

DETERMINATION OF IEC ON WHAT CONSTITUTES FREE & FAIR ELECTIONS

The IEC Act does not provide any detail of how the IEC should make its determination, or what it should do in the eventuality that there is serious disruption of the elections in one or more areas. While the final decision should be left with the IEC there should be provision ~~to~~ for the governance of the country under the new constitution in the event that there has not been an entirely free and fair election.

Scenario I

Where the IEC has to declare the entire process void and order a new election across the country. Who governs? The SAG with TEC? *present*

Scenario II

Where there is major disruption of the electoral process in one or more regions, but not sufficient to require new elections across the entire country.

The IEC should declare the election in that region invalid and allocate seats for the National Assembly less than the number of seats provisionally allocated to the disrupted region prior to the election. It could further order that voters be registered and a new election be held in that region not later than 15 months and not earlier than one year after the disrupted election.

This would also act as a deterrent to any group that tries to disrupt the elections in a particular area with a view to invalidating the whole process and preventing the installation of a democratic government.

Scenario III

If there is disruption at one or more voting station the IEC may in its discretion disallow the entire vote at the disrupted station/s and if necessary allocate only some seats in the regional and national legislature.

In these cases the Constitution would have to make provision:

- a. For a provisional determination of the number of seats allocated to each region on the basis of the census or other figures agreed by the TEC. prior to the election.
- b. For the IEC to be able to declare the election invalid in an entire region and the central government empowered to make provision for the governance of the region by for example the appointment of an administrator.
- c. The constitution of the National Assembly and other organs of government with a lesser number of seats.

