violence. Their disbandment became a key United Nations demand.[60]

9. STRENGTHENING THE PEACE STRUCTURES

As pointed out earlier, the second aspect of Security Council resolution 772 called upon UNOMSA to assist in the strengthening of the peace structures set up under the National Peace Accord.[61] This aspect of the mandate was interpreted by UNOMSA to mean that it should look for ways and means to strengthen Peace Accord institutions. Where appropriate therefore, UNOMSA Observers, made suggestions, on how best to ensure that the Peace Accord structures function effectively. This included examining the weakness of the structures and pointing out ways and means of improving and strengthening them. An obvious weakness of the Accord was that not all parties and interest groups were signatories to the Accord.

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[58]   United Nations Observer Mission in South Africa, Second Quarterly Report, January to April 1993.

[59]   Report of the Secretary-General to the Security Council in pursuance of Security Council resolution 765 (1992),S/24389, 7 August 1992, listed the prevalence of dangerous weapons as one of the ares of concern. See paragraph, 68.

[60]   Resolution 772 (1992), supra, expressed concern at the existence of special forces and other armed formations in South Africa and recommended that the Goldstone Commission investigate their operations. See also, Report of the Secretary-General on the question of South Africa, S/25004, 22 December 1992.

[61]   Security Council resolution, S/RES/772 (1992), paragraph, 7.

These included several political parties to the left and the right of the political spectrum and some of the homelands. As part of its efforts to strengthen the Peace Accord structures, UNOMSA held several meetings with these parties in an effort to bring them into the structures of the Accord. UNOMSA made suggestions on ways and means of dealing with breaches of the Accord. UNOMSA urged broader participation in the leadership structures of the Peace Accord. It urged more women and a greater role for the black population in the leadership of the structures. UNOMSA pressed the Government to provide adequate funding for the peace structures to enable them to do their work effectively. A special relationship developed between the Goldstone commission and UNOMSA and the other observer missions. The Commission's independence and standing was visibly reinforced by the presence of EU police observers among its investigators and the support it received for its recommendations from UNOMSA and other international observer missions. UNOMSA seconded a jurist on a full time basis to work with the Goldstone commission.[62] The record of implementation of the Commission's recommendations by the Government was unsatisfactory and remained a matter of concern in discussions between UNOMSA and the Government throughout the mission period. On several occasions the Mission brought this matter to the attention of the Government and complained about it publicly.[63]

10. UNOMSA AND SOCIAL AND ECONOMIC RECONSTRUCTION

UNOMSA played a pro-active role in the SERD process. UNOMSA observers shared their research, documentation and knowledge with local communities bringing in relevant experience in development from other areas. The strategy of the mission was to encourage the generation of development at the grassroots level. Therefore, planning structures, were encouraged to allow maximum participation, at all stages of development, from assessment, through planning to management and implementation. They were also encouraged to develop local capacity, including the use of local materials, labour force, consultants; all within the context of appropriate cultural values. UNOMSA believed that only then, would the people identify with the development process as their own, and provide all

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[62] See, United Nations Observer Mission in South Africa (UNOMSA) Third and Fourth Quarterly Report, June to December 1993, 1993.

[63] Ibid.

the required support to ensure its successful implementation. One of the Mission's strengths was the wide variety of nationalities and professional disciplines represented among the members of its staff. This enabled observers to share experiences from different countries with their South African counterparts. Not only was the Mission's acknowledged impartiality enhanced by the different perspectives observers brought to their work; they could also often present a variety of options based on their diversity for dealing with problems faced by the peace structures.

In summarising the discussion on resolution 772, one can conclude that resolution 772 played an important role in addressing political violence in South Africa in the pre-election period and thereby helped to facilitate the transition process. The presence of international observers was the expression of the interest shown by the entire international community in the democratisation process in South Africa. UNOMSA lived up to the expectation of the Secretary-General. In his report to the Security Council in August 1992 on the role of the International Community in South Africa, the Secretary-General observed that "the role of the international community and of the United Nations in particular, at this time, can be profound and beneficial. It can facilitate a great and peaceful transition of historic proportion in a part of the world that has suffered too long".[64] Under its expanded mandate in accordance with Security Council resolution 894 (1994), UNOMSA continued its peace building activities related to the reduction of violence. Observers continued to assist and cooperate with the National Peace Accord Structures while carrying out their electoral responsibilities. As the electoral period progressed, observers expanded their work to include electoral assistance and expanded their network of contacts to include the Monitoring Directorate of the Independent Electoral Commission.

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[64]   See, Report of the Secretary-General to the Security Council in pursuance of Security Council resolution 765, S /24389, 7 August 1992, paragraph, 89.

PART II

RESOLUTION 894 (1994)

11. UNITED NATIONS INVOLVEMENT IN ELECTORAL ASSISTANCE

The United Nations does not get involved in national elections unless there has been a specific request from the country involved for United Nations electoral assistance. General Assembly resolution 46/137 defined the involvement of the United Nations in electoral verification as an exceptional activity of the organisation. In the report of the Secretary-General submitted to the Assembly at its forty-sixth session (A/46/609/Corr/.1 and Add.1-2), four criteria were suggested which should be satisfied if an eventual United Nations mission were to be considered. The criteria is as follows: (a) requests should pertain primarily to situations with a clear international dimension and which may relate to the maintenance of international peace and security; monitoring provided by potential United Nations activity should cover – geographically and chronologically – the entire electoral process, from the initial stages of registration through the elections themselves; there should be a specific request from the Government concerned as well as broad public and political support for a United Nations role; (d) approval should be provided by the competent United Nations organ. The South African situation had no difficulty in satisfying the four criteria required by the United Nations. There was overwhelming support for United Nations monitoring of the South African elections from the international community, all major South African political parties and the South African public in general.

The major focus of United Nations involvement in elections has been to monitor the elections in order to ensure that they are free and fair. The holding of free elections injects substance into the principle with regard to elections established by the Universal Declaration of Human Rights. Article 21 of the Universal Declaration states that "everyone has the right to take part in the government of his country, directly or through freely chosen representatives".[65] It adds that: "the will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine

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[65]   The International Bill of Rights, Universal Declaration of Human Rights, Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948, article 21.

elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."[66] In Namibia in 1989 and Angola in 1992 the United Nations developed and applied standards that moved beyond this limited formula to a wider one that ensured that the elections occurred in a free environment and in the context of administratively fair rules. A consensus was developed as to what constitutes free and fair elections. The most important of these standards are: (1) a right of all voters to participate in the electoral process without hindrance (2) free campaigning for all political parties (3) secrecy of the ballot; (4) reasonable speed in the counting of ballots; and (5) accountability and openness of the electoral process to the competing parties and (6) an acceptable electoral law. [67]

12. APPROACHES IN MONITORING THE ELECTORAL PROCESS

There are two basic approaches to the observation of elections. The first, is to provide for the presence of an observer in each polling station at all times during the election. This is referred to as "total" observation of elections.[68] The second approach is to provide for an observer at a sample of polling stations for short periods of time at different times. The results observed or verified in a sample of adequate design can then be extrapolated to the universe of polling stations. In the case of total observation the number of observers is unambiguously determined by the number of polling stations. As should be obvious, total observation is extremely expensive, since it will usually involve a large number of observers. Since as will be suggested below, adequate sampling can produce about the same level of certainty in relation to the adequacy of the conduct of the polling, the option of total observation is essentially political, and its use can be attributed more to its symbolic importance than to specific technical considerations.

Observation in sampling is based on mobile units, with two observers in each unit. The units will visit a variable number of polling stations through out polling day. The number of observations will depend on the number of mobile units and observers, the difficulties of travel between sites and the

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[66]   Ibid.

[67]   See, a publication of the Washington D.C. based National Democratic Institute for International Affairs: National Building; The UN and Namibia, 1990, p.26.

[68]   Angela E.V. King, Remarks on the Role of International Observer Missions in South Africa, Financial Mail Convention on "Election Countdown" World Trade Centre, Kempton Park, Johannesburg, August 1993.

length of time spent by the observers at each polling station. Given the characteristics of some of the phenomena being observed the size of the sample is not statistically significant. This is particularly the case with direct observation. Fraud will not take place during the short period when the observers are present, but before or after their arrival. This fact highlights the third and most essential conclusion about "sample" observation: that is the indispensable presence of trained electoral officers and party poll watchers in every polling station; without their presence, even large numbers of international observers will make little difference. With the presence of local poll watchers, a few international observers can make an impact well beyond their numbers. This means that political parties must train party election watchers in large numbers to work with the international observers. The aim of every political party should be to have party election watchers at every polling station. This was encouraged in the South African election and was achieved in large measure. The party poll watchers act as the first line of observation. They will report their observations to the international observers. In this respect, it is more effective for the United Nations to encourage and sponsor the training of party poll watchers than engage in the total observation strategy. In South Africa the United Nations strategy was sample observation. The relatively large numbers of observers available meant that observers had a small number of polling stations to cover and were able to make more frequent visits to polling stations that were also longer in duration.

13. RESOLUTION 894 (894) AND ELECTORAL OBSERVATION

The request for electoral assistance from the United Nations by South Africa was made in December, 1993. On 7 December 1993, South Africa took a major step towards the achievement of the goal of a democratic society. The Transitional Executive Council (TEC) was established.[69] This was after the Negotiating Council of the Negotiating process and its Plenary had approved on 18 November the last of the two pieces of legislation that formed part of the package adopted on 1 April 1993 by the Multiparty Plenary as necessary to implement the transition to democracy

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[69] The Structural Transition to democracy in Government in South Africa, Institute for a Democratic Alternative for South Africa (IDASA), publication. The TEC was established to level the political playing field for the elections. It was to serve as a check to the Government. It operated through a number of sub committees e.g Defence, Law and Order, Finance, Foreign Affairs etc.

in South Africa.[70] The two documents approved on 18 November 1993 were the Interim Constitution and the Electoral Act. The others – the Transitional Executive Council Act (TEC), the Independent Electoral Commission Act (IEC), the Independent Broadcasting Authority Act (IBA) and the Independent Media Commission Act (IMC) were passed on 23 September 1993. The main objective of the TEC was to facilitate, in conjunction with existing legislative and executive Government structures at national, regional and local levels, the transition to, and preparation for, the implementation of a democratic system of government in South Africa. At its first meeting on 7 December 1993, the TEC endorsed a resolution adopted the previous day by the Multiparty Negotiating Council which *inter alia*, requested the United Nations to provide a sufficient number of international observers to monitor the electoral process and to co-ordinate the activities of the international observers provided by the OAU, EU and the Commonwealth, as well as those provided by Governments.[71]

14. THE MANDATE IN RELATION TO ELECTIONS

As a result of the acceptance by the UN to the invitation of TEC to observe the South African elections,[72] the mandate of the Observer Mission was expanded by resolution 894 of 14 January 1994 to include election observance. The mandate of UNOMSA in respect of the observation of the elections was spelt out in paragraphs 56 to 59 of the 10 January 1994 Report (S/1994/16) of the Secretary-General Concerning Arrangements for United Nations Monitoring of the Electoral Process in South Africa and Co-ordination of Activities of Internal Observers [73] and agreed to by the Security Council by its resolution 894 of 14 January 1994. Specifically, paragraph 57 proposed that under its expanded mandate, UNOMSA would be required among other things, to: (a) observe the actions of the Independent Electoral Commission and its organs in all aspects and stages of the electoral process and verify their compatibility with the conduct of a free and fair election under the Independent Electoral Act and Electoral

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[70] See, UNOMSA, Quarterly Report, January to April , 1993.

[71] See, Report of the Secretary-General Concerning Arrangements for United Nations Monitoring of the Electoral Process in South Africa and Coordination of Activities of Internal Observers, A/48/845-S/1994/16,10 January 1994.

[72] Security Council resolution, S/RES/894 (1994), 14 January 1994. Mr. Lakhdar Brahimi was appointed to head UNOMSA as the Secretary-General's Special Representative for South Africa.

[73] Ibid.

Acts; (b) observe the extent of freedom of organisation, movement, assembly and expression during the electoral campaign and ascertain the adequacy of the measures taken that political parties and alliances enjoy those freedoms without hindrance or intimidation; (c) monitor the compliance of the security forces with the requirements of the relevant laws and decisions of the TEC; (d) verify the satisfactory implementation of the depositions of the Independent Media Commission and the Independent Broadcasting Authority Acts; (e) verify that voter education efforts of the electoral authorities and other interested parties are sufficient and will result in voters being adequately informed on both the meaning of the vote and its procedural aspects; (f) verify that qualified voters are not denied the identification documents or temporary voters cards that would allow them to exercise their right to vote; (g) verify that voting occurs on election days in an environment free of intimidation and in conditions which ensure free access to voting stations and the secrecy of the vote; (h) verify that adequate measures have been taken to ensure proper transport and custody of ballots, security of the vote count and timely announcement of results; and (h) co-ordinate the activities of observers from international governmental organisations and foreign Governments so as to ensure that they are deployed in an effective and co-ordinated manner; establish effective co-operation with South African and Foreign non-governmental organisations, which would also monitor the electoral process. [74]

15. OBSTACLES TO A FREE AND FAIR ELECTION AND THE REASON FOR INTERNATIONAL MONITORING

The South African elections needed international monitoring for several reasons. This was the first ever democratic election in which all citizens who qualified to vote were eligible to participate. There was an absolute need to ensure that the election was not only free but was seen to be free and fair if it was to be accepted by all political factions in the country as well as by the outside world in view of the difficulties under which the election was to take place. These difficulties included: the historical lack of a democratic culture of political tolerance in the country; unabating violence of an increasingly vicious and callous nature, the likelihood of intimidation, bias, suspicion and outright hostility to the idea of universal

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[74] Report of the Secretary-General Concerning Arrangements for United Nations Monitoring of the Electoral Process in South Africa and Coordination of Activities of Internal Observers S/1994/16, 10 January 1994.

suffrage on the part of some political factions especially those on the right and a new and unfamiliar electoral system. These factors, created suspicion and doubt about the integrity of the process and made it essential that the elections be monitored by the outside community to reduce the probability of any of the losing parties challenging the elections results.

Added to that, were substantial, though not insurmountable practical obstacles to the conduct of free and fair elections in South Africa.[75] These could be divided into two broad categories; the first were those pertaining to the logistics of mounting the first country wide democratic elections in South Africa, and the second were those posed by violence and intimidation. There was also a widespread perception that the police force is partial in South Africa. The problem was heightened by an institutional culture which tolerated a profound disrespect for human rights and black life, most evident in the choice and use of lethal weaponry and ammunition against demonstratiors and in the treatment of prisoners in custody.[76] The situation was worse with regard to homeland police forces. They were extremely partisan in their approach to policing and were often used to frustrate free political activity. The perceived partiality of the various police forces was a major problem in the election period in that it made them unsuitable to guard the polling stations and perform other election related functions such as transporting ballot papers. Of equal importance was the perception on the ground of political bias by election officials associated with the Department of Home Affairs.

Although problems of violence and intimidation tended to overshadow more seemingly mundane concerns, the potential logistical difficulties should not be under estimated. As late as three months before the elections there were for instance approximately 4 million eligible voters in the homeland States that were still being prevented from obtaining identity cards that were essential for voting. Additional hurdles to the efficient registration of the eligible voting population were an unnecessarily

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[75] For a discussion of the problems, See United Nations Observer Mission, Third and Fourth Quarterly Report December 1993; Report of the Secretary-General Concerning Arrangements for United Nations Monitoring of the Electoral Process in South Africa and Coordination of Activities of International Observers, A/48/845-S/1994/16, 10 January 1994. See also a Publication of the International Commission of Jurists, voting for Peace, An Independent Assessment of the Prospects for Free and Fair Elections in South Africa, November, 1993; and also Goldstone, Prevention of Election Violence Inquiry, 1993. Shortly before the elections the Commission constituted a special international panel to make recommendations on preventing violence during the elections.

[76] See, Laurie Nathan, Police Deviance in the 1990s, Centre for Intergroup Studies, August 1992.

cumbersome process, including overly long application forms, and the inaccessibility for rural and homeland residents to officials issuing identity documents. Finally the undue delays in the re-incorporation of the homeland states, especially Bophuthatswana and Ciskei, resulted in a good numbers of potential voters in these regions being excluded from the election and preparations for elections in those regions being unduly hampered.

   The situation with respect to the homelands dramatically changed as elections neared. The Bophuthatswana administration led by Lucas Mangope had repeatedly rejected participation in the elections. The result of the Mangope administration's intransigence was a popular uprising, accompanied by many deaths and extensive destruction of property, which culminated in the regimes overthrow. The Bophuthatswana crisis reverberated in other homelands where demands and concerns were similar. Oupa Gqozo, the leader of Ciskei, resigned under pressure on 22 March 1994.

16. OBSERVATION AND VERIFICATION METHODOLOGY

   The Mission developed its own plans for the observation and verification methodology.[77] In relation to the observation called for in paragraph 57 (a) of the report of the Secretary-General of the actions of the IEC, a distinction was drawn between the central preparations by the IEC for the election, which were monitored from the headquarters of the Mission, with extensive liaison with the IEC on issues of concern; and the IEC's field preparations, which were monitored by field staff, in accordance with guidelines developed centrally.[78] Monitoring of field preparations focused specifically on: establishment by the IEC of essential field structures; choice of premises for voting stations and provision of staff and equipment for voting stations. Observation of the extent of freedom of organisation, movement, assembly and expression was undertaken by field staff of UNOMSA, in accordance with precise guidelines which drew heavily on the extensive experience gained with such observation by UNOMSA under its activities pursuant to resolution 772 prior to the

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[77]   A Democratic, Non Racial and United South Africa, Final Report of the United Nations Observer Mission in South Africa (UNOMSA) to the United Nations Secretary-General, 26 May 1994. International voting was managed by the Electoral Assistance Unit (EAU) in New York, with extensive assistance from UNDP offices and United Nations information centres.

[78]   Ibid.

expansion of its mandate. Verification of the sufficiency and effectiveness of the voter education process, non denial to voters of identity documents which entitled them to vote were undertaken both centrally and by field staff of the Mission.[79]

UNOMSA faced significant difficulties in that many of its tasks were directly dependent on the performance of the IEC. For example, the legal framework for the election continued to undergo changes until literally days before the commencement of polling: the critical amendments to the Electoral Act of 1993 providing for the inclusion of the IFP on the ballot via the attachment of stickers to ballots, were made only five days before the polling commenced.[80] The operational plan contained in 10 January 1994 report (S/1994/16) of the Secretary-General called for deployment of almost 2,000 United Nations observers during the election period. The staged deployment of additional observers proceeded rapidly: an additional 200 observers were deployed by the end of February 1994; a further 200 United Nations Volunteers (UNVs) brought the total UNOMSA presence in South Africa by the end of March 1994 to 500 observers, deployed in a total of some 60 locations reflecting IEC operational locations. Also, it should be noted that bilateral agreements were concluded between the United Nations and Finland, Netherlands, Sweden and Switzerland for the provision by their Governments of electoral observers for UNOMSA.

The final phase of deployment came during the period 17- 20 April 1994, when a total of 1,485 additional election observers joined UNOMSA. The OAU deployed 102, Commonwealth 118 and the European Union 322. During the elections, observers fielded by the intergovernmental observer missions, working in co-ordination with UNOMSA totalled 2579 (including UNOMSA's 1985 observers). Several NGOs, many of them from the United States and Europe, fielded hundreds of observers. The final phase of deployment of UNOMSA observers caused tremendous logistical difficulties to UNOMSA. It is unrealistic to expect a Mission to brief and deploy 1485 election observers in a period of less than a week. The deployment was a logistics nightmare. It is also doubtful that the observers who came one week before the elections made a useful impact. It might be better for the United Nations to spend more money in technical assistance to countries that ask for electoral assistance than sending at the last minute

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[79]   Ibid.

[80]   A series of initiatives by the Government,the ANC and mediators aimed at including the IFP in the elections resulted in a breakthrough a week before the elections, when on 19 April , the IFP announced that it would participate in the elections. Part of the Right Wing led by General Constand Viljoen decided to participate in the elections in March 1994. General Viljoen registered a new party the Freedom Front.

a large number of observers. The money spent on the last batch of observers could have been usefully spent on the training of marshals, monitors, party poll watchers, election officials and generally increasing the capacity of South African authorities to conduct the elections. The Commonwealth and the EU missions run extensive training programmes in these fields and made tremendous impact on the electoral process. The United Nations had no budget whatsoever for training. This was a serious shortcoming of the UNOMSA mission.

17. COORDINATION WITH COMMONWEALTH, OAU AND EU MISSIONS

Under both resolution 772 and 894 the United Nations was specifically required to co-ordinate the activities of the other intergovernmental organisations (paragraph 8 of resolution 772 and preamble to resolution 894). The TEC in its request for UN electoral assistance had also requested the UN to co-ordinate the activities of the international observers provided by the OAU, Commonwealth, EU as well as those provided by governments (S/1994/16). In carrying out its initial mandate under resolution 772, UNOMSA worked closely with the observer missions of the Commonwealth, the EU and the OAU.[81] Regular joint meetings, were held both at UNOMSA headquarters and in the field. The four missions exchanged information on developments throughout the country, planned joint deployments of observers for major events and co-ordinated their activities to ensure maximum coverage of developments throughout the country. Regular consultations among the missions also resulted in common positions and action-oriented decisions regarding particularly important developments or issues. Decisions were made regarding approaches to individuals or groups in order to express the international community's concerns, or to outline possible options for dealing with problems. Representatives of the international observer missions met regularly, for example, with the Executive of the National Peace Secretariat, the Commissioner of Police and the Minister of Law and Order to evaluate such matters as police community relations, unnecessary use of force by security personnel, as well as improvement in police recruitment procedures and training. The international observer missions, working

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[81]   The Missions for instance issued joint press statements on a variety of issues e.g final statement of the elections and the statement deploring the violence that occurred in central Johannesburg during a Zulu March in support of King Zwelethini, 29 March 1994. See also election eve message, 25 April 1994.

together, became an important conduit for information from ground level to reach decision makers in government, political parties and the security forces regarding situations which could have exacerbated tensions or led to violence. The average South African and the political parties used this avenue to the fullest extent, and in some instances to communicate with each other when relations between particular communities or parties were particularly bad.

Once UNOMSA's expanded mandate was approved, co-ordination mechanisms were modified and enhanced in accordance with the proposals contained in the 10 January 1994 report (S 1994/16) of the Secretary-General to the Security Council. Co-operation between UNOMSA and the other international observer missions through these structures proved very constructive. A co-ordinating Committee comprising the heads of the observer missions of the UN, Commonwealth, the OAU, and the EU was set up under the chairmanship of the Special Representative of the United Nations Secretary-General. The Committee met at least once a week. A Technical Task Force composed of the heads of the elections units of the four Observer Missions also met regularly and interacted with IEC officials under the chairmanship of the Deputy Special Representative of the Secretary-General. The Joint Operations Unit (JOU), comprising representatives of the four Observer Missions, prepared a training and deployment plan for the large number of Interuational Electoral Observers (IEOs) deployed during the elections and developed data banks for systematically recording and maintaining information collected by observers. The Co-ordinating Committee also met regularly with the chairman of the electoral Commission. At these meetings reports submitted by missions observer teams in all provinces were brought to the IEC's attention.

18. ASSESSMENT OF THE CONDUCT OF THE ELECTIONS

In terms of the mandate of UNOMSA and its obligations under resolution 894 to monitor the work of the IEC, in particular the issuing of identity documents, voter education, conduct of voting and counting of votes and the freeness and fairness of the election, UNOMSA submitted its conclusions and observations to the Secretary-General.[82] In the very short

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[82]   See, A Democratic, Non Racial and United South Africa, Final Report of the United Nations Observer Mission in South Africa (UNOMSA) to the United Nations Secretary-General, 26 May 1994.

period, the IEC achieved an extraordinary feat in the work they did to prepare for the elections. UNOMSA shared with the IEC its observations on the electoral process, in order to enhance the Commission's ability to detect and resolve difficulties. The IEC was receptive to UNOMSA's comments, which were always offered in a constructive and supportive spirit. While a great deal was achieved by the IEC in a short space of time, shortcomings in its performance were identified and brought to its attention. There were delays in appointing staff to conduct elections which impacted negatively at election time. There also were delays in the identification of polling stations. Voter education – although concentrated in urban and peri-urban areas – reached the majority of South Africans. The high voter turn out, low number of spoilt ballots (0.99%), and the fact that in most areas most voters proceeded smoothly through the process indicated that most people had been motivated and adequately informed about voting procedures.[83] With regard to identity cards, notwithstanding the problem of violence in some areas, by the time of the election it was clear that in most parts of the country, major and substantial efforts had been made to ensure that voters were given a proper opportunity to obtain the documents they required.

On the conduct of the elections, in most parts of the country voting went smoothly. Shortages were experienced in supplies of ballot boxes, ballot papers, ultra violet lights and invisible ink. In response, the IEC attempted to redeploy materials, obtain additional ultra violet lights from Lesotho, had additional ink manufactured and printed additional ballot papers. Counting of votes took longer than expected and some centres reported confusion and delays in the counting of votes. UNOMSA concluded that the coverage of the process by the print media and broadcasting was balanced and did not disadvantage any political party. The elections were not without irregularities. There were a number of reported incidents of IEC officials or monitors canvassing for a particular party among voters waiting in the queue KwaZulu/Natal presented most of the problems. In parts of the province some polling officials allowed obviously underage residents to cast their votes. At most stations in IFP strongholds, only IFP and NP agents were able to operate. The ANC party agents were too scared for their lives to be present. In rural parts of Kwazulu/Natal pressure was applied by traditional leaders on voters polling officials. Some of the polling officials in KwaZulu/Natal were government officials and indunas (headmen) who were linked to the Kwazulu Government which in turn was aligned to the IFP. There were also reports of private voting stations being opened by IFP

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[83]   Ibid.

supporters who had allegedly seized supplies from legitimate voting stations.[84]

Even in the best of circumstances, meeting the deadline set for the organisation and conduct of the first South African elections – four months – would have been a monumental and daunting task and bound to encounter substantial organisational challenges.[85] The IEC preparatory work was seriously affected by the unavailability of adequate data on the size of the potential voting population in the absence of a national census before the elections. The absence of a register of eligible voters – noters voted on the basis of the possession of a variety of South African identity documents and special voter cards for those without identity documents – exacerbated the logistical challenges facing the IEC, making it difficult to estimate the likely demands upon individual voting stations and reducing the controls over possible abuse. The lack of a voters register also made the identification of voters at voting stations more onerous. The right of the voter to cast a vote any where in the country provided flexibility, but created considerable problems in the provision of materials for voting stations. After careful consideration of the numerous issues pointed out above relating to the shortcomings of the conduct of the elections, UNOMSA together with the Commonwealth, EU and the OAU pronounced the voting as having been free and the outcome of the elections as "reflecting the will of the people of South Africa".[86] The Missions carefully avoided using the term "free and fair" as there was disagreement among the observer missions on the appropriateness of the term in the context of the circumstances of the South African elections. At the Conclusion of the process the Security Council on 27 June 1994 closed its chapter on South Africa. In resolution 930 of 27 June 1994 after considering the final report of the Secretary-General on the United Nations Observer Mission in South Africa (UNOMSA) (S/1994/717) it resolved after "noting with great satisfaction the establishment of a united non-racial and democratic government of South Africa", decided that it had concluded its consideration of the item "the question of South Africa" and resolved to remove the item from the list of matters of which the Council was seized".[87]

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[84] Ibid.

[85] Ibid.

[86] See, Joint Final Statement by the heads of International Observer Missions, 6 May 1994. See also statement issued by the Missions at the close of voting, 30 April 1994.

[87] Security Council resolution, S/RES/930/ (1994), 27 June 1994

CONCLUSION

The United Nations has been or is presently involved in other political transformation processes in Africa. Some more successful than others. In Sub Saharan Africa there have been both failures and successes. Angola (in its first phase) and Somalia represent failures while Namibia, Mozambique and South Africa represent successes. The outcome of each mission can be explained to a large extent by the mandate and the conditions under which it operated. In Namibia, the United Nations was requested to supervise the whole independence process of the country, including the elections. The plan for the elections had been elaborated since 1978. The Representative of the Secretary-General had practically a veto power on every decision related to the independence process. In Angola, an independent country, the United Nations had only been requested, after the verification of the cease-fire arrangements, to observe and verify the elections. In addition, while in Namibia it was possible to totally demobilise the South African and SWAPO troops prior to the elections, this had not been achieved in Angola leaving open the possibility of the resumption of the armed conflict. In Mozambique the United Nations was involved in elections, verification of the withdrawal of troops, demobilisation of troops and related measures. The Mission was able to demobilise the Government and RENAMO troops and form a joint army. After initial hesitation on the part of RENAMO, the elections were accepted by all parties.

South Africa was successful because UNOMSA had the advantage of working with a flexible mandate. The international community was united in its views on South Africa and on the objectives of UNOMSA. Many international conflicts have been worsened by divisions among the countries of the world each having a different objective. In South Africa the international community played a constructive role. They put pressure on the political leaders to make the process succeed.[88] Above all, the overwhelming majority of South Africans wanted to achieve a peaceful transition. The elections were not a miracle, the settlement was achieved by the hard work of dedicated South Africans and by the quality of South African political leadership.[89] The political leaders and political parties demonstrated remarkable maturity and responsibility and manifested a clear political will to make negotiations work and obtain consensus. As has so

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[88]   World leaders kept constant touch with political leaders in South Africa and encouraged them along the transitional process.

[89]   See, remarks of Justice Johan Kriegler, Chairperson of the Independent Electoral Commission, Announcement of Certification and the Results of the 1994 South African Elections, 6 May 1994.

often been stated peace can not be imposed on a people that do not desire it. It can only be facilitated for parties that wish to achieve peace. Throughout the transitional process, the South African leaders stayed on course, reaching deep into their own reserves of energy and imagination and relying on themselves rather than outsiders to overcome obstacles to the process. South Africans tried among themselves to solve their problems, which led to a great degree of trust being established at the grassroots level. It must also, however, be recognised that South Africa was fortunate in that the international climate had changed with the end of the cold war. It was the right moment to engage in a process of negotiations for an end to apartheid. The withdrawal of Cuba from Angola and the independence of Namibia can also be singled out as important events in this regard.