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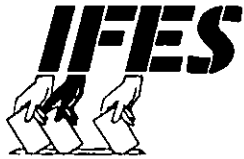
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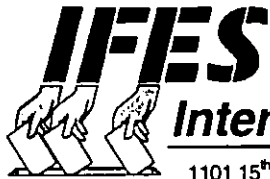
***DISCUSSION PAPER:  
PREPARING FOR ELECTIONS IN SIERRA LEONE***

Summary Findings of an IFES Assessment Mission  
to Sierra Leone:  
4-20 December 1999

Simon Clarke, Election Advisor, IFES  
Susan L. Palmer, Program Officer, IFES

20 December 1999

***F. Clifton White Resource Center***  
International Foundation  
for Election Systems  
1101 15th Street, NW /  
Washington, DC 20005



## **International Foundation for Election Systems**

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1101 15<sup>th</sup> STREET, NW • WASHINGTON, D.C. 20005 • (202) 828-8507 • Fax (202) 452-0804 • [www.ifes.org](http://www.ifes.org)

### **About the International Foundation for Election Systems (IFES)**

*The International Foundation for Election Systems (IFES) was founded in 1987 as a private, non-profit and non-partisan organisation to provide consultative assistance and technical support to electoral and democratic institutions in emerging, evolving and established democracies. IFES has carried out pre-election assessments, technical election assistance, civic and voter education and election observation activities in more than 90 countries in Africa, the Americas, Europe, the Near East and the former Soviet Union. IFES is also concentrating its efforts to support other pillars of democracy: rule of law, where IFES provides counsel on legal and judicial reform as well as public education efforts supporting those reforms; good governance, where IFES has worked to institutionalise permanent and professional election administration and served as an advisor to Parliaments; and civil society, where IFES has played a key role in strengthening non-governmental organisations, promoted coalition-building and encouraged dialogue between citizen groups and governments. Based in Washington, DC, IFES currently has field offices in Albania, Armenia, Azerbaijan, Bolivia, Bosnia-Herzegovina, Democratic Republic of the Congo, Georgia, Ghana, Haiti, Indonesia, Kazakhstan, Kyrgyzstan, Liberia, Malawi, Moldova, Paraguay, Russia, South Africa, Tajikistan, Ukraine, Uzbekistan and Yemen.*

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## Section I

# EXECUTIVE SUMMARY

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The signing of the Lomé Peace Accord on 7 July 1999 by the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL) laid the foundation for the administration of the next national elections in Sierra Leone. The Lomé Accord stated that the next elections "shall be held in accordance with the present Constitution of Sierra Leone" and mandated the establishment of a new independent National Electoral Commission (NEC). To assist the people of Sierra Leone in preparing for and conducting these elections, a two-person mission from the International Foundation for Election Systems (IFES) travelled to Sierra Leone from 4-20 December 1999 to assess the state of election preparations and develop prioritised recommendations for strengthening elections administration and the electoral process. The mission was funded by the British Department for International Development and the U.S. Agency for International Development.

This *Discussion Paper* presents the summary findings of the IFES mission, which are based on the mission's extensive discussions with the Acting Chairman and staff of the Interim National Electoral Commission, representatives of political parties, officials of the Government of Sierra Leone, civil society activists and members of the international community. This *Discussion Paper* is meant to inform and stimulate the consultations that must take place in Sierra Leone so that elections preparations can begin and a credible and transparent electoral process can be built.

The Government of Sierra Leone and the political parties are currently engaged in consultations regarding the composition of the new NEC. It is strongly recommended that every effort be made to ensure that the members of the NEC have the confidence of the parties and the people of Sierra Leone. Once the new NEC is established, it is further recommended that the NEC immediately convene a roundtable of the registered political parties and representatives of civil society to formally establish a permanent Consultative Committee which would meet regularly to develop the framework for the electoral process.

As is evident from this *Discussion Paper*, there are several fundamental issues which must be addressed and resolved so that the planning for elections can proceed:

Timing. When should the next presidential, parliamentary, Paramount Chief and local government elections take place?

Electoral system. Should the parliamentary elections be held under the national list proportional representation (as per legislative act) or the constituency-based

First Past the Post system (as per the Constitution)? Is there another option that would best suit the needs of Sierra Leone?

Legal framework. What should be the legal framework for these elections? Should Sierra Leone develop a universal election law to incorporate the various, and sometimes contradictory, instruments which currently constitute the legal framework?

The Consultative Committee should address and resolve these and other fundamental issues pertaining to the electoral process in the immediate term.

In addition, to prepare for the conduct of the elections, the new National Electoral Commission will require the immediate technical support of the international community in the form of the provision of technical elections advisors. Further, the independence and the professional capacity of the Commission should be enhanced by developing the Commission's Self-Accounting Status and by re-organising the staff structure of the Commission. As the electoral framework is developed, the Commission will need to establish its operational plan and will need to seek financial and material assistance from the government of Sierra Leone and the international community to implement this plan.

As the key stakeholders in Sierra Leone work to develop the electoral framework for the upcoming elections, clearly the post-conflict environment in the country will have to be considered. As the resources of the government of Sierra Leone and the international community are focused toward the implementation of the peace plan and the rehabilitation of the nation's devastated infra-structure, limited resources will be available for the conduct of the elections. Additionally, issues such as potential insecurity, mistrust, and other ramifications of long-term civil strife will have to be considered in the design of the electoral process and the timing of the elections.

The method by which the Sierra Leonean people develop the electoral framework is as important as the design of the framework itself. Transparent and inclusive consultations will serve to ensure the credibility of the electoral process, and the practice of good governance in the conduct of the elections will be an invaluable contribution toward the development of a sustainable peace and a strong democracy in Sierra Leone.

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## Section II

# ELECTORAL PROCESS

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In Sierra Leone, there are the following types of elections:

1. presidential;
2. parliamentary;
3. Paramount Chieftancy; and
4. local government.

This section will review the schedule for each of these elections as well as the electoral system under which these elections are conducted.

### A. TIMING OF THE NEXT ELECTIONS IN SIERRA LEONE

Prior to any meaningful debate about the details of the forthcoming elections in Sierra Leone, it is useful to review just when elections will occur. Article XI of the Lomé Accord is explicit on this point: "The next national elections in Sierra Leone shall be held in accordance with the present Constitution of Sierra Leone." However, as in all democracies, the Constitution of the country cannot be viewed in total isolation when considering the details of elections. Sierra Leone's 1991 Constitution sets out the principals of all matters relating to elections but must be read in conjunction with all current electoral legislation.

Two parliamentary acts--Act No. 2 of 1996 and Act No. 3 of 1996--together with the Constitution of 1991, can be considered as the legal framework surrounding the conduct of the presidential and parliamentary elections. Act No. 2, 1996 (The Constitutional Reinstatement (Consequential Provisions)), is a law which selectively enacts the majority of the decrees of the National Provisional Ruling Council (NPRC) that enabled the 1996 presidential and parliamentary elections. Act No. 3, 1996 (The National Provisional Ruling Council Decrees (Repeal and Modification) Act), further amends four of the NPRC decrees. Consequently, in order to review the national electoral framework it is necessary to examine the text of the six original NPRC decrees, as amended by the above laws and with regard to the Constitution of 1991.

#### 1. Presidential Elections – date of the next elections

The timing for the next presidential elections is contained in Section 43 of the Constitution and is unaffected by the enactment of Decree No.17, 1995 (The Presidential Elections Decree), as amended. As with all pieces of legislation, various circumstances are envisioned and, therefore, it is worth noting that the following timetable refers to that of the normal circumstance of a President completing his term of office. The term of office for the current President is considered legally to



have commenced on 29 March 1996 and a term of office is completed after five years, that is to say on 28 March 2001. Thus, applying Section 43(a) of the Constitution an election must occur no earlier than four months prior to 29 March 2001 and no later than one month prior to this date.

***Therefore, according to the Constitution, presidential elections should be conducted in the period 29 November 2000 to 28 February 2001.***

Current electoral legislation provides that should a run-off election be required, that this will take place no later than 14 days after the result of the first election is declared.

## **2. Parliamentary Elections – date of the next elections**

In order to determine the date for the forthcoming parliamentary elections it is important to note Section 85(1) of the Constitution which states that the life of Parliament is, in normal circumstances, five years. Technically, it stands dissolved five years after it first sits. In this case, Parliament is considered to have first sat on 29 March 1996, thus its mandate from the electorate concludes on 29 March 2001. Section 87 (1) of the Constitution applies in normal circumstances, that is to say parliamentary elections shall occur no earlier than 30 days after dissolution and no later than 90 after the dissolution of Parliament.

***Therefore, according to the Constitution, parliamentary elections should be conducted in the period 28 April 2001 to 27 June 2001.***

## **3. Paramount Chief Elections – date of the next elections**

Currently the Sierra Leone Parliament is made up of 80 members of Parliament (MPs). Of these 80 seats, 68 are directly elected by universal suffrage. In addition, 12 seats are reserved for Paramount Chiefs, one representing each of the 12 districts of Sierra Leone. The election of the 12 Paramount Chief members of Parliament differs in a number of ways from that of the other 68 MPs. Paramount Chief Members of Parliament are elected on the basis of an electoral college formed by councillors representing a certain number of taxpayers. Only elected Paramount Chiefs from the 149 chiefdoms are eligible to stand for the Paramount Chief seats in Parliament. To be elected as a Paramount Chief of one of the 149 chiefdoms, a candidate must be able to demonstrate lineage to certain traditional families. Thus, the election timetable for the 12 Paramount Chief MPs must be considered in two stages: 1) that of filling any vacancies that currently exist among the 149 chiefdoms; and 2) that of the election of the Paramount Chief members of Parliament.

The specific dates for the election of Paramount Chief Members of Parliament do not appear to be explicitly set out in the relevant sections of the legislation, other than the proviso that the Returning Officer shall specify the date and time of the election to the Chiefdom Council. It is by implication that the elections will be held in accordance with the timetable described above for universal franchise Members of

Parliament. The 1996 Paramount Chief Member of Parliament elections occurred about a week prior to that of the election of the ordinary Members of Parliament.

#### **4. Local Government Elections – date of the next elections**

Elected local government does not exist in Sierra Leone at present; it was effectively abolished in the early 1970s, being replaced in some instances with selected Committees of Management, whose powers and functions were also centralised by the Government of the day. In order to restore local government to Sierra Leone and decentralise the power and authority to the appropriate form of local government, the Government of Sierra Leone is proposing to re-establish and re-constitute Local Committees of Management. There is currently no formal plan for the timing of local government elections although the Ministry of Local Government hopes that these elections held not too long after the establishment of the Committees of Management.

#### **5. Recommendation on Timing of the Forthcoming Elections**

Notwithstanding the Constitutional and legislative framework for the timing of national elections--that is to say, a separate voting day for the presidential election, possible presidential run-off, and parliamentary elections all with a maximum timescale of seven months--careful consideration on cost grounds alone should be made to minimise the number of separate voting days. This number of national elections could increase if elected local government is re-instated. It is reasonable to assume that there will be significant "economies of scale" if election days are consolidated, although some material costs (such as the production of ballot papers) are unaffected. Voter turnout and the voters' understanding of type of election being conducted may well decrease if a large number of elections are separately conducted over a short span of time.

Two possible mechanisms exist to change the current legal provisions with regard to the timing of the elections: that of the Constitutional Review Committee which is reviewing the 1991 Constitution and that of a Parliamentary bill. Whatever the mechanism, it is highly desirable that political parties, civil society organisations and the population in general must be consulted for their views prior to any changes being proposed and subsequently enacted. To facilitate this consultation, it is recommended that the new National Electoral Commission (NEC) establish a formal liaison or Consultative Committee with all registered political parties and civil society. This forum can provide an opportunity for the key stakeholders in the electoral process to discuss and resolve any electoral issue. The Consultative Committee may well be best technically qualified to propose any initial changes that may need to be made. Of course these changes would need to be enacted by Parliament in the usual way, unless the authority to do so was invested in the NEC.

## **B. ELECTORAL SYSTEM**

### **1. Presidential Election: Two-Round System**

The system of election for the forthcoming presidential election is described in Act No. 2, 1996, as amended by Act No. 3, 1996. In reality this is the old NPRC Decree No. 17, 1995 which is the same system as described in the Constitution in Section 42(2). The presidential electoral system is known as the Two-Round System (TRS).

The method of election is that, in order to be elected as President a candidate must poll "not less than fifty-five per cent of the valid votes cast." If no candidate polls 55% of the valid votes cast then the two candidates with the highest "first round" vote totals go forward to a second election. This "run-off" is held within fourteen days of the announcement of the results from the first round of voting. In practical terms therefore, it may be as late as fifteen or sixteen days after the first round's election day. The candidate polling the higher number of votes cast in the run-off is declared to be elected, without the requirement to poll at least 55% of the valid votes cast.

This system of voting clearly recognises the political reality that more than two political parties are likely to nominate candidates to contest the office of President. In recognising this fact, the imperative of the legislators was, in the first instance, to ensure that the President was not elected with less than 50% of the valid votes cast. In fact a slightly higher hurdle was enacted, that is to say a winning first round candidate would need to demonstrate that 55% of the valid voting electorate had cast a vote in support of his/her candidature. Thus, the candidate elected could claim to have received a strong mandate from the electorate. However, with the possible exception of the example of only two candidates contesting the election, the probability is that a second round of voting is required. This, of course, proved to be the case in 1996, where no candidate received the required 55%, the highest two candidates polling 36% and 22% respectively.

The underlying rationale for using the Two-Round System is to attempt to ensure that the winning candidate has a strong electoral mandate. However, this electoral mandate in all probability will have to be consensual in nature. The TRS tends to promote the fact that after the first round of voting, the parties that have lost will make pacts and deals, formal or informal, with the remaining two political parties and advise their supporters accordingly. Smaller political parties may find themselves in positions of greater influence than their electoral support might indicate as they might be able to negotiate for Cabinet positions, if such positions are appointed by the President, in return for votes from party supporters. This is not necessarily a negative outcome as it allows the opportunity for the voices of those smaller parties to be heard in government and the fostering of consensus.

It should be noted that the TRS has some disadvantages. The system places "considerable pressure on the electoral administration to run a second election soon after the first, significantly increasing the cost of the overall election process and the time between the holding of an election and the declaration of a result; this can lead

to instability and uncertainty."<sup>1</sup> Also, TRS often results in a drop-off in voter turnout between the first and the second round.

As it stands, the current legislation is cumbersome in the extraordinary situation of only two candidates standing for election. The legislation forces even this election to a second round if no candidate receives the requisite 55%. Clearly this will only happen if the two candidates are evenly matched. However, it is difficult to concede that public opinion will significantly alter between the first and second rounds. Also, in this case, the same outcome is conceivable to very little benefit. The cost alone of conducting two rounds of election suggests that this provision be revised in the case of only two candidates contesting the presidential election.

## **2. Parliamentary Elections: First Past the Post (FPTP) or Proportional Representation (PR)?**

As previously noted, in accordance with the Constitution of 1991 and irrespective of which election system is used to conduct the election, Parliament is comprised of seats that are directly elected under universal suffrage and those that are reserved for Paramount Chiefs (12 seats, one representative per district elected as per the system of election described below). Therefore, since the details of the system of election for Paramount Chief members of Parliament do not vary under both the Constitutionally-mandated electoral system nor that described in Act No. 16, 1995, this section refers only to the directly elected members of Parliament.

Currently two electoral systems legally exist in Sierra Leone. The first, the single-member constituency, First Past the Post (FPTP) system, is mandated by the Constitution of 1991. The second, the national list proportional representation system (PR), was the system of election under which the 1996 parliamentary elections were conducted and it is described in Act No. 16, 1995 (as amended). Neither electoral system has legal precedence, and thus a choice has to be made as to which electoral system will be used to conduct the next national elections.

A brief description of the two electoral systems follows as well as a discussion of some of the advantages and disadvantages of each system. It should be noted that these are not the only electoral systems utilised around the world to conduct representative elections and that other systems may equally be appropriate.

It is also worth noting that, in detailing some of the opinions expressed by Sierra Leoneans about the relative merits and demerits of each of the two systems of election, in some instances, what one person may express as a strength of a particular system is paradoxically seen as a weakness of that same system by someone else. Therefore, in order to make an informed choice of which system of election to utilise for the forthcoming election a detailed examination needs to be made

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<sup>1</sup> Ben Reilly, "Two-Round System: Disadvantages" in *Electoral Management, Administration and Cost of Elections (ACE) Project*, (International IDEA, United Nations, International Foundation for Election Systems, 1998).

of their relative merits and the discussion must reflect the opinion of Sierra Leone's citizens.

### ***Single-Member Constituency, FPTP System***

The Constitution of 1991 provided for a return to multiparty democracy with parliamentary elections scheduled for late 1992, although these elections were never conducted as the Constitution was suspended by the National Provisional Ruling Council which assumed power by coup d'état in April 1992. Prior to 1991, parliamentary elections were last held in 1986 under one party rule and were under the single-member constituency, FPTP system. The boundary delimitation exercise of 1986 brought the number of single-member constituencies to 93 with an additional 12 seats reserved for Paramount Chiefs. Under this electoral system, the candidate with the most votes within the constituency wins the parliamentary seat. It is important to note that the criteria for nomination to contest the election is not dependent on membership of a registered political party. In other words independent candidates can contest parliamentary elections under this system of voting. The elections for the parliamentary seats reserved for the Paramount Chiefs are also conducted on an FPTP basis.

However, in order for this electoral system to be used effectively, the entire country must be accessible to allow for both the registration of voters in their normal place of residence and for the ability of political parties and candidates to campaign freely in all constituencies. If voters are unable to register in their home area, a possible but extremely imprecise solution could be that where, at the point of registration, the voter self-certifies where he/she will cast their vote on election day. This system is flawed in that it is asking a displaced voter to predict the future—what would happen if after the relevant electoral roll is produced the registered voter is not been able to be present at what in normal circumstance would be their usual place of domicile? This solution may also create the conditions for intimidation of the electorate to take place, in that voters may actively be discouraged or encouraged to return to certain electoral constituencies depending on the perceived advantage or disadvantage that may be gained by their return or absence.

One advantage with the single-member constituency system, from the electorate's perspective, is that the identity of each of the candidates contesting the constituency seat is declared and therefore an important link between the constituent and the constituency representative to Parliament is established. This linkage was identified to the IFES assessment mission as the single most important advantage of this voting system by both electors and current members of Parliament. Members of Parliament are acutely aware that their present elected mandate provides them with a single national constituency rather than a discrete geographic one. Both the electorate and the MPs have expressed the view that currently the MPs are not representing anyone in particular. This feeling of disengagement between Parliamentarians and the electorate could be re-established if a constituency-based electoral system were utilised.

A specific historic concern relating to election violence was also articulated in discussions with the IFES team, in that previous elections conducted under this electoral system were characterised by election violence in the constituencies between the supporters of rival candidates. Under the 1996 PR system, some Sierra Leoneans believed that there was less violence between candidate/party supporters. However, it should be noted that an over-riding feature of these elections was that they were transitional and that traditional animosities between political rivals were set aside in the pursuit of returning the country to multiparty democratic rule. It is true to say, however, that this system focuses politics, which is by nature adversarial, into a series of discrete local campaigns.

Voter choice is also a key feature of this electoral system and is in marked contrast to that of the national list proportional representation system where the party leadership—democratically or otherwise—determines the order of the party list. Whilst a prospective candidate under the constituency system has an advantage if he/she is running as an official party representative, it does not mean that a popular local figure cannot be elected as an independent candidate. Consequently, this electoral system may influence political parties to select candidates with a view to their chances of election and not just as a result of their party profile.

One major political factor with regard to the single-member constituency, FPTP system is the argument that “strong government” results. In other words, a political party may win a majority of the seats in Parliament without receiving a majority of the votes cast countrywide. One noteworthy example of this phenomenon was the election of the Heath Government in the early 1970s in the United Kingdom. Two factors in Sierra Leone further support this argument: 1) a relatively large number of registered political parties exist (13 with full certificates and one—RUF/P—with a provisional certificate); and 2) the traditional polarisation of voting based on ethnic division. If 14 political parties contest a single-member constituency by FPTP, a candidate could be elected with as low as 8% of the valid votes cast in the constituency. This trend could be repeated countrywide and thus the absurd position in Parliament could be that 100% of the seats are won by a party commanding the support of only 8% of the electorate. In practical terms this could mean that a political party that predominately draws its support from one area of the country may win a majority of the seats in the Parliament, without elective support across other ethnic groups.

### ***FPTP and Constituency Delimitation***

If the single-member constituency, First Past the Post (FPTP) system is chosen, there are many political leaders and civil society activists who note that there is a significant need for the delimitation of constituency boundaries prior to the next elections. The last constituency delimitation was undertaken in 1986 (resulting in an increase to 93 constituencies) and many allege that certain constituencies are either over or under-represented due to population shifts and different rates of growth since that time.

According to the Sierra Leone Constitution, 1991, the Electoral Commission "shall review the division of Sierra Leone into constituencies at intervals of not less than five and not more than seven years, and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in light of the review." On the basis of the 1991 Constitution, a constituency delimitation exercise prior to the next elections is justified.

It should be noted that there is misunderstanding with regard to the timing of any census and constituency delimitation exercise. While the last census was conducted in 1985, a census is not necessary for the Electoral Commission to review the constituency boundaries. Section 38(7) of the Constitution states that:

"For the purposes of this section the number of inhabitants of Sierra Leone shall be ascertained by reference to the latest census of the population of Sierra Leone held in pursuance of an Act of Parliament or if no census has been so held, by reference to any available information, which in the opinion of the Electoral Commission best indicates the number of those inhabitants.

While it has been learned that plans are underway for a new census, it is likely that that data would not be available for any constituency delimitation exercise prior to the elections if held under the present timetable as the conduct of a census usually takes at least 18 months.

Even without a census, a constituency delimitation process is a time- and resource-consuming endeavour. Considering the special, post-conflict environment in Sierra Leone, and the ongoing repatriation of refugees and the resettlement of refugees, constituency delimitation should only be conducted when the population of all areas of the country is somewhat stable. All of these factors should be taken into account in the discussion concerning the viability of constituency delimitation prior to the next elections.

### ***National List Proportional Representation (PR) System***

This national list proportional representation (PR) electoral system was used for the 1996 parliamentary elections and its legal basis is provided for in Act No. 16, 1995. The circumstance prevailing prior to the 1996 elections was that the country was not fully accessible to allow for both registration of voters and political campaigning to be conducted in accordance with the Constitution of 1991. Therefore, the national list PR system was proposed and was endorsed by representatives of civil society and political parties at the Bintumani I conference held in April 1995. In its simplest form, national list PR involves each party presenting a list of candidates to the electorate, voters voting for a party, and parties receiving seats in proportion to their overall share of the national vote. Winning candidates are taken from the lists in order of their position on the lists. With the national list system, the nation of Sierra Leone is considered as one constituency.

With the national list PR system of 1996, the voter had no direct influence on the election of any individual candidate whose relative place on the party lists was strictly determined by the party leadership. The disadvantages of the list PR system are the

flip side to the advantages of the constituency-based system: national closed-list PR is criticised for leaving too much power entrenched within party headquarters and wielded by senior party leadership and is pointed to as weakening the link between MPs and their constituents. While some parties in Sierra Leone did attempt to demonstrate regional balance on the party list, they were still open to the assertion that their nominees may not have had demonstrable grassroots support.

Proportional electoral systems—in particular, the national list system—provide different political outcomes to that of the constituency FPTP system. Under Sierra Leone's national list PR system for the parliamentary elections, the number of a party's seats in Parliament was directly allocated as near as possible to the proportion of votes cast for each party. Recognising that in situations where a large number of parties (13 in this case) are contesting the election, a threshold was set. In the 1996 elections, in order for a political party to be allocated arithmetically a minimum of one seat in Parliament, a party needed to poll at least 5% of the valid votes cast. This is quite a normal arrangement for national list systems as it is designed to have the effect of ensuring that the widest range of political views are represented in Parliament—those that cannot demonstrate the support of a significant but minority view (i.e., less than 5%) are excluded. Any votes cast for the parties polling less than the 5% threshold are redistributed to the remaining parties pro rata. The exact formula for determining the seat allocation in Sierra Leone is described in the Second Schedule of Act No. 16, 1995. It is interesting to note that the slight imprecision of this schedule allowed for the INEC to carefully consider how the arithmetic rounding of votes and thus final seat allocation could be treated. In practise a compromise on this issue was reached by consensus among the political parties. Should this system of voting be selected for the upcoming parliamentary elections, this imprecision and its implications must be addressed.

One of the effects of this form of proportional representation is that it tends to over represent parties that poll the largest number of votes and slightly under represent parties at the other end of the spectrum. To take a specific example from the 1996 election results; the SLPP initially received 35.94% of the valid votes cast. After the distribution of the votes cast for parties that failed to receive 5% of the valid vote total, the SLPP was allocated 27 seats representing 39.70% of the total to be allocated. Thus the initial vote of 269,888 represents 27 seats and each seat represents 9995.85 voters. On the other hand, the DCP initially received 4.74% of the valid votes cast (this was arithmetically rounded to 5.0% for calculation purposes). However, after the distribution of the votes cast for parties that failed to receive 5% of the valid vote total, the DCP were allocated 3 seats representing 4.41% of the total to be allocated. Thus, for the DCP, the initial vote of 35,632 represents 3 seats with each seat representing 11,877.33 voters.

The reallocation of the votes cast for parties that fail to meet the minimum threshold of 5% of the valid vote is also problematic. In the 1996 election 83,938 votes representing 11.1% of the valid vote were redistributed. These votes were distributed to parties for which the voter did not vote; moreover they were distributed on a pro rata basis with the party with the largest initial vote receiving the greatest number of distributed votes. It can therefore be argued that not only was the voter's



choice ineffective but it also furthered the electoral cause of a competing political party. This, however, should be contrasted with the FPTP system of voting whereby the votes cast for losing candidates have no electoral effect whatsoever.

Since it is unlikely, particularly when a large number of parties are contesting the election, that a political party will be able to command 50% +1 of the valid votes cast and thus more than 50% of parliamentary seats, a key characteristic of a proportional system is that the majority party in Parliament has to build a consensus from among the opposition parties in order to pass legislation. This situation can produce weak Parliaments in that the executive branch (assuming the executive and majority party in Parliament are one and the same) can find it very difficult to implement its legislative programs.

### ***Design Principles and Options***

In determining the design of the electoral system in Sierra Leone, the new National Electoral Commission and the key stakeholders in Sierra Leone will need to address not only the legal framework for the elections, but the various political and administrative considerations. In selecting the electoral system to be used for the parliamentary elections in Sierra Leone, the design should encompass the following characteristics:<sup>2</sup>

1. Ensures a representative parliament
2. Makes elections accessible and meaningful to the average voter
3. Provides incentives for conciliation between previously hostile parties
4. Fosters the perceived legitimacy of the legislature and government
5. Helps facilitate stable and efficient government
6. Gives rise to a system that holds the government and its representatives accountable to the highest degree possible
7. Encourages "cross-cutting" political parties
8. Helps promote a parliamentary opposition
9. Is realistic concerning a country's financial and administrative capacity

While the choice of an electoral system can determine who is elected and which party gains power, the effects of a certain electoral system type depends to a large extent upon the socio-political context in which it is used. As the key stakeholders in Sierra Leone make this decision, through a consultative and transparent process, it is clear that Sierra Leone's circumstances require that the principles noted above should be followed given the importance of these next elections to the consolidation of the peace and the building of democracy.

### **3. Paramount Chief Elections**

Sierra Leone's three provinces--Northern, Southern and Eastern--are formed by 12 districts (five, four and three districts respectively). Of the 149 Paramount Chiefdoms within those 12 districts, there currently exist 46 vacancies. These

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<sup>2</sup> Andrew Reynolds and Ben Reilly, "Guiding Principles" in *Electoral Systems, Administration and Cost of Elections (ACE) Project*, (International IDEA, United Nations, International Foundation for Election Systems, 1998).

vacancies are filled by election on an electoral college basis. Representation to this electoral college, called a tribal authority, is by tribal councillor. A tribal councillor is a taxpayer in the chiefdom and the electoral college is formed of councillors who each represent 19 other taxpayers. For example, if there were 100 verified taxpayers in the chiefdom, the electoral college would be formed of five councillors--each a representative of 20 taxpayers including themselves. This traditional system has been in existence over many years and is mandated under the Constitution. The compilation of the electoral roll for these elections is the legal responsibility of the District Officer with the Electoral Commission responsible for the administration of the election day procedures.

Nominations to the post of Paramount Chief are restricted to the traditional ruling families and vary across the Provinces. An example of this is that traditionally no women have been elected Paramount Chief in the Northern Province. The prospective nominees for any vacancy are assessed by two external assessor chiefs to determine whether the nominee is qualified for election. If more than one candidate is so assessed, an election takes place. Each tribal councillor casts a vote in the ballot box designated for the candidate of their choice. Each candidate has a separate ballot box. After voting is complete, the votes are counted in each of the ballot boxes and a winner is declared.

The Paramount Chief not only forms the basis of traditional rule within the Chiefdom but also is eligible to be elected, if nominated, to one of the 12 seats (one per district) reserved for Paramount Chief Members of Parliament.

Table 1. Paramount Chief Vacancies

<i>PROVINCE</i>	<i>District town</i>	No. of PC's per district	Current vacancies per district
		<b>TOTAL 149</b>	<b>TOTAL 46</b>
<b>Northern Province Districts (5)</b>			District total <b>12</b>
Bombali	MAKENI *		1
Kambia	Kambia		1
Koinadugu	Kabala		3
Port Loko	Port Loko		5
Tonkolili	Magbuaka		2
<b>Southern Province Districts (4)</b>			District total <b>20</b>
Bo	BO *		9
Bonthe	Bonthe		3
Moyamba	Moyamba		3
Pujehun	Pujehun		5
<b>Eastern Province Districts (3)</b>			District total <b>14</b>
Kenema	KENEMA *		5
Kailahun	Kailahun		7
Kono	Koidu-Sefadu (Kono)		2

\* Denotes Provincial Capital

#### 4. Local Government Elections

In Sierra Leone, local government elections have been held on a partisan basis, with candidates from political parties and independent candidates free to contest the elections. In practical terms, this has meant that political parties exert a tremendous influence on the selection of local government candidates. Too often this may result in an unpopular local candidate being selected demonstrating that local opinion may be subservient to the will of the party. The electorate, of course, if unhappy with this arrangement may vote accordingly. However, this is an important issue and should be carefully considered if and when local government legislation is reviewed and enacted. Sufficient examples exist of successful non-partisan local government elections to merit a careful examination of the relative merits and demerits of each system.

### C. GENERAL CONSIDERATIONS

In determining the timing of the elections, and the type of system to be used (specifically for parliamentary elections), as well as other issues of the management of the electoral process, the key stakeholders in Sierra Leone will need to consider the security situation and the related issue of resettlement of internally displaced persons and refugees.

Any lack of security, and attendant lack of free access to the population, in Sierra Leone throughout the electoral process would severely hamper all aspects of that process such as civic and voter education; voter registration; campaigning; polling; observation of the elections by party agents, domestic monitors and international observers; and the promulgation of the final results of the elections. In the lead-up to the 1996 elections, lack of security and the displacement of population led to the decision to use the system of proportional representation to determine the parties' seats in Parliament.

It is hoped that the terms of the Lomé Accord will be upheld and that by the time of voter registration for the upcoming elections that a significant portion of Sierra Leone's internally displaced persons and refugees will have returned to their communities. However, if the resettlement of the internally displaced and refugees is a consideration with regard to the design of the electoral system and the timing of the next elections, the following information might be of some interest:

*No accurate population figures currently exist for Sierra Leone. This report will use the 1995 projected population of 4,790,000<sup>3</sup> (based on the 1985 census) as reported by the INEC as the estimate of the present population.*  
Internally Displaced Persons (IDPs)

In November 1999, the UN Humanitarian Assistance Co-ordination Unit (UNHACU) reported that there were 319,456 internally displaced persons in Sierra Leone—or 6.7% of the population. However, it should be noted that there are several areas which are not accessible and so this figure does not include areas such as Kono district. There is no data available as to the number of these IDPs that are above the age of 18 and eligible to vote.

#### Refugees

Approximately 9.3% (or 444,049) of Sierra Leone's population are currently refugees in Guinea or Sierra Leone.<sup>4</sup> Of these, UNHCR estimates that 165,564 are above the age of 18 and so are of voting age. Using the INEC's 1995 estimate of 2,609,113 eligible voters in Sierra Leone<sup>5</sup>, approximately

<sup>3</sup> Clearly, this figure does not take into account deaths or population growth from 1995-1999.

<sup>4</sup> UN High Commission for Refugees, October 1999. This figure does not include the estimated 12,400 in The Gambia; the 2,000 in Côte d'Ivoire; or the 5,000 in other countries.

<sup>5</sup> This figure does not take into account the deaths or population growth from 1995-1999.

6.3% of Sierra Leone's voting age population are refugees in Guinea or Liberia at the present time.

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## Section III

# LEGAL FRAMEWORK

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This section reviews the current major legislative and constitutional framework that covers the conduct of the presidential election and the elections for Parliament, Paramount Chief and local government. This section is not intended to be legally exhaustive and does not refer to all current legislation, nor to the INEC codes of conduct used for the 1996, presidential and parliamentary elections.

The 1996 presidential and parliamentary elections were largely legally regulated by a series of decrees made by the National Provisional Ruling Council, the Constitution of 1991 being suspended at that time. These decrees, in a number of instances, provided for procedures that were at variance with the content of the Constitution of 1991, most notably that of the system of election that was used for the parliamentary elections. Act No. 2, 1996 (The Constitutional Reinstatement (Consequential Provisions) Act, date of commencement 29 March 1996), enacted almost all of the NPRC decrees relating to the electoral process in order for the newly elected government to have a legal basis. Act No. 3 of 1996 (The National Provisional Ruling Council (Repeal and Modifications) Act, date of commencement 23 December 1996), further amended some of these enacted decrees.

The Lomé Accord, which was subsequently ratified by Parliament, caused a further key piece of electoral legislation to be enacted: Act No. 4 of 1999 (The Revolutionary United Front of Sierra Leone (Participation in Political and Democratic Process) Act). This act can be considered as one that enables the Revolutionary United Front (RUF) to register as a political party. In this one instance, at least two other electoral acts are referred to and amended accordingly.

### A. PRESIDENTIAL ELECTORAL FRAMEWORK

The Constitution of 1991 and Act No.17 of 1995 (The Presidential Election Decree), as amended by Act No.3 of 1996, set out the electoral framework for the conduct of this election.

### B. PARLIAMENTARY ELECTORAL FRAMEWORK

The Constitution of 1991 and Act No.16 of 1995 (The Electoral Provisions Decree) 1995, as amended by Act No.3 of 1996, set out the electoral framework for the conduct of the parliamentary elections. Act No. 2 of 1996, the Constitutional Reinstatement Act, which in legal terms enacted the original NPRC Decree No. 16,

also specifically noted that this Act was without prejudice to sections 38 and 39 of the Constitution. Thus, this allowed for both the constitutionally stipulated electoral system for members of Parliament—the constituency based First Past the Post (FPTP) system—and the national list proportional representation (PR) system of election described in Act No. 16 of 1995 to be legal.

The NPRC decree vested itself with the power to name the date of the election. This power, of course, can now be assumed to have reverted to Parliament. Act No. 16 specifies that there will be not less than 60 Members of Parliament. The number subsequently specified was 68 directly elected members; however, the basis for this edict is unspecified and contrary to the usual methods of determining the number of representatives in Parliament.

### **C. LOCAL GOVERNMENT ELECTORAL FRAMEWORK**

Local government legislation pre-dates the 1991 Constitution. The Constitution itself “makes no specific provision for any system of Local Government within the Country.”<sup>6</sup> However, the Minister for Local Government has stated that an urgent review and consolidation of legislation, with amendments as necessary, will need to be carried out prior to the legal reintroduction of elected local government. This may also involve constitutional change. Previously, legislation existed establishing the City Council of Freetown; Town Councils in Bo, Kenema, Makeni and Koidu-Sefadu (Kono); Sherbro Urban District Council; Four Rural District Councils in Waterloo, Koya, Mountain and York; the Tribal Headmen in the Western Area and the twelve District Councils. Further Acts refer specifically to finances and would have to be made consistent with any current Public Budgeting and Finance Acts.

Prior to the stated position of the government of Sierra Leone to review all aspects of local government prior to its legal reintroduction, it is not practicable to detail the legal electoral arrangements that may well change in the near future.

### **D. PARAMOUNT CHIEFDOM ELECTORAL FRAMEWORK**

The election of the 12 Paramount Chief Members of Parliament is described in Part B of this Section. Casual vacancies are filled in accordance with the provisions set out in the 1991 Constitution.

### **E. OTHER LEGAL ISSUES**

#### **1. Registration of Political Parties and the Conduct of Political Parties**

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<sup>6</sup> *Position Paper on the Reactivation of Local Government and Decentralisation in Sierra Leone*, prepared by the Task Force on Local Government and Decentralisation, (February 1997).

The Constitution of 1991 and Act No. 7 of 1995 (The Political Parties Decree), as amended by Act No. 3 of 1996, together with Act No. 4 of 1999 empowers the Interim National Electoral Commission to register political parties. The Constitution invests this power in the Political Parties Registration Commission, when an Electoral Commission is established in accordance with section 32 of the Constitution. One of the members of the Political Parties Registration Commission is the Chief Electoral Commissioner.

The conduct of political parties, including that of their financial affairs, is regulated by the Constitution and Act No. 14 of 1995 as amended by Act No.3 of 1996.

## **2. Registration of Voters**

The Constitution of 1991 and Act No. 15, 1995 (The Franchise and Electoral Registration Decree), as amended by Act No.3, 1996, outline the provisions for the registration of voters for presidential, parliamentary and local government elections. The basis for the subsequent conduct of local government elections is not covered by any of the above electoral acts.

## **3. Establishment of the Interim National Electoral Commission (INEC)**

NPRC Decree No.1, 1994, which established the INEC was repealed by Act No. 2, 1996. As a result, the constitutional provision regarding the Electoral Commission is in place. However, the INEC was empowered to continue until such time that the National Electoral Commission has formed and the President had corresponded with the Executive Secretary of INEC to direct the "winding up" of the affairs of the INEC. At this time, correspondence on this matter has not been received by the INEC Executive Secretary nor has the National Electoral Commission been established. In view of this fact, Act No. 4, 1999, species that the INEC is the body that shall be empowered to register the RUF as a political party.

## **F. CONCLUSIONS AND RECOMMENDATIONS**

Whilst the above summary of the electoral framework is not intended to be exhaustive, it is clear that each facet of the electoral arrangements is covered at a minimum by not only the Constitution but also by a specific electoral act which, in each case, is amended at least once. This arrangement provides for the possibility of contradictory and conflicting situations to arise. A specific example is that of the parliamentary electoral system. Both the national list PR and the single-member constituency systems are legal; however, the authority to choose which system to utilise for the forthcoming election is not specified. Administrative matters that in the normal course of events would be within the remit of an electoral body to regulate are rigorously prescribed by law. An election law should be clear to any informed reader, provide sufficient detail on the sequence of events leading up to any election, specify dates where necessary and empower the electoral body charged with the administrative conduct of the election to mandate the said



administrative arrangements. In the event that matters require resolving, the legal procedure together with the appeal process should also be clearly specified.

Therefore, in view of the fact that the current electoral framework has been acted and amended and will have to be further amended to enable the conduct of the upcoming elections, it is strongly recommended that a universal electoral law be drafted to regulate the conduct of next national elections in Sierra Leone. Specific local government electoral arrangements may well have to be enacted separately, as they should not delay the commencement of this legal consolidation for the national elections.

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## Section IV

# NATIONAL ELECTORAL COMMISSION

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The National Electoral Commission (NEC), as so named in the Lomé Accord, will be established, and the Interim National Electoral Commission (INEC) dissolved, when the Parliament approves the President's nominees for the Chief Electoral Commissioner and the four members of the Commission. At that point, the President is to notify the INEC to conclude its affairs as per Section 4 of Act No. 2, 1996.

Under the Constitution of Sierra Leone, 1991, the Electoral Commission is responsible for the conduct of the presidential, parliamentary and local government elections. With regard to the election of the 149 Paramount Chiefs in Sierra Leone, the Ministry of Local Government has responsibility for developing the voter's register (eligible voters are chieftancy councillors) while the Electoral Commission conducts the other aspects of the election.

In preparing for the conduct of the upcoming national and pending local government elections, and to enhance its capacity as an institution of good governance in Sierra Leone, the soon-to-be established NEC must take three important steps:

1. it should seek to strengthen its independence through budgetary independence and appointment of permanent staff;
2. it should strenuously develop its professional capacity to conduct elections through restructuring and the use of technical advisors; and
3. it should develop strategic and operational plans to facilitate the conduct of the electoral process and organise the work of the Commission.

### A. STRENGTHENING THE INDEPENDENCE OF THE COMMISSION

To ensure the achievement of democratic goals, an election management body should be a neutral and balanced mechanism, able to carry out its duties in an impartial manner.

While the independence of the Commission is not constitutionally guaranteed, independence of the Commission is safeguarded by several articles of the Constitution:

1. The principle of independence of the Commission is enshrined in Section 32(Article 11) of the Constitution: "In the exercise of any functions vested in it

by this Constitution, the Electoral Commission shall not be subject to the direction or control of any person or authority.”

2. Members of the Commission (Chief Electoral Commissioner and four other members) can not be named solely by the head of state. Section 32(3) states that “the members of the Electoral Commission shall be appointed by the President after consultations with the leaders of all registered political parties and subject to the approval of parliament.”
3. Members of the Electoral Commission must have certain qualifications which connote integrity and professionalism. Section 32(4a) notes that “A person shall not be qualified—for appointment as a member of the Electoral Commission if he is not qualified to be elected as a Member of Parliament.” Section 75(1) lists factors for disqualification for membership of Parliament such as having been “convicted and sentenced for an offence which involves fraud or dishonesty” and “disqualified...from practising his profession in Sierra Leone by order of any competent authority.”
4. Not only is the Commission responsible for the administration of the elections, but the Commission “shall have power to make regulations by statutory instrument for the registration of voters, the conduct of Presidential, Parliamentary or Local Government elections and referenda, and other matters connected therewith including regulations for voting by proxy” (Section 33).

It should also be noted that the Lomé Accord (7 July 1999) further addresses the issue of independence of the Electoral Commission. Article XII(1) states that: “A new independent (emphasis added) National Electoral Commission...shall be set up by the Government.” Article XII(2) stipulates that the NEC should be established through consultation: “In setting up the new NEC the President shall consult all political parties, including the RUF/SL, to determine the membership and terms of reference of the Commission, playing particular attention to the need for a level playing field in the nation’s elections.” Finally, the Lomé Accord encourages the non-partisanship of the Commission, meaning that the Commission should not care about who wins or loses the election it is administering. Article XII(3) states that “No member of the NEC shall be eligible for appointment to political office by any government formed as a result of an election he or she was mandated to conduct.”

Despite the seeds of independence sown in the above-mentioned instruments, the full independence of the new National Electoral Commission (NEC) is constrained by its budgeting procedures and appointment of staff. Further, this lack of full independence limits the efficiency of the Commission in its conduct of elections.

### 1. Budgetary Independence

One of the most important guarantors of independence is budgetary independence. This independence is ensured when the legislature must, by law, grant the electoral management body’s budgetary request, subject only to a post-election audit overview. Funds are not only needed at election time, but also during the period

leading up to an election: for the registration of voters, delimitation of boundaries (if necessary) and voter education. An annual budgetary provision to the permanent election management body greatly enhances the efficiency and preparedness of that institution.

In Sierra Leone, the current INEC lacks budgetary independence in that its operations are charged on the Consolidated Fund. An annual budget is submitted to the Ministry of Finance for review and then, once it's approved, is submitted to Parliament for its approval. The Electoral Commission is allocated funding on a quarterly basis, although it does not receive the funds directly. For each payment that the INEC must make, including staff salaries and all operational expenses, it must first submit a request for payment (voucher) to the Ministry of Finance. The Ministry then approves the payment and a check is issued. This process usually takes two weeks, although it could take longer.

In preparing for the 1996 elections, the INEC itself attempted to change this time-consuming process, noting in its 1996 Report that:

"A system which the Commission felt would enhance and strengthen its independence and neutrality was the Self Accounting Status. It was proposed that such autonomy would reduce bureaucratic red tape and enable the Commission to function more efficiently and expeditiously. The Commission was aware of the provision in section 11 of the Decree which stipulated that all salaries, allowances and administrative and other expenses of the Commission shall be charged on the Consolidated Fund. It, however, suggested that such payments could be made on a quarterly basis to INEC's operational account which would then greatly facilitate its operations and decision-making. At that time, as now, the processing of vouchers, and ministerial concurrences, etc., greatly hampered the operations of the Commission. The payment procedure proposed by the Commission is currently utilised by several such independent institutions such as the university."<sup>7</sup>

The NPRC did not accept the INEC's proposal for Self Accounting Status and therefore the INEC did not have control over its payments. However, the INEC did have a certain degree of Self Accounting Status in its use of donor contributions to the 1996 elections in that those funds were deposited into an INEC account from which payments could be made directly by the Commission.

To ensure the independence of the Commission and the credibility and timeliness in which the elections are conducted, the government of Sierra Leone should give serious consideration to the granting of Self Accounting Status to the new NEC. Under this status, once funding is allocated to the NEC, the Commission should have complete control over expenditures and not be required to refer back to Parliament or any government ministry for authority to spend, subject to the usual government checks. The Commission would submit annual audited accounts to (preferably by a recognised independent body) to Parliament, and should be answerable to Parliament on any spending issue, as is usually the case with any government department.

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<sup>7</sup> *Report on the Work of the Interim National Electoral Commission (INEC): 1994-1996*, (INEC, Freetown: December 1996), p. 6.

It should also be noted that the Government of Sierra Leone and INEC still owes vendors and service providers an estimated Le730 million (approximately \$US275,000 at today's rate) from the administration of the 1996 elections. It is strongly suggested that these accounts be reviewed so that the new NEC's organisation of the upcoming elections does not suffer unduly from a lack of support on the part of local providers.

## **2. Independence in Appointment of Staff**

As a public institution, the constitutionally established Electoral Commission is staffed by civil servants who are appointed by the Public Service Commission (PSC). In filling vacancies at the level of the professional staff (election officers, etc.) an INEC representative is allowed to sit on the board of the PSC which reviews the candidates for these positions. The highest level of the INEC's permanent staff is the Executive Secretary. The INEC does not have the sole authority to appoint and release its staff.

Decree No. 1, 1994, which established the INEC contained three articles that designated the staffing of the Commission:

Section 10(Article 1): "The Commission shall employ such staff as it thinks necessary for the efficient performance of its functions;" and

Section 10(2): "Public officers may be seconded or transferred to the Commission."

Section 10(3): "The staff of the Commission shall be employed on such terms and conditions as the Commission may determine."

On the basis of this Decree, the INEC requested a new staff structure (see below) and a new salary structure and conditions of service. The NPRC rejected these proposals and the staffing of the INEC remained in the hands of the Public Service Commission.

With the establishment of the new NEC, and the repeal of Decree No. 1, 1994, the staffing of the Commission could remain under the purview of the Public Service Commission. However, it is strongly recommended that the NEC be authorised to recruit, hire and release its own staff. At the present time, Customs and Excise, another public institution, is being so reformed.

If such an action is taken, the independence of the National Electoral Commission would be enhanced and the Commission's capacity would be strengthened as it could ensure that its staff will be directly accountable to the institution and its objectives and responsibilities. Further, the NEC's appointment of its own staff will facilitate the hiring of the best qualified personnel as will the implementation of a salary structure which will entice and keep the technically skilled staff needed for election administration. The staff of the NEC is the key resource of the electoral process and constraints on the NEC to employ and develop this resource should be removed.

Clearly, fair and transparent procedures for recruitment and appointment of staff will need to be developed to ensure that staff with appropriate qualifications and sound integrity are brought on board. However, it should be noted that, no matter how good the staffing process, there will always be some staff who do not carry out their duties to the required standard. The electoral law, therefore, must include provisions for the standards of conduct of staff and for their removal if appropriate. Reasons for dismissal would include: "misconduct; support for or involvement with a political party or candidate; not undertaking duties to the required standard. The appointment process should make the disciplinary code and the electoral offences prescribed in the law quite clear to staff."<sup>8</sup>

## **B. DEVELOPING THE CAPACITY OF THE COMMISSION**

### **1. Staff Re-Structuring**

Following the establishment of the INEC in 1994, the Commission put forward a proposal to hire additional professional staff and to further the professional development of the Commission's permanent staff. The INEC noted in its 1996 report that:

"This structure allowed for growth, especially professional growth, thereby ensuring that a person who chose elections as a career had the opportunity to grow from Assistant District Elections Officer to Executive Secretary. The Commission knew that certain positions required some element of administrative responsibility, but saw no need to have an officer exclusively for administrative purposes as is the practice in the civil service."<sup>9</sup>

As with the proposals noted above, the NPRC rejected the INEC's plan to restructure its staff.

The proposed structure makes the Executive Secretary the chief administrator of the electoral process, responsible for the management of the elections and the operations of the Commission, rightly tasking a permanent staff member of the Commission with responsibilities which should be undertaken by an elections professional. Within this structure, the Chief Electoral Commissioner and the Commission members have oversight and policy-making responsibility as is befitting appointed and non-permanent Commission members. The Executive Secretary carries out the decisions of the Electoral Commission. Under this structure, the Executive Secretary would have administrative as well as professional elections staff reporting to him/her.

The proposed staff structure differs greatly from the present staff structure in that it significantly augments the core of professional, permanent election officials of the

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<sup>8</sup> George R. Smith, "Appointment of Staff" in *Electoral Management, Administration and Cost of Elections (ACE) Project*, (International IDEA, United Nations, International Foundation for Election Systems, 1998).

<sup>9</sup> *Report on the Work of the Interim National Electoral Commission (INEC): 1994-1996*, (Freetown: INEC, 1996), p. 6.

Commission and provides for the advancement of these staff. The new structure has regard to the separate and distinct functions undertaken prior to, during and after the elections by adding departments which are specifically tasked with some of the functional areas of the Commission's work: voter education, voter registration, data processing and logistics. These departments, directed by senior elections officers or election officers, need not unduly add to the staff size of the Commission, and should be staffed by personnel with the technical skills to undertake the required responsibilities. For example, the voter education department should include those with experience in public outreach programs, the media or teaching, while the logistics department would be composed of staff with experience in procurement, distribution and operational planning.

Elections Commissions in many parts of the world have a staff structure similar to that proposed by the INEC. It is common for an independent Commission to have the following divisions:<sup>10</sup>

Logistics or Operations Division. Responsible for the procurement and distribution of election materials, identification of voting sites and the creation of timetables for the different functions at election time.

Information Technology Division. Responsible for planning and developing computerised information systems for the national election body when such technology is to be used.

Finance Division. Responsible for the production of timely budget estimates, management of funds, making payments to suppliers and staff and reporting on the use of funds.

Personnel Division. Responsible for the recruitment and training of election staff centrally and throughout the country.

Legal Division. May be responsible for drafting new election laws and procedures and interpreting the law for the national body to determine its position on legal challenges and complaints.

Voter Education Division. Useful in new or developing democracies and particularly when changes in methods of voting or new election systems are introduced. This division handles the design of posters and other civic and voter education material and delivers programs throughout the country via media, distribution of materials, production of videos or touring theatres to get its message across.

The administration of elections requires specific technical skills and the establishment of functional departments, staffed with qualified personnel, ensures that these technical skills are present in the Commission.

It is suggested that before the new NEC resubmits its staffing plan, that it review its proposed staff size, structure and position descriptions in light of its operational needs and the proposed election calendar.

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<sup>10</sup> Charles Lasham, "Appointment of Staff" in *Electoral Management, Administration and Cost of Elections (ACE) Project*, (International IDEA, United Nations, International Foundation for Election Systems, 1998).

## **2. Maximising the Impact of International Technical Assistance**

In preparing for and conducting the 1996 elections, the Interim National Electoral Commission requested the assistance of international technical advisors from the Commonwealth, EU and the United Nations to work with the Commission in the areas of voter education, logistics, law, publicity and computerisation of the voter's roll. With the exception of publicity, as mentioned above there are no permanent staff assigned fully to these functional areas. As a result, for example, there is little knowledge at the Commission concerning the operation of the Optical Mark Reader (OMR) scanners (used for the computerisation of the register) or the use of the computerised database. Further, as the Commission members also had functional responsibilities (in addition to their regional assignments), some of the Commission's capacity in these areas was developed in these temporary members of the Commission instead of in the permanent staff.

It is clear that international technical assistance will need to be provided to the new NEC for it to properly conduct the upcoming elections. The Commission's present staff structure does not give it the technical capacity needed nor the adequate number of professional staff required. International consultants in the following areas are recommended:

- logistics/operations;
- law;
- voter education;
- personnel/training;
- information technology; and
- accounting (to facilitate the NEC's transition to Self-Accounting Status).

It is also recommended that the international community provide a Chief Technical Advisor to the Commission.

The objectives of the international technical assistance to the Commission should be twofold:

1. to increase the capacity of the Commission to administer credible elections;  
and
2. to assist the Commission in the administration of the upcoming elections.

The international consultants should be paired with permanent staff who will eventually direct and staff the proposed functional departments of the Commission. The consultants and the assigned NEC staff should work jointly in the development of the operational plan for their area and should collaborate in its implementation. Each international consultant should have the specific responsibility to train their counterparts in their functional area and to work with the consultant focusing on personnel/training to devise a training program for the permanent staff of the Commission which would be ongoing throughout the preparations for the elections.

The Chief Technical Advisor should partner with the Executive Secretary, particularly given the proposed new responsibility of the Executive Secretary as the chief



administrator of the electoral process. The CTA would assist the Executive Secretary in the management of the elections, thereby contributing to the development of this person's skills as an election administrator. The CTA would work to ensure the credibility of the electoral process, also advising the Commission members on policy decisions and assisting the NEC in its consultation with political parties and key stakeholders of Sierra Leonean society. Additionally, the CTA would work with the other international consultants to promote the professionalisation and the institutional development of the Commission.

### **C. STRATEGIC AND OPERATIONAL PLANNING**

As soon as the new National Electoral Commission (NEC) is established, and the five Commissioners approved by Parliament, the first order of business should be the preparation of a strategic plan by the Commissioners and the professional and senior staff of the Commission. The international Chief Technical Advisor should also participate in this exercise. The strategic plan should specifically address the principles of the work of the Commission, staff structure of the Commission and the Commission's financial status. Further, given the uncertain legal framework for these elections, one of the key objectives of the strategic plan would be to underscore the administrative implications of some of the policy decisions that will need to be made. The development of such a strategic plan should not be fully dependent on these policy decisions, but rather early planning can serve to inform the policy-makers and consequently expedite the decision-making process.

Once a strategic plan is completed, a more specific operational plan should be developed which clearly sets out the implementation of the strategic plan against specific objectives and within a certain timeframe. Additionally, the operational plan will identify the specific human, material and financial resources needed to administer the electoral process. The additional international consultants, working with the Commission in the areas as described above, should participate in the operational planning along with the Commissioners, CTA, and professional and senior staff of the Commission.

Prior to the development of an operational plan, the Commission should undertake a complete personnel and material audit. With regard to materials, it should be noted that most of the materials (election kits, communications equipment, office equipment, etc.) that were stored in the district offices were looted during the war. Some material does remain at the INEC's storehouse in Wellington, outside of Freetown, and in the Freetown headquarters of the Commission. With regard to the computer equipment at the Freetown office, all machines need to be serviced and upgraded and many of the machines are missing parts. The three OMR (optical mark reader) scanners purchased for the 1996 elections are at the Commission's Freetown office and need servicing and replacement parts.

The NEC already has a solid basis for the development of its strategic and operational plans in that following the 1996 elections, the INEC issued a report on its work from 1994-1996 which contains many lessons learned and recommendations

for the administration of future elections. This report should be reviewed as the new NEC undertakes this planning process.



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## Section V

# RECOMMENDED WAY FORWARD

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The recommendations enumerated below are designed to provide a way forward for the National Electoral Commission (NEC), the political parties, and other key stakeholders in Sierra Leone as they work in the immediate term to prepare for the elections. These recommendations do not constitute a plan for the conduct of the elections; rather it is hoped that these steps will facilitate development of that plan by suggesting mechanisms for the design of the electoral framework and institutional preparation on the part of the NEC.

While some of these recommendations are not costly to undertake, it should be noted that some of these action steps require the support of the Government of Sierra Leone and the international community. It is recognised that there are limited funds available to conduct these elections but it is recommended that expenditures in the immediate term, to ensure the foundation of a credible and viable electoral framework, will promote effective election administration and significant cost-savings in the longer term.

1. **Establishment of a Consultative Committee by the National Electoral Commission (NEC) to facilitate and formalise the Commission's consultations with political parties and civil society.**
  - Immediately upon its establishment, the NEC should convene a Roundtable of all registered political parties and representatives of civil society to identify the fundamental issues that must be addressed in developing the electoral framework for the upcoming elections. The objective of the roundtable would be to formally establish a Consultative Committee which would meet regularly with the NEC throughout the electoral process. The roundtable would address the Terms of Reference and composition of the Consultative Committee.  
*Time frame: By mid-January 2000.*
  - The Consultative Committee should be established by mid-January 2000, following the January Roundtable. It is suggested that among the issues that should be immediately addressed by the Committee would be:
    - the Constitutional and legislative provisions regarding the timing of the presidential and parliamentary elections;
    - the electoral system for the parliamentary elections; and
    - the need for a universal electoral law.*Time frame: First meeting of the Consultative Committee in the second half of January with regular meetings throughout the electoral process.*

- Under the auspices of the NEC, a Roundtable on Electoral Systems should be held in Freetown for political parties, civil society and the media to discuss the advantages and disadvantages of various electoral systems, with a focus on the First Past the Post (FPTP) and proportional representation (PR) systems. It is recommended that the international community support the provision of legal and electoral systems experts to serve as presenters at this Roundtable. Additional copies of conference materials should be made available to facilitate dialogue within political parties and civil society organisations outside of Freetown. The proceedings of the Roundtable will inform the discussions within the Consultative Committee with regard to the electoral system.

*Time frame: By mid-February 2000.*

## **2. Provision of international technical assistance to the National Electoral Commission to strengthen its ability to conduct the elections and enhance its professional development.**

- The international community should fund a Chief Technical Advisor (CTA) who will work with the NEC throughout the electoral process to advise and assist in the administration of the elections. The CTA would advise the Commission members on policy decisions and assist the NEC in its consultation with political parties and key stakeholders of Sierra Leonean society. The CTA would also assist the NEC's Executive Secretary in the management of the electoral process.

*Time frame: January 2000 to the conclusion of the electoral process.*

- The international community should also support the provision of international consultants in the areas of logistics/operations, law (see Recommendation 3, below), voter education, personnel/training, information technology and accounting. In addition to assisting the NEC in the conduct of the elections, the international consultants would seek to build the technical capacity of the NEC's permanent, professional staff.

*Time frame: February 2000 to the conclusion of the electoral process.*

- The CTA and the international consultants should assist the NEC in developing strategic and operational plans to administer the elections. The strategic plan should specifically address the principles of work of the Commission, staff structure of the Commission and the Commission's financial status. The operational plan should identify the specific human, material and financial resources required by the NEC. Prior to the development of the operational plan, the NEC should undertake a complete personnel and material audit.

As the operational plan and corresponding budget are completed, the NEC should consult with the government of Sierra Leone and the international community concerning the assistance needed. It is important to note that financial considerations will impact fundamental issues of the electoral

process as well as administrative procedures. For this reason, the NEC, and the Consultative Committee, should ensure that they are fully aware of the available financial support from the government of Sierra Leone and the international community for this process.

*Time frame: Planning to begin in February 2000.*

**3. Establishment of a schedule for the forthcoming elections.**

- The current Constitutional and legislative framework sets out separate voting days for the presidential and parliamentary elections as well as a possible presidential run-off. One of the responsibilities of the Consultative Committee should be to consider the schedule of elections, in light of the desired electoral framework and administrative and financial constraints. Two possible mechanisms exist to change the current legal provisions with regard to the timing of the elections: that of the Constitutional Review Committee (CRC) and that of a Parliamentary bill.

*Time frame: Initial schedule to be formulated by February 2000.*

**4. Enactment of a universal election law prior to the conduct of the next national elections in Sierra Leone.**

- The scope of this law should consolidate both the Constitutional and legislative provisions that currently exist, together with any amendments that need to be made, into one coherent and logical document that is both informative and easy to understand by any reader. This universal electoral law should: clarify the powers and responsibilities of the National Electoral Commission; clearly set out the conditions for the registration of political parties; provide for the regulation of the conduct of registered political parties; define the principles of electoral enfranchisement together with sufficient detail to regulate its operation; detail the administrative arrangements for the conduct and regulation of presidential and parliamentary elections including the electoral system to be used; define the rights and responsibilities of international and domestic monitors; and mandate the adjudication process for the resolution of disputes.

While it is clear that much of the drafting of a universal election law can not be completed until the conclusion of consultations concerning the type of electoral system for the parliamentary elections, it is recommended that the consolidation of the various legal instruments concerning the administration of the elections begin immediately so that the drafting and enactment of the law serves to facilitate rather than hamper the administration of the elections.

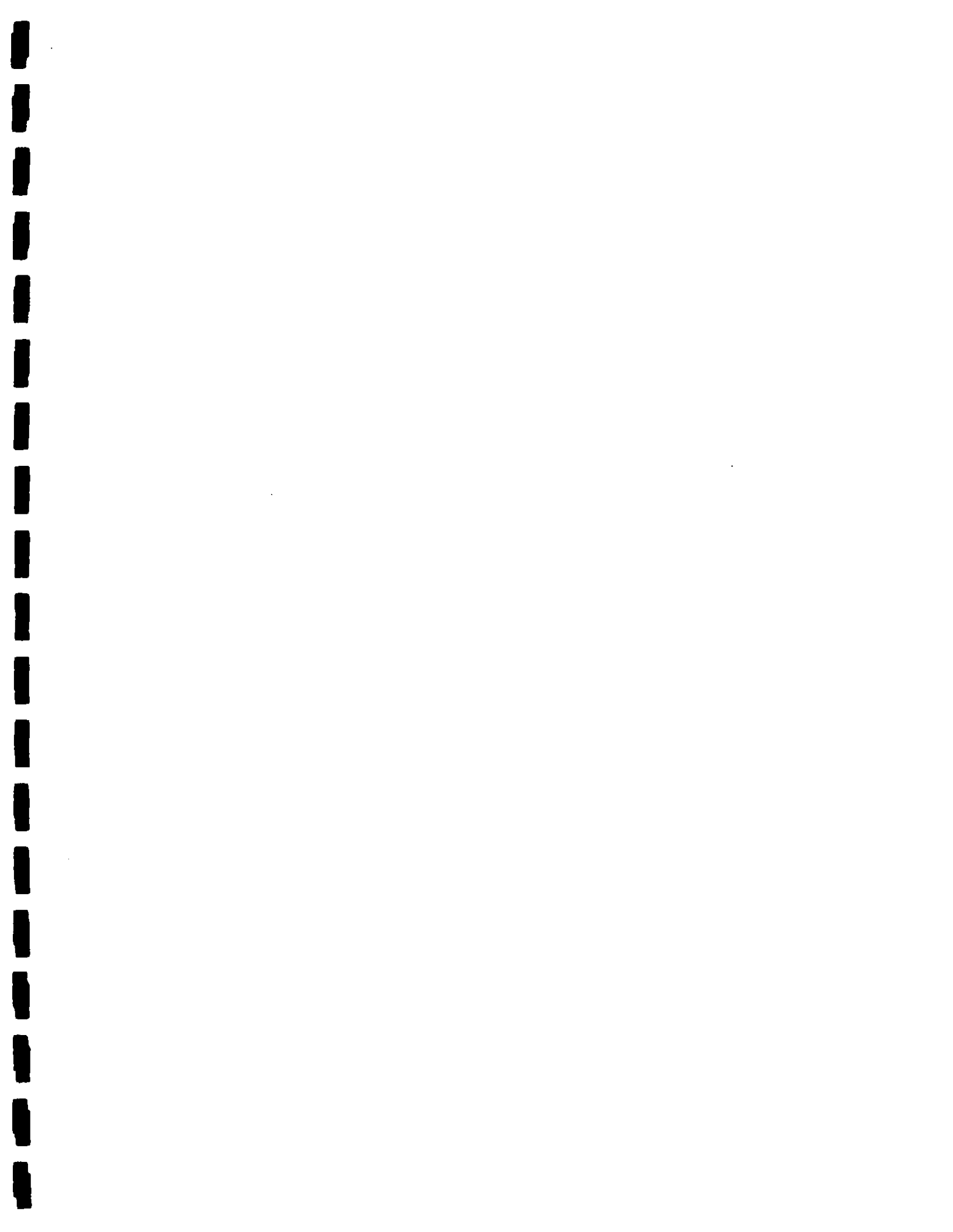
It is recommended that the international community fund a technical legal advisor who is fully conversant in electoral and Constitutional law and who would work in partnership with the appropriate staff of the NEC on this project.

*Timeframe: Consultant to arrive by end of January 2000.*

**5. Re-structuring of the National Electoral Commission to enhance its independence and professional capacity and effectiveness.**

- It is recommended that the NEC be authorised to recruit, hire and release its own staff; that the NEC be granted Self Accounting Status and that the NEC's staff structure be re-organised to promote the professional development of the permanent staff and to increase its technical capacity.

*Timeframe: The planning process for this re-structuring should begin with the development of the Commission's strategic plan in February 2000. Additional professional staff, to head the proposed functional departments, should be hired by April 2000. It is recognised that full re-structuring could be a lengthy process.*





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