

LAW 3/2009, of 8 July 2009

Community Leaderships and Their Election

The community leadership structures in Timor-Leste have undergone elections in 2004 and 2005 for the choice of the *Suco* Leaders and the *Suco* Councils, in accordance with the provisions of Law 2/2004, of 18 February 2004. As new elections approach, the need has arisen to establish a better definition and the action limits of the community leadership structures. The experience accumulated in managing the previous electoral process and that of the 2007 presidential and legislative elections is also used in this instance to promote changes aimed at improving the electoral process, by ensuring the democratic change-over in said structures.

Therefore the National Parliament, pursuant to Articles 92 and 95.2(h) of the Constitution of the Republic, enacts the following into law:

CHAPTER I
SCOPE AND GENERAL PRINCIPLES

Article 1
Scope

This law defines and governs the action limits of the community leadership structures, as well as the organization and implementation of the process for their election.

Article 2
Definition of community leadership

- 1 Community leadership is the collegial body the purpose of which is to organize the community's participation in the solving of its problems, to uphold its interests and to represent it whenever required.
- 2 The community leadership is exercised by the *Suco* Leader and the *Suco* Council, within the limits of the *Suco* and the relevant villages, elected in accordance with the provisions hereof.
- 3 The community leaders are not included in the Public Administration and their decisions are not binding upon the State.

Article 3
Definition and delimitation of *suco* and village

- 1 The *suco* is a community organization formed on the basis of historic, cultural and traditional circumstances, having an area established within the national territory and a defined population.
- 2 The village comprises a population cluster united by family and traditional bonds and connected to the *sucos* by historical and geographical relationships.
- 3 Powers to delimitate the number and areas of the *sucos* and the relevant villages shall lie with the Government.

Article 4
***Suco* Leader and *Suco* Council**

The *Suco* Leader is the community leader elected to direct the activities carried out by the community within a given *suco*, in fields contributing to the national unity and the production of goods and the provision of services aimed at satisfying the basic life and development needs, in close cooperation with the *Suco* Council.

Article 5
***Suco* Council**

- 1 The *Suco* Council is the collegial and advisory body of the *Suco*, intended to assist and advise the *Suco* Leader in exercising its duties, and shall operate for the benefit of the local community interests and without prejudice to the national interests.
- 2 The *Suco* Council comprises the *Suco* Leader, the leaders of all the villages comprising the *suco* and also the following members:
 - (a) Two women;
 - (b) Two youngsters, one of each gender;
 - (c) One elder;
 - (d) One *lian nain*.
- 3 The *lian nian* is not elected, but rather appointed by the *Suco* Council in its first meeting.

- 4 For the purposes of this law, "youngster" shall mean anyone who, on the Election Day, is between seventeen and thirty years old and "elder" shall mean anyone who, on the Election Day, is more than sixty years old.

Article 6 Elections

- 1 The *Suco* Leaders and the members of the *Suco* Councils shall be elected by universal, free, direct, secret, personal and periodic suffrage.
- 2 Men and women without discrimination may be candidates and be elected as *Suco* Leaders and members of the *Suco* Councils, provided they reach the age of seventeen until the time of submission of the candidacies.

Article 7 Loss of office

- 1 The *Suco* Leader and the member of the *Suco* Council who, during their term of office and without the authorization of the *Suco* Council, do not reside for more than three consecutive months in the *suco* or village for which they were elected, shall lose their office.
- 2 The *Suco* Leader and the member of the *Suco* Council who are convicted by a court decision with the condition of *res judicata* for a willful crime to which an imprisonment sentence corresponds, regardless of the duration thereof, shall also lose their office.
- 3 The *Suco* Leader or any member of the *Suco* Council who lose their office, resign or decease shall be replaced by the alternate indicated in the candidacy list.
- 4 The alternate *Suco* Leader or member of the *Suco* Council shall complete the term of office of the *Suco* Leader or member of the *Suco* Council being replaced.

Article 8 Temporary replacement

- 1 In the event of impediment or prolonged disease of the *Suco* Leader or a member of the *Suco* Council, they shall be temporarily replaced by another member or their alternates.
- 2 The decision on who shall temporarily replace the *Suco* Leader shall be taken by the absolute majority of the members of the *Suco* Council, in a meeting called and chaired by the eldest member of the *Suco* Council.

Article 9
Term of office

- 1 The term of office of the *Suco* Leaders and the members elected for the *Suco* Councils shall have duration of six years, and they may be reelected once.
- 2 The term of office shall commence upon the taking of office, which shall occur within thirty days of the announcement of the results.
- 3 The *Suco* Leader and the members of the *Suco* Councils shall be assigned to their offices by the Mayor, or the Government representative until such time as the municipality is instituted.

CHAPTER II
FIELD OF ACTIVITIES, RESPONSIBILITIES
AND FUNCTIONING

SECTION I
FIELD OF ACTIVITIES AND RESPONSIBILITIES

Article 10
Field of activities

- 1 The activities of the *Suco* Leader and the *Suco* Council may be carried out in fields such as the following:
 - (a) Peace and social harmony;
 - (b) Population census and registration;
 - (c) Civic education;
 - (d) Promotion of the official languages;
 - (e) Economic development;
 - (f) Food safety;
 - (g) Environmental protection;
 - (h) Education, culture and sports;
 - (i) Assistance in the maintenance of social infrastructures, such as housing, schools, health centers, opening of water wells, roads and communications.

- 2 The activities of the *Suco* Leader and the *Suco* Council shall be carried out without prejudice to such national programs and plans as approved by the Government.

Article 11
Responsibilities of the *Suco* Leader

- 1 The *Suco* Leader shall represent the *Suco* and chair the meetings of the *Suco* Council, and shall act with impartiality and independence in exercising their duties.
- 2 The *Suco* Leader shall also:
 - (a) Coordinate the implementation of the decisions taken by the *Suco* Council and, in cooperation with the other members of the *Suco* Council, promote a continuous consultation and discussion process with the whole community on the planning and execution of community development programs; Cooperate with the Municipal Administration and the Government representatives on the procedures to be adopted in carrying out the *Suco*'s activities;
 - (b) Favor the settlement of minor disputes involving two or more of the *Suco*'s Villages;
 - (c) Promote the creation of mechanisms for preventing domestic violence;
 - (d) Support such initiatives as are aimed at monitoring and protecting the victims of domestic violence and at dealing with and punishing the aggressor, in such a way as to eliminate the occurrence of said situations in the community;
 - (e) Request the intervention of the security forces in the event of disputes which cannot be settled at local level, and whenever crimes are committed or disturbances occur;
 - (f) Submit to the approval of the *Suco* Council the annual financial report and the annual report on the activities carried out;
 - (g) Exercise such other duties as are consistent with the nature of their duties, or as are assigned by the Government or the Municipal Administration.

Article 12
Responsibilities of the Suco Council

The *Suco* Council shall:

- (a) Assist the *Suco* Leader in preparing an annual development plan for the *Suco*;
- (b) Advise the *Suco* Leader in finding solutions aimed at the carrying out of activities within the *Suco*;
- (c) Identify, plan and monitor the carrying out of the activities in the fields of health, education, environment, employment and food safety promotion, amongst others to be carried out to favor the development of the *Suco*;
- (d) Call ordinary meetings at the *Suco* level, for the purpose of discussing development plans and activities;
- (e) Promote the respect for the principle of equality;
- (f) Promote the respect for the environment;
- (g) Ensure the respect for the *Suco*'s customs and traditions;

Cooperate with the Government and the Municipal Administration in implementing plans and activities aimed at promoting the development of the *Suco*;

- (h) Account to the Ministry of State Administration and Territorial Planning for the resources received from the General State Budget.

SECTION II
FUNCTIONING

Article 13
Functioning of the Suco Council

- 1 The *Suco* Council shall hold ordinary meetings once a month and special meetings at the request of the *Suco* Leader or of one-quarter of the members of the *Suco* Council.
- 2 In order to transact business, the *Suco* Council shall require the attendance of more than half its members, and its resolutions shall be adopted by the simple majority of the members attending the meeting.

- 3 In the event of a tie, the *Suco* Leader shall have the casting vote in their capacity as chairman of the *Suco* Council.
- 4 The *Suco* Leader may invite any citizen to participate in the meetings of the *Suco* Council, under the same terms as provided for in Article 10.3 above.

Article 14 **Village Leader**

Without prejudice to the responsibilities to be provided for in the law, the Village Leader shall, in their capacity as member of the *Suco* Council:

- (a) Be a member of the *Suco* Council in representation of the Village;
- (b) Implement such decisions approved by the *Suco* Council as have implications as regards the Village;
- (c) Provide the *Suco* Leader with such data as requested by them which are required for the coordination with the Ministries and the Local Administration;
- (d) Favor the creation of base structures for the settlement and resolution of minor disputes occurring in the Village;
- (e) Promote the respect for the law and cooperate in the pursuance of social stability;
- (f) Ensure the creation of mechanisms for the prevention of domestic violence, including by means of civil education campaigns in the relevant village;
- (g) Facilitate the creation of mechanisms for the protection of the victims of domestic violence and for the identification of the aggressors, in keeping with the seriousness and circumstances of each case;
- (h) Promote the consultation and discussion between the Village inhabitants on all matters in connection with the community life and development, and report to the *Suco* Council;
- (i) Exercise such other responsibilities as are consistent with the nature of their duties.

Article 15 **Rights of the *Suco* Leaders and members of the *Suco* Councils**

In exercising their duties, the *Suco* Leaders and the members of the *Suco* Councils shall have the following rights:

- (a) The right to receive an incentive, the value of which shall be proposed by the Ministry of State Administration and Territorial Planning, as follows:
 - (i) The *Suco* and Village Leaders shall be entitled to a fixed allowance and to attendance fees in the meetings;
 - (ii) The members of the *Suco* Councils shall be entitled to attendance fees in the meetings;
- (b) The right to such material resources as allow them to duly exercise their duties;
- (c) The right to education and training aimed at enhancing their skills;
- (d) Right to a compensation from the State for any accident in connection with the exercise of their duties.

Article 16
Incentives from the Government or the Municipality

- 1 The Government or the Municipality shall provide the *Sucos* with material and financial resources with a view to ensuring their proper functioning and development.
- 2 The amount to be granted to the *Sucos* shall be proposed by the Ministry of State Administration and Territorial Planning or the Municipal Assembly, taking into consideration the proposal submitted by the *Suco* Council.

CHAPTER III
ELECTORAL CAPACITY AND CANDIDACIES

Article 17
Active electoral capacity

The national citizens aged seventeen or more are entitled to vote for the *Suco* bodies, provided that they are enrolled in the list of voters of the *Suco* or Village in which they registered themselves.

Article 18
Passive electoral capacity

The Timorese citizens who:

- (a) Are fully entitled to their right to vote;

- (b) Reside and are registered as voters in the *Suco* or Village to which they submit their candidacy,

may be candidates.

Article 19 **Candidacy limits**

The following persons may not be candidates to the *Suco* bodies:

- (a) The President of the Republic;
- (b) The Members of Parliament;
- (c) The members of the Government;
- (d) The judicial magistrates and those of the Public Prosecution Office;
- (e) The religious authorities;
- (f) The members of the FALINTIL-FDTL;
- (g) The CNE commissioners;
- (h) The members of the PNTL;
- (i) The Human Rights and Justice Ombudsman and their assistants;
- (j) The public servants.

Article 20 **Incompatibilities**

One cannot submit a simultaneous candidacy for *Suco* Leader and member of the *Suco* Council, nor be a candidate in more than one list.

Article 21 **Submission of candidacies**

- 1 Candidacies shall be submitted by means of complete lists, at such time and place as defined by STAE, from amongst the citizens residing in the relevant *suco* or village, and registered thereat.
- 2 Together with the list, the candidates shall indicate their alternates and submit the candidacy acceptance letter.

- 3 No candidacy lists may be submitted by political parties.
- 4 The public presentation of the candidates shall be made in a community meeting called by STAE under the terms of the law.
- 5 The additional procedural rules shall be comprised in regulations to be prepared by STAE and approved by CNE, at least sixty days prior to the date set for the election.

Article 22

Requirements for the submission of candidacies

- 1 Candidacy lists shall be accepted provided that they are subscribed by at least 1% of the voters residing in the *Suco*.
- 2 As regards the sucos with less than three thousand voters, the lists shall be accepted with at least thirty signatures from voters residing in the *Suco*.
- 3 Candidacy lists shall be complete and comprise:
 - (a) Candidates to *Suco* Leader, Village Leaders, *Suco* Council and their alternates;
 - (b) A candidacy acceptance letter signed by each candidate and alternate.

CHAPTER IV

ELECTIONS PERIOD AND VOTING

Article 23

Electoral campaign period

The electoral campaign shall have a duration of seven days and shall end forty eight hours prior to the Election Day.

Article 24

Electoral campaign principles

- 1 The electoral campaign shall be conducted in observance of the following principles:
 - (a) Freedom of electoral propaganda;
 - (b) Prohibition of the candidacy being bound to a political party;
 - (c) Equal opportunities and treatment of the various campaigns;

- (d) Impartiality from the public entities as regards the candidacies;
 - (e) Transparency and inspection of the electoral accounts.
- 2 CNE shall monitor the observance of the above principles and shall adopt measures conducive to encourage the peaceful functioning of the campaign.

Article 25

Functioning of the electoral campaign

- 1 The candidacies of the lists accepted shall be granted an allowance from the General State Budget to finance the electoral campaign.
- 2 The amount of the allowance shall be proposed by the Government and approved by the National Parliament.
- 3 The candidacies shall account to CNE for the expenses incurred.

Article 26

Electoral time schedule

STAE shall propose the electoral time schedule, which shall be approved by the National Elections Committee (CNE) at least sixty days prior to the elections.

Article 27

Voting center

- 1 At least one voting center shall function in each *suco*, and STAE may, in keeping with the number of voters or the distance between the villages, open more voting centers.
- 2 Each voting center shall comprise one or more voting stations.
- 3 The location and number of the voting centers shall be disclosed together with the candidates' lists.

Article 28

Electoral officials

In each voting station there shall be five local electoral officials, selected, recruited and trained by STAE.

Article 29
Ballot paper

The ballot paper shall contain the names and pictures of the candidates for *Suco* Leader heading the list.

Article 30
**Functioning of the voting center
and voting process**

The functioning of the voting center and the voting process shall be the subject of specific regulatory rules proposed by STAE and approved by CNE.

Article 31
Doubts, complaints and objections

- 1 Any voter or candidacy inspector may raise doubts, submit complaints or present objections relating to the electoral operations.
- 2 The doubts rose, complaints submitted and objections presented during the voting or after the closing thereof shall be immediately reviewed by the electoral officials, who may consult with STAE if so required.
- 3 The complaints shall be the subject of a resolution from the electoral officials approved by at least three of their numbers.
- 4 The resolutions shall be notified to the claimants who, should they so wish, may address the complaint to CNE, which complaint shall be delivered at the same voting center or station and shall be filed together with all the documentation in connection with the relevant voting center.

CHAPTER V
COUNTING OF VOTES AND
ESTABLISHMENT OF RESULTS

Article 32
Counting of the votes

The counting of the votes, made by the voting station, shall commence immediately after the closing of the voting center and the reviewing of the complaints, and shall be made by the electoral officials, in the presence of the observers, electoral inspectors and members of the media, in accordance with such regulations as proposed by STAE and approved by CNE.

Article 33
Validation and announcement of the results

- 1 In the *sucos* where only one voting center exists, upon conclusion of the counting and review of the complaints, the final results shall be established and minutes shall be drawn up with the general list of the results established, to be affixed on the outside of the voting center.
- 2 In the *sucos* where more than one voting center exists, the votes shall be counted and the results partially established, and the final results shall be immediately established in such voting center as defined in advance by STAE.
- 3 The final minutes and the complaints filed shall be forwarded to STAE in the capital of the district which, upon conclusion of the district electoral process, shall enclose the documents relating to the voting in each *suco* and shall deliver the same to CNE for review of the process.
- 4 CNE shall review the process as well as the complaints addressed to it, and shall resolve within one week in the form of recommendations to the court of competent jurisdiction.
- 5 CNE shall forward all the documentation in respect of each *suco* to the court of competent jurisdiction, which shall validate and announce the results of the electoral process within thirty days.

Article 34
Annulment and repetition of the annulled elections

- 1 In case the election was declared void in a *suco*, the election shall be repeated within fifteen days.
- 2 The elections shall only be annulled if the irregularities detected have an influence in their results.

Article 35
Winner candidates

- 1 The list obtaining the higher number of valid votes shall elect the *Suco* Leader and the members of the *Suco* Council.
- 2 In the event of a tie, a second vote shall be taken within fifteen days between the two most voted lists.

CHAPTER VI
FINAL AND TRANSITIONAL PROVISIONS

Article 36
Revocations

- 1 Law 2/2004, of 18 February 2004, governing the elections of the *Suco* Leaders and the members of the *Suco* Council, and Decree-Law 5/2004, of 14 April 2004, on the community authorities, are hereby revoked.
- 2 All provisions inconsistent with the provisions hereof are likewise revoked.

Article 37
Effective date

This law shall become effective on the day following its publication.

Approved on 4 June 2009

The Chairman of the National Parliament,

Fernando La Sama de Araújo

Promulgated on 8 July 2009.

Be it published.

The President of the Republic,

José de Ramos Horta