

UNITED NATIONS
United Nations Transitional Administration
in East Timor



UNTAET

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Administration Transitoire des Nations Unies
au Timor Oriental

UNTAET/REG/2001/11
13 July 2001

REGULATION NO. 2001/11
ON ELECTORAL OFFENCES
FOR THE ELECTION OF A CONSTITUENT ASSEMBLY

The Special Representative of the Secretary-General (hereinafter: Transitional Administrator),

Pursuant to the authority given to him under United Nations Security Council Resolution 1272 (1999) of 25 October 1999,

Taking into account United Nations Transitional Administration in East Timor (UNTAET) Regulation No.1999/1 of 27 November 1999 on the Authority of the Transitional Administration in East Timor,

Taking into account UNTAET Regulation No. 2001/2 of 16 March 2001 on the Election of a Constituent Assembly to Prepare a Constitution for an Independent and Democratic East Timor,

For the purpose of ensuring that the election of a Constituent Assembly is free, fair, safe and credible, with a secret ballot,

After consultation in the National Council,

Promulgates the following:

Section 1
Definitions

For purposes of the present Regulation, the following terms shall have the following meanings:

Election means the election for a Constituent Assembly to prepare a constitution for an independent and democratic East Timor, pursuant to Regulation No. 2001/2

Officer of the IEC means a Commissioner of the Independent Electoral Commission appointed pursuant to Section 13 of Regulation No. 2001/2; the Chief Electoral Officer of the

Independent Electoral Commission; a member of the staff of the Office of the Chief Electoral Officer; and any person employed by the Independent Electoral Commission, UNTAET, the East Timor Transitional Administration or the United Nations to undertake functions relating to the election to be conducted pursuant to Regulation No. 2001/2

Person means any natural person

Possess has the same meaning as that given to the word in UNTAET Regulation No. 2001/5 on Firearms, Ammunition, Explosives and Other Offensive Weapons in East Timor

Voter means any person eligible to vote in the election for a Constituent Assembly to prepare a constitution for an independent and democratic East Timor, pursuant to Section 30 of Regulation No. 2001/2

Weapon means an item that may be used to attack or wound people, including a firearm, firearm imitation, ammunition, explosive or offensive weapon as defined in Regulation No. 2001/5, and also including a ceremonial or traditional weapon or club.

Section 2 Infringement of secrecy

It shall constitute an offence if a person:

- (a) attempts at a polling centre to interfere with a voter when marking his or her vote;
- (b) attempts at a polling centre to obtain information as to the candidate or party for which any voter at that polling centre is about to vote or has voted;
- (c) attempts at a polling centre to induce, directly or indirectly, any voter at the polling centre to display his or her ballot paper, after he or she has marked it, in such a manner as to make known to any person the candidate or party for which the voter has marked his or her vote; or
- (d) except with due authority, breaks the seal of a sealed packet which is being used by the Independent Electoral Commission (hereinafter: IEC) for the purpose of the election or opens such a packet.

Section 3 Infringement of secrecy by electoral officials etc.

It shall constitute an offence if an officer of the IEC, or an authorised electoral observer or officer, communicates to any person any information acquired by him or her in the performance of his or her duties or functions

- (a) as to the candidate or party for which any voter is about to vote or has voted;
- (b) as to the candidate or party for which a vote has been marked on any spoiled ballot paper; or

- (c) which is otherwise likely to defeat the secrecy of the voting.

Section 4

Possession of weapons inside or around a polling centre

- 4.1 It shall constitute an offence if a person possesses a weapon in a polling centre, or possesses a weapon nearer than one hundred (100) metres from the polling centre.
- 4.2 The possession of a weapon outside a polling centre where that weapon is an agricultural implement and is being utilised exclusively for agricultural purposes and in a non-threatening manner, does not constitute an offence pursuant to Section 4.1.
- 4.3 Section 4.1 does not apply to a member of the police or military component of UNTAET who is acting in conformity with his or her duties. For the purposes of this Section, those duties include entering a polling centre at the request of an officer of the IEC.

Section 5

Disturbance of proceedings and obstruction of officers

- 5.1 It shall constitute an offence if a person:
- (a) willfully obstructs or disturbs any proceedings undertaken by or authorized by the IEC, or obstructs or interferes with an officer of the IEC in the exercise of his or her powers or the performance of his or her duties and functions;
 - (b) on polling day or the day before polling day, does any canvassing for votes or erects any poster or structure, other than for official purposes, at a polling centre or nearer than one hundred (100) metres from the polling centre; or
 - (c) on polling day or the day before polling day, uses any form of loudspeaker, other than for official purposes, or organises any rally, procession or demonstration of a political nature, or participates therein.
- 5.2 The display by a person of any item relating to a political party or candidate, including clothing or stickers, does not constitute an offence pursuant to Section 5.1 (b) or 5.1(c).
- 5.3 For the purposes of the present Regulation, any action or proceedings shall be deemed to be authorised by the IEC if they are undertaken pursuant to Regulation No. 2001/2 or pursuant to any procedures, instructions, prescribed forms or guidelines for the electoral process issued by the IEC or the Chief Electoral Officer.

Section 6
Control of behaviour at polling centres etc.

6.1 It shall constitute an offence if a person:

- (a) while in a polling centre or a counting centre disobeys a lawful direction given by the officer of the IEC in charge of that centre;
- (b) enters or remains in a polling centre or counting centre without the permission of the officer of the IEC in charge of the premises.

6.2 Section 6.1(b) does not apply to an officer of IEC, an authorised electoral observer or, in the case of a polling centre, a voter who enters the centre for the purpose of voting and remains no longer than is reasonably necessary for the purpose.

Section 7
Undue influence

It shall constitute an offence if a person, including a voter, employer or officer of the IEC, directly or indirectly, by himself or herself or by any other person:

- (a) for the purpose of inducing or compelling any person to vote or to refrain from voting at the election, or to vote in favour of a particular candidate or party, or on account of any person's having voted or refrained from voting at an election:
 - (i) makes use or threatens to make use of any violence, force or restraint, or inflicts or threatens to inflict any bodily or psychological injury, damage, hazard or loss, upon or against any person or his or her family; or
 - (ii) does or threatens to do anything to the disadvantage of any person or his or her family; or
- (b) by any such means as aforesaid or any fraudulent device or contrivance:
 - (i) induces, compels or prevails upon any voter to vote or refrain from voting at the election or to vote in favour of a particular candidate or party;
 - (ii) procures the withdrawal of a candidate;
 - (iii) impedes, hinders or prevents the free exercise of the franchise by any voter at an election.

Section 8
Bribery

8.1 It shall constitute an offence if a person asks for, receives or obtains, or offers or agrees to ask for, receive or obtain, any property or benefit of any kind, whether for himself or herself or for any other person, on an understanding that that property or benefit will influence or affect, in any manner, the following:

- (a) any vote of the first-mentioned person;
- (b) any support of, or opposition to, a candidate or party by the first-mentioned person; or
- (c) the doing of any act or thing by the first-mentioned person the purpose of which is, or the effect of which is likely to be, to influence the vote of a voter.

8.2 It shall constitute an offence if a person gives or confers, or promises or offers to give or confer, any property or benefit of any kind to another person, in order to influence or affect:

- (a) any vote of that person or any other person;
- (b) any support of, or opposition to, a candidate or party by that person or any other person; or
- (c) the doing of any act or thing by that person or any other person, the purpose of which is, or the effect of which is likely to be, to influence the vote of a registered voter.

8.3 A legitimate declaration of public policy or a promise of public action does not constitute an offence pursuant to Sections 8.1 or 8.2.

Section 9
Undue influence and bribery of officers

9.1 It shall constitute an offence if an officer of the IEC asks for, receives or obtains, or offers or agrees to ask for, receive or obtain, any good, movable or immovable, or pecuniary benefit, whether for himself or herself or for any other person, on an understanding that that good or benefit will influence or affect, in any manner, the result of the election.

9.2 It shall constitute an offence if a person gives or confers, or promises or offers to give or confer, any good, movable or immovable, or pecuniary benefit to an officer of the IEC, or to the spouse of an officer of the IEC, a relative of an officer of the IEC in the first degree, or to any other intermediary in order to influence or affect the result of the election.

Section 10
Impersonation etc.

It shall constitute an offence if a person:

- (a) applies for a ballot paper in the name of some other person whether living, dead or fictitious or records a vote in the name of any such person;
- (b) having voted once in an election, applies again for a ballot paper; or
- (c) makes or submits any statement under Regulation No. 2001/2 or the present regulation containing any information or allegation which he or she knows to be false.

Section 11
Offences relating to voting procedures etc.

It shall constitute an offence if a person:

- (a) for the purpose of having a ballot paper issued to her or him, knowingly produces to any officer a registration card or other document issued to or in the name of some other person, whether living, dead or fictitious, or a registration card or other document which has been altered with intent to deceive, or any document purporting to be but not being a registration card or other document;
- (b) having previously voted at an election:
 - (i) votes again; or
 - (ii) produces to any officer for the purpose of having a ballot paper issued to her or him, a registration card or other document, whether issued to her or him or in the name of some other person, whether living, dead or fictitious, or any document purporting to be but not being a registration card or other document;
- (c) forges or counterfeits or fraudulently destroys any ballot paper or any official mark on any ballot paper;
- (d) without due authority, supplies any ballot paper to any person;
- (e) except as authorised by the IEC, places any thing other than ballots in any ballot box;
- (f) fraudulently takes out of any polling centre any ballot paper whether blank or completed;
- (g) without proper authority, destroys, takes, opens, uses or otherwise interferes with any ballot box, voting compartment, instrument, form, document or other equipment used or intended for use at any polling centre;
- (h) causes a disturbance at any polling centre; or
- (i) without proper authority, destroys, mutilates, defaces or removes any notice exhibited as authorized by the IEC.

Section 12
Interference with the count

It shall constitute an offence if a person fraudulently interferes, or attempts to interfere, with the process of counting votes by an officer of the IEC.

Section 13
Misleading or deceptive announcements

13.1 It shall constitute an offence if a person prints, publishes or distributes, or causes, permits or authorizes to be printed, published or distributed, any matter or thing in relation to the electoral process which the person knows to be false and which is intended to mislead or deceive a voter.

13.2 The printing, publication or distribution of any matter or thing which relates only to the public policy, political activity or promises of public action of a political party or candidate, or which relates only to the professional or personal qualifications or characteristics of a candidate, does not constitute an offence pursuant to Section 13.1.

Section 14
Incitement to violence

It shall constitute an offence if a person advocates national, racial or religious hatred that constitutes incitement to hostility or violence relevant to the election.

Section 15
Complaints

15.1 Any person may present to the police a complaint in relation to an alleged offence pursuant to the present Regulation.

15.2 The IEC or the police may, at their own initiative or following a complaint pursuant to Section 15.1, file a report to the Public Prosecutor in relation to an alleged offence pursuant to the present Regulation.

Section 16
Penalties

16.1 A person who commits an offence pursuant to Section 2, Section 4, Section 5, Section 6, or Section 13 of the present Regulation shall be liable, on conviction in a court of law, to a term of imprisonment of up to one (1) year, or a fine of up to \$500, or both.

16.2 A person who commits an offence pursuant to Section 7, Section 8, Section 10, Section 11, or Section 12 of the present Regulation shall be liable, on conviction in a court of law, to a term of imprisonment of up to two (2) years, or a fine of up to \$1,000, or both.

16.3 A person who commits an offence pursuant to Section 3, Section 9, or Section 14 of the present Regulation shall be liable, on conviction in a court of law, to a term of imprisonment of up to five (5) years, or a fine of up to \$5,000, or both.

Section 17
Period of operation

The present Regulation shall apply only to acts or omissions committed from the date of its entry into force until the declaration of the results of the election.

Section 18
Entry into force

The present Regulation shall enter into force on the date of its promulgation.

Sergio Vieira de Mello
Transitional Administrator