

**DEMOCRATIC REPUBLIC OF TIMOR-LESTE  
NATIONAL PARLIAMENT**

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**Law. ..../2004**

**on  
the Election of *Suco* Chiefs and *Suco* Councils**

The election of *suco* chiefs and *suco* councils is of paramount importance to legitimise community authority and develop the basic structures of such authority.

The purpose of local structures is to organize the citizen's democratic participation in solving specific problems of his or her community, thereby contributing in a decisive manner to the sustainable and smooth development of the country.

By recognising the existing organisation, the electoral law will facilitate the legitimisation of such organisation through local elections.

Local elections held by secret, free, equal and direct ballot of community members will ensure that community leaders are granted the required legitimacy in accordance with the provisions of the Constitution. On the other hand, and taking into consideration the importance of participation by women, young people and senior citizens in a society that should be fully participatory, this law establishes *suco* councils that will have seats not only for *suco* chiefs and village chiefs, but also for personalities from specific groups in representation of *sucos* as a whole.

Moreover, as the Constitution determines, under its Section 65, that "registration of voters shall be compulsory and officially initiated, single and universal", and since no registration of voters has been carried out previously, this law also establishes the general principles for the organization of such registration, without prejudice to a future law specifically dealing with this matter.

Under the terms of Section 92 and paragraph h), item 2, Section 95, of the Constitution, the National Parliament therefore enacts the following that shall have the force of law:

**Part I  
Scope and general principles**

**Article 1  
Scope**

This law shall regulate the organization and execution of the process to elect a *suco* chief and the members of a *suco* council.

**Article 2**  
**Elections**

1. A *suco* chief and the members of a *suco* council shall be elected by universal, free, direct, secret, personal and periodic ballot.
2. Every person, female or male, shall be eligible to be elected as *suco* chief or as representative village chief and *suco* elder to a *suco* council.

**Article 3**  
***Suco* council**

1. A *suco* council shall be composed of the *suco* chief, the chiefs of all villages comprising the *suco*, and the following members:
  - a) two women;
  - b) one young person from each gender group;
  - c) one elder from the *suco*.
2. For the purposes of this law, a young person is an individual aged between 17 and 35 on the polling day, and an elder is an individual aged over 50 on the polling day or an individual recognized by his or her community as a *lian nain*.

**Article 4**  
**Forfeiture of office**

1. A *suco* chief or member of a *suco* council who, during his or her term of office and during a period exceeding three consecutive months, takes residence outside the *suco* or village for which he or she was elected shall forfeit his or her term of office.
2. A *suco* chief or member of a *suco* council who is finally sentenced by a court for a crime involving malicious aforethought and carrying an imprisonment penalty shall also forfeit his or her term of office, irrespective of the sentence length.
3. Forfeiture of office shall cause a new election to be held except where such situation occurs three months before the end of a term, in which case the vacant seat shall be filled by temporary substitution, as provided for under Article 5 below.

**Article 5**  
**Temporary substitution**

1. In case of forfeiture of office under the terms of Article 3 above or inability to act due to lingering illness of a *suco* chief or member of a *suco* council, substitution shall take place after consultations with the community.

2. In either situation contemplated under item 1 above, consultations with a community shall take place at a gathering convened and conducted by the *suco* council concerned. Such gathering shall be attended by the voters of the respective village or *suco*.
3. Once the consultation process has been completed, the *suco* council shall prepare a report on the meeting with an indication of the voters who attended and the designated substitute.

**Article 6**  
**Duration of term**

1. The term of office for a *suco* chief or members of a *suco* council elected at the first election, following the approval of this law, shall be of four years counted from the day the last election was carried out in accordance with this law.
2. Subsequent terms shall be of three years.

**Part II**  
**Eligibility to vote and candidacies**

**Article 7**  
**Eligibility to vote**

1. National citizens aged over 17 shall be eligible to vote in an election of *suco* organs, provided that they meet the following requirements on the polling day:
  - a) To reside in the *suco* during the previous six months; and
  - b) To be registered in the *suco*'s electoral roll.
2. To vote in the election of a village chief, a voter will have to reside in the respective village, besides the requirements contemplated under item 1 above.

**Article 8**  
**Disqualification of a voter**

A person in the following situations shall be disqualified from voting:

- a) To be barred by a final sentence; and
- b) To be clearly and publicly known as an insane person.

**Article 9**  
**Eligibility of candidates**

Any person who is eligible to vote shall have the right to be elected, provided that by the polling day he or she has resided for at least one year without interruption in the *suco* or village to the organs of which he or she is seeking election.

**Article 10**

## **Limitations on candidacies**

1. The following entities shall be barred from seeking election to *suco* organs:
  - a) The President of the Republic;
  - b) Members of Parliament;
  - c) Members of the Government;
  - d) Judges and public prosecutors;
  - e) Religious leaders;
  - f) Members of the police force;
  - g) Members of FALINTIL-FDTL;
  - h) Public servants.

## **Article 11 Incompatibilities**

A candidate shall not seek to be simultaneously elected as *suco* chief and member of a *suco* council.

## **Article 12 Submission of candidacies**

1. Candidacies may be submitted by the candidate him or herself or by one or more political parties on a day to be determined and widely publicised by the Technical Secretariat for the Administration of Elections (STAE). Such day shall be prior to the community gathering date.
2. Candidates shall be introduced to the public at a community gathering convened by STAE as provided for in this law.
3. A candidate nominated by one or more political parties shall produce, on the day of submitting the nomination or during the community gathering, a letter certifying the backing of the political party or parties in conditions to be established by STAE, otherwise he or she shall be considered as a candidate on an individual basis.
4. Where several candidacies are submitted, thereby rendering the voting process difficult or blocked, only candidacies obtaining more than 10% of support from voters present shall be accepted.
5. A candidate wishing to designate an agent shall do so at the time of submitting his or her candidacy.
6. Other rules of procedure shall be contained in a regulation to be prepared by STAE and approved by the National Electoral Commission.

## **Part III Electoral period and voting**

## **Article 13 Timeframes for the electoral campaign**

The electoral campaign shall begin once the list of candidates has been released by STAE, and it shall have a minimum duration of one week and end 48 hours prior to the polling day.

**Article 14**  
**Principles of the electoral campaign**

1. The electoral campaign shall be conducted in compliance with the following principles:
  - a) Freedom of electoral propaganda;
  - b) Equal opportunities and treatment for the different candidacies;
  - c) Impartiality of public entities in relation to candidacies;
  - d) Transparency and monitoring of electoral accounts.
2. The National Electoral Commission shall verify compliance with the principles set forth under item 1 above and shall take action to encourage a peaceful running of the campaign.

**Article 15**  
**Electoral calendar**

Once this law has been approved, STAE shall prepare an electoral calendar to be approved by the National Electoral Commission, and elections may be organized in one district or sub-district at a time.

**Article 16**  
**Polling stations**

1. At least one polling station shall be established in each *suco* and STAE may, according to the number of voters or the distances separating villages, establish more than one polling station.
2. The location and number of polling stations shall be made public together with the list of candidates.

**Article 17**  
**Electoral officers**

Each polling station shall be staffed by five electoral officers to be selected from among local voters and trained by STAE.

**Article 18**  
**Ballot boxes**

Each polling station shall have as many ballot boxes as the electoral process will require.

**Article 19**  
**Ballot papers**

The voting to elect a *suco* chief or member of a *suco* council shall be made by filling in the respective ballot paper.

**Article 20**  
**Operation of polling stations and the voting process**

The operation of polling stations and the voting process shall be subject to specific regulations drafted by STAE and approved by the National Electoral Commission.

**Part IV**  
**Counting of votes and determination of results**

**Article 21**  
**Closure of polling stations**

1. Once a polling station has been closed, its chairman shall give electoral agents a period for the submission of claims they may have on the voting process, and he or she shall inform them that no other claims shall be accepted after such period.
2. Claims submitted during the voting process or the period given by the chairman of the polling station shall be immediately examined by the electoral officers and STAE may, where required, be consulted.
3. A claim shall be subject to a decision by the electoral officers and such decision shall have to be endorsed by at least three of the electoral officers.
4. The decision on a claim shall be transmitted to the complainant who may address the claim to the National Electoral Commission by delivering it to the chair of the polling station concerned, in which case the claim shall be forwarded together with all documents related to such polling station.

**Article 22**  
**Counting of votes**

1. The counting of votes shall commence immediately after a polling station has been closed and claims have been examined, and it shall be carried out at the polling station by the electoral officers, in the presence of national and international observers, electoral agents, and members of the media.
2. In the election of the members of a *suco* council, a polling station shall count the votes of each type of candidate in turn, and blank or invalid ballot papers shall be recorded.
3. In the election of a *suco* chief or village chief, a polling station shall take turns to count the votes for village chiefs in alphabetical order, and the votes for

*suco* chiefs shall be the last to be counted. In both cases blank and invalid ballot papers shall be recorded.

4. Electoral agents may lodge claims during or after the counting, and such claims shall be decided upon under the terms of Article 21 of this law.
5. STAE shall prepare and disseminate the procedures to be adopted by the polling stations to monitor the voting process, count the votes, and determine the results.

### **Article 23**

#### **Validation and announcement of results**

1. In *sucos* operated by one single polling station, a report shall be prepared after the completion of the counting of votes and examination of claims, and such report, to be displayed outside the polling station, shall contain the general list of results and the winning candidates.
2. In *sucos* operated by more than one polling station, the results shall be partially determined on the polling day and the overall results shall only be determined the following day at a polling station to be earmarked in advance by STAE.
3. Where the determination of results is made on the following day, surveillance of a polling station and its ballot boxes shall be guaranteed by the electoral officers and by electoral agents, should the latter wish to do so.
4. The report, the general list of results, the names of the winning candidates, and any lodged claims shall be forwarded to STAE, which shall be headquartered in the district capital, and once the electoral process has been completed by sub-district or district STAE shall put together all the documents related to the voting process in each *suco* and address them to the National Electoral Commission for examination.
5. The National Electoral Commission shall examine the voting process along with any claims it may have received, and its decision, to be made within one week, shall be in the form of recommendations to the competent court.
6. The National Electoral Commission shall forward all the documents related to each polling station to the competent court, which shall validate and announce the results of the electoral process not later than one month of receiving the documents.
7. The competent court shall not validate the results determined at a polling station that has experienced irregularities likely to influence the final result, in which case the election concerned shall be invalidated.
8. Where claims connected with the voting process or counting of votes are submitted at a polling station having candidates with the same number of votes, the National Electoral Commission shall examine the case within the established timeframe and forward it to the competent court, which shall make a decision within one week.

### **Article 24**

### **Cancellation and repetition of an election**

1. Where the election of a *sucó* chief or member of a *sucó* council is invalidated, the electoral process shall be repeated as soon as possible but not later than two weeks after the decision invalidating the election has been released.
2. The election of a *sucó* chief or member of a *sucó* council shall only be invalidated and caused to be repeated under the terms of item 1 above if there have been irregularities that may influence the results.

### **Article 25 Winning candidates**

1. The candidate with the most votes shall be elected for the position.
2. In the case of young people, the winner shall be the most voted candidate in each gender group.
3. In the event of a tie among the candidates receiving the most votes, there shall be a run-off election within twenty days, in which only the tied candidates shall be allowed to contest, and the winner shall be the most voted contestant.

### **Part V Electoral registration**

#### **Article 26 Registration**

1. The electoral registration shall be compulsory and officially initiated, single and universal, and it shall be updated for each election.
2. The electoral registration shall be carried out by STAE under the supervision of the National Electoral Commission.
3. STAE shall determine and disseminate the technical procedures for the organization of the electoral registration.
4. Every person aged over 16 shall be registered, without prejudice to the provision of Article 7 of this law.

#### **Article 27 Voter's card**

1. STAE shall issue a voter's card to every eligible citizen to enable him or her to vote.
2. A voter shall have to produce his or her voter's card at a polling station to exercise his or her franchise.

#### **Article 28 Electoral rolls**



1. STAE shall prepare electoral rolls in accordance with information collected by registration.
2. STAE shall produce a preliminary version of the electoral rolls, which shall be displayed to the communities during a period to be determined by the National Electoral Commission, so that errors or omissions may be corrected.
3. The final electoral rolls shall be delivered to polling stations at least 24 hours prior to the beginning of the electoral process.
4. A voter shall have to be registered in the electoral rolls to exercise his or her franchise.

**Part VI**  
**National Electoral Commission**

**Article 29**  
**Establishment**

An independent electoral commission, named as the National Electoral Commission and invested with the competencies to supervise the electoral registration and elections regulated in this law, is hereby established.

**Article 30**  
**Composition**

1. The National Electoral Commission shall be composed of the following thirteen national citizens:
  - a) Three members appointed by the President of the Republic;
  - b) Four members elected by the National Parliament;
  - c) Three members appointed by the Government;
  - d) One judge elected by his or her peers;
  - e) One public prosecutor elected by his or her peers;
  - f) One public defender elected by his or her peers.
2. Each of the entities referred to under paragraphs a), b), and c) of item 1 above shall designate at least one woman to serve on the National Electoral Commission.
3. Only East Timorese nationals of original citizenship, known to have suitable character and no leadership responsibilities in a political party may be elected or appointed to the National Electoral Commission.

**Article 31**  
**Status**

1. A member of the National Electoral Commission shall not be removed from office and shall be independent in the exercise of his or her functions.

2. A member of the National Electoral Commission shall forfeit his or her term of office if he or she submits his or her candidacy in an election regulated in this law.
3. In case of forfeiture of office by a member of the National Electoral Commission, he or she shall be substituted under the same terms as he or she has been appointed.

### **Article 32 Mandate**

1. The mandate of the National Electoral Commission shall commence on the day immediately after the official announcement of its members' names, and such announcement shall be made in a one-off act and before the beginning of the registration process.
2. The mandate of the National Electoral Commission shall cease with the submission of the final report to the competent court.

### **Article 33 Operation**

1. The Speaker of the National Parliament shall convene the first meeting of the National Electoral Commission and shall inaugurate its members.
2. At its first meeting, the National Electoral Commission shall elect its chairman from among its members.
3. The National Electoral Commission shall operate in plenary sessions and a quorum shall be present when seven of the members are attending.
4. Whenever possible, decisions shall be made by consensus and where consensus cannot be reached decisions shall be made by votes in favour of at least seven of the members.
5. The STAE Director shall attend the meetings of the National Electoral Commission with no right to vote.
6. At the end of every meeting of the National Electoral Commission a press communiqué announcing the matters discussed and decisions made shall be issued.

### **Article 34 Examination of complaints and claims**

1. The National Electoral Commission shall, within 15 days of its inception, approve the procedures for the reception and examination of complaints and claims, which shall be published in the Official Gazette. Such procedures shall be drafted by STAE.
2. STAE shall disseminate the procedures referred to under item 1 above during the registration process and training to be delivered to electoral officers.

## **Article 35 Competencies**

The competencies of the National Electoral Commission shall be as follows:

- a) To oversee the electoral registration and electoral acts;
- b) To ensure that constitutional and legal provisions regarding the electoral process are complied with;
- c) To approve codes of conduct to be drafted by STAE for candidates, observers, electoral monitors, and members of the media;
- d) To define the rules for the running of the electoral campaign and ensure that such rules are complied with;
- e) To guarantee equal treatment to all citizens in all registration and elections;
- f) To ensure equal opportunities of action and propaganda for candidates during the electoral campaign;
- g) To receive, examine, and decide upon complaints and claims lodged in connection with the candidacy submission process, and make recommendations to the competent court in case of claims connected with the voting process and the determination of results;
- h) To submit the determined results to the competent court for the purposes of validation and announcement, and to the National Parliament for information;
- i) To notify the public prosecution service of any illegal electoral acts the Commission may become acquainted with;
- j) To produce a final report within 30 days after completion of the electoral process;
- k) Any other competencies arising out of the nature of the Commission's functions.

## **Part VII Electoral offences**

### **Article 36 Candidacy by an ineligible citizen**

A person not eligible to be a candidate who maliciously submits his or her candidacy shall be punished with a 1- to 3-month prison term or a fine penalty of \$50 to \$150.

### **Article 37 Violation of the duties of neutrality and impartiality**

A civil servant involved in electoral administration or collaborating with the process in any other form who violates the duties of neutrality and impartiality established for such functions shall be punished with a 3- to 6-month prison term or a fine penalty of \$150 to \$250.

### **Article 38**

### **Impersonation or illegal use of a symbol**

A person who impersonates a candidate or uses a symbol of a political party with the intention of doing damage to or debasing such candidate or political party shall be punished with a 1- to 3-month prison term or a fine penalty of \$50 to \$150.

### **Article 39**

#### **Violation of freedom of electoral assembly**

A person preventing the holding or continuation of an electoral campaign meeting, rally, procession or parade shall be punished with a 1- to 3-month prison term or a fine penalty of \$50 to \$150.

### **Article 40**

#### **Damage to electoral campaign material**

1. A person who steals, destroys, tears or otherwise renders partly or wholly unusable or unreadable electoral campaign material on display, or where he or she disfigures such material or places an object on top of it to obstruct its sighting, shall be punished with a 1- to 3-month prison term or a fine penalty of \$50 to \$150.
2. The provisions of item 1 above shall not apply where the electoral campaign material is displayed on the person's property without his or her consent or where the material is clearly outdated.

### **Article 41**

#### **Campaigning after closure of the electoral campaign**

A person who engages in electoral campaign on the polling day or during the two preceding days by any means or by using visible symbols of candidates, and refuses to remove such symbols after being requested to do so, shall be punished with a 6-month to 1-year prison term or a fine penalty of \$250 to \$500.

### **Article 42**

#### **Sale and intake of alcoholic beverages**

A person who on the polling day sells, supplies, buys, serves or takes alcoholic beverages at a polling station or within a 100-metre radius of the polling station shall be punished with a 3- to 6-month prison term or a fine penalty of \$150 to \$250.

### **Article 43**

#### **Infringement of the electoral eligibility**

A person without electoral eligibility who appears at a polling station to vote by usurping the identity of a registered voter, or by producing a voter's card that has been doctored

with the intention of misleading shall be punished with a 6-month to 1-year prison term or a fine penalty of \$250 to \$500.

**Article 44**  
**Abusive acceptance or rejection of a vote**

A person aiding the acceptance of vote by a person who is not eligible, or the rejection of vote by an eligible person, shall be punished with a 6-month to 1-year prison term or a fine penalty of \$250 to \$500.

**Article 45**  
**Impediment to franchise by abuse of authority**

A State official who on the polling day maliciously forces a voter to leave, or to stay inside, his or her own home to prevent him or her from voting shall be punished with a 1- to 2-year prison term or a fine penalty of \$500 to \$1,000.

**Article 46**  
**Deceitful attorney**

A person who accompanies a disabled citizen to vote and in a malicious manner misrepresents the will of the disabled citizen shall be punished with a 6-month to 1-year prison term or a fine penalty of \$250 to \$500.

**Article 47**  
**Violation of the secrecy of vote**

1. A person who resorts to coercion or device of any other nature or uses his or her ascendancy over a voter inside a polling station or within a 100-metre radius of the polling station to know what candidate the voter has chosen shall be punished with a 6-month to 1-year prison term or a fine penalty of \$250 to \$500.
2. A person who discloses at a polling station the candidate for whom he or she will vote or has voted shall be punished with the same penalty as under item 1 above.

**Article 48**  
**Coercion and fraudulent device over a voter**

1. A person who resorts to violence or threats against a voter or who resorts to deceit, fraudulent devices, false reports or any other illicit means to constrain the voter or induce him or her into voting for a specific candidate or abstain from voting shall be punished with a 1- to 2-year prison term or a fine penalty of \$500 to \$1,000.

2. The penalties contemplated under item 1 above shall be aggravated where a threat is made with a weapon or violence is by more than two people.

#### **Article 49**

#### **Abuse of public functions or the equivalent**

Any public office-holding citizen, civil servant, agent of the State or of any other public corporation, and religious authority that abuse their functions or do so in the exercise of such functions by using the functions as a way of constraining or inducing voters into the choice of a specific candidate or abstention from voting for such candidate shall be punished with a 2- to 3-year prison term or a fine penalty of \$1,000 to \$2,000.

#### **Article 50**

#### **Dismissal or threat of dismissal**

A person who dismisses or threatens to dismiss another person from his or her employment, who prevents or threatens to prevent another person from obtaining employment, who applies or threatens to apply any other abusive retribution in order to force another person to vote or abstain from voting, or because another person has voted, or has not voted, for a specific candidate, or because another person has abstained, or has not abstained, from participating in the electoral campaign shall be punished with a 1- to 2-year prison term or a fine penalty of \$500 to \$1,000.

#### **Article 51**

#### **Electoral corruption**

1. A person who offers, promises or actually gives public or private employment or another benefit or advantage, in connection with an election, to one or more voters or, by agreement with the voters, to a third party, even where such benefits are masked as cash compensation given to the voter or under the pretext of expenditure with the electoral campaign, shall be punished with a 1- to 2-year prison term or a fine penalty of \$500 to \$1,000.
2. A voter who accepts any of the benefits contemplated under item 1 above shall be punished with a 6-month to 1-year prison term or a fine penalty of \$250 to \$500.

#### **Article 52**

#### **Placement of ballot papers in ballot boxes, misplacement of ballot boxes or ballot papers**

A person who fraudulently inserts ballot papers into a ballot box or who, after the voting has commenced, places in a ballot box anything other than a ballot paper, or who takes a ballot box with the ballot papers contained in it but not yet determined, or who takes one or more ballot papers at any time between the opening of the polling station and the

determination of results, shall be punished with a 1- to 2-year prison term or a fine penalty of \$500 to \$1,000.

**Article 53**  
**Obstruction to monitoring**

A person who prevents any candidate's agent from entering a polling station or leaving it, or who tries otherwise to raise obstacles to the exercise of all powers bestowed by this law to a candidate's agent shall be punished with a 3- to 6-month prison term or a fine penalty of \$150 to \$250.

**Article 54**  
**Refusal to accept claims**

The chairman of a polling station who without justification refuses to accept a claim shall be punished with a 1- to 2-year prison term or a fine penalty of \$500 to \$1,000.

**Article 55**  
**Disturbances at a polling station**

1. A person who disturbs the smooth functioning of a polling station with insults, threats or acts of violence resulting in turmoil shall be punished with a 2- to 3-year prison term or a fine penalty of \$1,000 to \$2,000.
2. A person who enters a polling station during the electoral operations without having the right to do so and who refuses to leave it upon being ordered to do so by the chairman of the polling station shall be punished with a penalty of \$150.
3. The penalty contemplated under item 2 above, aggravated by a 3-month jail term, shall also apply to a person who enters a polling station with a weapon, irrespective of whether such weapon is immediately seized or not.

**Article 56**  
**Non-appearance of the police**

Whenever the presence of the police is required and they fail to appear without justification, the officer to be blamed for the failure to appear shall be punished with a 1- to 2-year prison term.

**Article 57**  
**Falsification of electoral rolls, ballot papers, reports and electoral documents**

A person who by any means tampers with, replaces, erases, destroys or falsely composes electoral rolls, ballot papers, reports, or any other electoral documents shall be punished with a 1- to 2-year prison term or a fine penalty of \$500 to \$1,000.

**Article 58**  
**Slanderous report**

A person who without evidence and maliciously blames another person of having committed any of the offences provided for in this law shall be punished with a 3- to 6-month prison term or a fine penalty of \$150 to \$250.

**Article 59**  
**Bad faith claim**

A person who in bad faith lodges a claim or who challenges decisions made by the electoral organs through a clearly groundless claim shall be punished with a 6-month to 1-year prison term or a fine penalty of \$250 to \$500.

**Article 60**  
**Non-compliance with other obligations imposed by law**

A person who fails to comply in precise terms with any obligations imposed on him or her by this law, or who does not perform administrative acts required for the quick execution of such obligations, or who delays without justification compliance with such obligations, shall, in the absence of specific incrimination, be punished with a 1- to 2-year prison term or a fine penalty of \$500 to \$1,000.

**Part VIII**  
**Final provisions**

**Article 61**  
**Inception of the term of office for members of the National Electoral Commission**

The official announcement of the members of the National Electoral Commission shall be made not later than one month from the publication of this law.

**Article 62**  
**Commencement of registration**

1. Registration may commence immediately after the swearing-in of the members of the National Electoral Commission.
2. The proposed rules of procedures contemplated in this law for both registration and election shall be prepared in time to be submitted by the STAE Director to the National Electoral Commission at its first meeting.

**Article 63**  
**Entry into force**



This law shall enter into force on the day immediately following its publication in the Official Gazette.

Approved on 16 December 2003.

The Speaker of the National Parliament,  
[signed]  
Francisco Guterres “Lu-Olo”

Promulgated on 10 February 2004

To be published

[signed]  
Xanana