

LAW 17 (2013)
ON THE ELECTION OF THE CONSTITUENT ASSEMBLY IN CHARGE OF DRAFTING
THE CONSTITUTION

GENERAL NATIONAL CONGRESS

Having noted :

- The Constitutional Declaration enacted on 3 August 2011, and its amendments ;
- GNC Resolution 62 (2013) on the approval on the amendment of the bylaws of the GNC .
- Civil and Commercial Proceedings Law and its amendments
- Penal and Criminal Procedures Law and its amendments
- Law 24 (2010) on the provisions of Libyan nationality
- Law 8 (2013) on the Establishment of the High National Election Commission
- Law 13 (2013) on Political and Administrative Isolation
- GNC Decision 30 (2013) on the formation of a committee on the development of the draft elections law related to the election of the Constituent Assembly in charge of drafting the Constitution
- The outcome of the General National Congress deliberations during its regular session held on 16 July 2013 .

The following law has been enacted:

CHAPTER I: DEFINITIONS

ARTICLE ONE

For the purpose of implementing this law, unless the context requires otherwise, the expressions cited below denote the meanings adjacent to each :

- 1-Assembly: the constituent body that shall be elected for the development and wording of the permanent constitution draft for the country
- 2-The Commission: The High National Elections Commission established as per Law 8 (2013)
- 3-Region: one of the three electoral regions, provided for in Article Five of this law .
- 4-Country: the state of Libya
- 5-Elections: the process of electing members of the Constituent Assembly .
- 6-Constituency: the geographical area for which a specific number of seats has been allocated in accordance with the provisions of this law

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7-Voter Register: the register developed to list voters

8-Voter: Every Libyan, who has the right to elect members of the Constituent Assembly and registered in the voters register as per the provisions of this law

9-Candidate: Every Libyan whose application for candidacy for the Constituent Assembly elections has been approved as per the provisions of this law .

10-Polling: the process through which voters cast their votes

11-Polling Centre: the place designated by the Commission for the purpose of polling .

12-Polling Station: the place that accommodates ballot boxes, ballots and the committee overseeing the boxes .

13-Polling Staff: All employees working for the Commission inside the polling station .

14-Ballot: the uniform ballot produced by the Commission for the purpose of voting .

15-Observers: All national or international bodies, civil institutions or persons accredited by the Commission to observe the progress of the electoral process .

16-Candidate's agent: Person(s) delegated by the candidate and accredited by the Commission for the purpose of observing the progress of the electoral process, as per the provisions of this law .

17-First Pass the Post: the electoral system approved for the election of members of the Constituent Assembly. This system entails that the candidate who obtains the highest number of votes shall win the race

18-Component: Amazigh, Tebu and Tuareg

19-Media Representatives: the persons accredited by the Commission and authorized to cover the electoral process in the media .

20-Registration Centre: the place where voters are registered in accordance with this law and the subsequent regulations .

21-Official security apparatus: the servicemen affiliated to which hold security or military number .

CHAPTER II: PRELIMINARY PROVISIONS

ARTICLE TWO

THE CONSTITUENT ASSEMBLY IN CHARGE OF DRAFTING THE CONSTITUTION comprises 60 members, to be elected in accordance with the provisions of this law, as was the case with the 60-member committee, formed in 1951. All Libyans, men and women, who meet the

requirements stipulated in this law have the right to be nominated for candidacy for membership to the Assembly .

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ARTICLE THREE

The Constituent Assembly shall be mandated to draft the permanent constitution of the country and shall have a separate legal entity and financial position .

ARTICLE FOUR

The election shall be free, public and direct .

ARTICLE FIVE

For the purpose of implementing the provisions of this law, the seats of the Constituent Assembly shall be apportioned to three electoral regions. Each region shall have (20) twenty seats distributed across the constituencies in accordance with the attached table, provided that representation of components with cultural and linguistic character shall be considered .

CHAPTER III: ELECTION

ARTICLE SIX

1-An individual electoral system, based on simple majority, shall be adopted. The candidate who obtains the highest number of votes shall win. In the event of a tie, a draw will follow to break the tie .

2-Six seats shall be reserved for women, distributed across some electoral constituencies. Only women shall be allowed to compete for those seats. All voters, male and female, shall cast their votes to elect candidates competing for those seats. The attached table indicates those constituencies and the manner through which they are decided

ARTICLE SEVEN

VOTER REGISTER

-1 The Commission shall be responsible for determining the registration centres in all constituencies, provided that each centre has a unique number that shall not be duplicated. Those centres and their numbers shall be announced well in advance prior to the commencement of the electoral process in all available TV, radio and printed mass media .

-2Any citizen who meets the voter eligibility criteria shall select an electoral centre in the sub-constituency located in one's place of residence to register either

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manually or electronically, following their announcement by the Commission, as per the conditions and requirements determined by the latter .

-3The Administrative Committee in charge of the National Number project and the Directorate of Civil Status shall provide all data and technical capabilities to the Commission, as required by the electoral process. The concerned authorities shall provide the required electronic coverage for all the electoral regions, when possible .

-4The Commission shall be in charge of organizing voters records in-country and out-of-country. The requirements regulating registration and review of the data shall be determined in accordance with the conditions and parameters stipulated by this law .

ARTICLE EIGHT

The person exercising the right to vote shall be :

-1A Libyan citizen, at least 18 years of age on registration day and legally competent .

-2A National Number holder and registered in the voters register .

CHAPTER IV: CANDIDACY

ARTICLE NINE

In addition to the voters eligibility criteria, the person running for the CDA elections shall be :

-1At least 25 years of age prior to registration date ,

-2A holder of secondary school diploma or equivalent ,

-3Not a member of the High National Election Commission, or employee of its central administration, sub-committees or polling centres ,

-4Not a member of the GNC or the interim government .

-5Not a serviceman of regular security apparatus or the military ,

-6Not convicted of a crime or misdemeanour of moral turpitude, even if exonerated .

-7Meet the requirements for assuming public offices as per Political and Administrative Isolation

Law .

-8Seconded by one-hundred voters from one's constituency, provided none of the seconders has vouched for another candidate. The certificate of secondment shall be signed by the person delivering it or endorsed by a notary public .

-9Deposit a non-refundable amount of LYD500 (five-hundred Libyan Dinars) into the Commission bank account or any of its accounts in the main constituencies. This amount shall be transferred to the public treasury .

-10Abide by the code of conduct for candidates as determined by the Commission .

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ARTICLE TEN

A candidate shall not apply for candidacy in more than one constituency .

ARTICLE ELEVEN

The Commission shall organize, manage and fully oversee the electoral process. Furthermore, the Commission shall determine the parameters and mechanisms of candidacy and dates for submitting documents determined by it in accordance with the provisions stipulated by this law .

ARTICLE TWELVE

Applications for candidacy shall be filled out on forms designed by the Commission. If it transpires that any of the candidates does not meet the conditions stipulated by this law, the Commission shall exclude and notify him/her or his/her agent through the means the Commission decides within one week from the deadline for receipt of applications for candidacy .

CHAPTER IV: ELECTORAL CAMPAIGN

ARTICLE THIRTEEN

The Commission shall announce in all mass media the electoral campaign period for candidates. It shall determine the rules and places where posters may be posted throughout this period, in coordination with the local authorities across the country .

Each candidate included in the final list shall have the right to express one's opinion and present one's electoral platform as far as the constitution is concerned in accordance with the provisions of this law and without prejudice to public order .

The use of expressions that may constitute incitement to commit crimes or disrupt public security, hatred, discrimination or jeopardize the unity of Libya shall be prohibited. However, all activities perceived as campaigning shall end 24 hours prior to E-day .

ARTICLE FOURTEEN

The Commission shall determine the rules and specifications of campaigning materials. All candidates in the final list shall use public and private media for their electoral campaign on equal footing. The Commission shall establish the rules and procedures of electoral campaigning in a manner that guarantees equal airtime in the programmes dedicated for all candidates and the distribution of airtime on all mass media.

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All candidates may publish their campaigning materials in the form of brochures, posters or newsletters, provided those publications shall include the biography of the candidate and name and address of the printing authority. It is permissible to use electronic mass media for campaigning, as per the provisions of this law .

ARTICLE FIFTEEN

The electoral campaign shall be subject to the following principles :

- 1 Compliance with Islamic Sharia, public order and ethics
- 2 Impartiality on the part of the administration and mass media
- 3 Transparency of the electoral campaign in terms of funding sources and spending methods of allocated funds
- 4 Equality among candidates
- 5 Observance to the privacy and dignity of the candidates .
- 6 Observance to national unity and sovereignty .

ARTICLE SIXTEEN

The candidate or any of one's subordinates shall be prohibited from doing any of the following :

- 1 Campaigning in mosques, universities, institutes, public schools and facilities occupied by the ministries and other public institutions and directorates overseen by the State ;
- 2 Engaging in acts or using data that may obstruct the campaign of another candidate ;

- 3 Providing material or monetary gifts or other benefits to influence voters ;
- 4 Financing one's electoral campaign from funds or aids derived from another country or a non-Libyan authority, or campaigning through foreign media, or using funds of suspicious sources ;
- 5 Receiving support from any public authority or using state assets ;
- 6 Incitement, slandering other candidates or stirring tribalism, regionalism or ethnic sentiments ;
- 7 Using the emblem of the state in the announcements, meetings and publications during the electoral campaign .

Furthermore, all civil servants of public institutions are prohibited from campaigning for any candidate in their workplaces .

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ARTICLE SEVENTEEN

The Commission shall determine an expenditure limit on campaigning activities. The candidate shall clarify the funding sources of one's campaign .

ARTICLE EIGHTEEN

The Commission shall investigate, of its own accord or upon a claim made by a stakeholder, the adherence to the provisions of the last three articles. Accordingly, the Commission shall exclude the candidate whose violation of these provisions is proved. In the event of the above, the winner next in line shall be approved .

ARTICLE NINETEEN

All candidates shall open a current account in any bank, in which they shall deposit all monetary donations or funds allocated for their campaign. The candidates shall notify the Commission on all financial funds deposited and their source .

ARTICLE TWENTY

All candidates shall submit to the Commission a statement detailing the total of donations, their sources, nature and campaign-related expenditure within seven days from polling day .

CHAPTER V: ELECTION PROCEDURES

ARTICLE TWENTY-ONE

-1The General National Congress shall determine the polling date upon a proposal made by the Commission, which shall be an official holiday. If polling procedures cannot be conducted in any polling centre the same date, the Commission shall declare the date and place decided to conduct polling in the affected centre within 24 hours. The second polling date shall be at least one week later than the first one .

-2The Commission shall determine the procedures for polling, sorting and counting in polling stations and centres .

ARTICLE TWENTY-TWO

Polling day shall continue for one day only, starting from 8:00am until 7:00pm, when the head of polling centre declares the end of the polling process .

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Polling may continue beyond 7:00pm if some voters are still queuing to cast their votes inside the polling centre. In this case only those shall be allowed to vote. Following the announcement of the end of the polling process, sorting and counting of votes shall immediately start inside the polling station, in the presence of the head and staff of the polling station, candidates' agents and observers .

At the end of the polling process, the Commission shall announce the preliminary results as they come within at least ten days from polling day .

ARTICLE TWENTY-THREE

The voter shall cast one's vote with utmost secrecy, so that s/he votes for the candidate and cast the ballot into the ballot box .

People with special needs - who are unable to tick the ballots or vote verbally – and illiterate persons may be accompanied by another person to assist them, following the approval of the head of polling station. The escort may assist one voter only .

Proxy voting or by correspondence may not be permitted .

ARTICLE TWENTY-FOUR

The Commission shall propose the timeline and procedures for polling for Libyans abroad, in potential countries, deemed possible by the latter for organizing elections .

ARTICLE TWENTY-FIVE

The Commission shall have the right to withhold the results of a polling station, if fraud or tampering, or any act that may affect the overall results of the electoral process is confirmed, as per the executive regulation of this law .

ARTICLE TWENTY-SIX

The executive regulation shall determine canceled and uncounted votes .

ARTICLE TWENTY-SEVEN

Within at least 25 days from the date of the announcement of the preliminary results, the Commission shall produce the overall final results and publish them on an official mass medium.

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CHAPTER VI: CHALLENGES

ARTICLE TWENTY-EIGHT

- a. Any concerned voter or candidate may have the right to challenge any procedures related to the stages of the electoral process within three days from the date of occurrence of the incident .
- b. Any citizen may submit a challenge before the competent court against any voter or candidate who does not meet the eligibility criteria stipulated in this law within three days from the date of publication of the lists. The complainant shall be exempted from court fees .
- c. Any candidate may challenge the preliminary results of the elections within three days from the date of publication .

ARTICLE TWENTY-NINE

The Local Court (Partial Court) Judge, within which the polling centre is located, shall consider all challenges related to the electoral process as a whole, and adjudicate on the challenge within three days from the date of submission. The ruling shall be substantiated. The complainant, may lodge an appeal against these decisions before the head of the Primary Court, or his/her delegate, within three days from the date of delivery of the ruling, which shall be adjudicated within three days. The ruling shall be final and binding for the Commission to implement .

However, the provisions of Civil and Commercial Proceedings Law shall apply to any matter not stipulated in this law .

CHAPTER VII: ELECTORAL CRIMES

ARTICLE THIRTY

Any person who engages in any of the following acts shall be sentenced to imprisonment for at least six months :

- .1 Impersonating another person to vote
- .2 Voting more than once
- .3 Voting despite the knowledge of one's ineligibility

ARTICLE THIRTY-ONE

Any person who engages in the following acts shall be sentenced to imprisonment for at least one year and a fine of at least LYD5,000 (five thousand Libyan Dinars :(

1-Coercing or intimidating a voter to obstruct him/her from voting or influence voters .

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2- Offering another person or commitment to offer benefits either to oneself or another person, directly or indirectly, to obstruct voting or force the voter to vote in a certain manner .

3- Accepting from others or requesting benefits for oneself or others in exchange for voting .

4- Publishing or broadcasting false statements or reports or other sort of deception in matters related to the elections or the behaviour or ethics of candidates with the intention of influencing the results .

5- Acts related to printing or circulating ballots used in the electoral process without the permission of the Commission .

6- Fraud or deception in the course of sorting the votes or counting the ballots .

7- Violating the secrecy of voting or obstructing any functions related to polling .

8- Any person who fails to report to the polling centre, to which s/he is assigned to work on polling day without a legitimate excuse .

9- Hiding, stealing or destroying any document related to the electoral process with the intention of manipulating the results. The candidate benefiting from the crimes cited in this article shall receive the same punishment as that of the original perpetrator, if evidence proving his/her involvement is provided .

ARTICLE THIRTY-TWO

A person who insults, verbally or with a gesture, the Commission Chairperson, a member of the Board of Commissioners or an official in charge of the electoral process in the course of, or due to his/her work, shall be sentenced to at least six months of imprisonment .

The same penalty shall apply to any person who holds a weapon, visible or concealed, inside the polling centre, offices affiliated to the Commission or polling centres committees. Only personnel assigned to guard the centre, deployed outside the premise, shall be permitted to hold weapons .

ARTICLE THIRTY-THREE

Any person who engages in any of the following acts shall be sentenced to imprisonment and a fine not exceeding LYD10,000 (ten thousand Libyan Dinars):(

- 1- Using force or intimidation against any person in charge of the electoral process .
 - 2- Any person who damages buildings, facilities, transportation means or equipment prepared to be used in the elections with the intention of obstructing the progress of the electoral process .
 - 3- Intercepting committees or transportation means transporting ballot boxes for the purpose of taking them over, bargaining over them or obstruction of the process of sorting the results. The penalty shall be intensified by at least by one-third if it transpires that the perpetrator is a person assigned to be a member of an electoral committee, a staff member or security serviceman in charge of guarding ballot boxes .
 - 4- Destruction, concealment or alteration of the voter records, ballots or the software related to them .
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ARTICLE THIRTY-FOUR

Any person who abuses one's position to influence the results of the electoral process shall be sentenced to imprisonment and dismissal from office .

ARTICLE THIRTY-FIVE

- a. Any candidate, who receives monetary aids from an international authority, directly or indirectly, shall be sentenced to imprisonment and a fine not exceeding double the amounts received and shall be barred from running for the elections for at least ten years, as of the date of the delivery of the final ruling .
- b. Any candidate who breaches the provisions cited in Article Seventeen of this law shall be sentenced to imprisonment, a fine of at least LYD5,000 (five thousand Libyan Dinars) and shall be barred from candidacy for at least three years, whereas any public civil servant who breaches the

same provisions for the benefit of any candidate or has been an accomplice shall receive a similar penalty intensified by at least one third .

ARTICLE THIRTY-SIX

Any person who circumvents the instructions delivered by the officials in charge of the electoral process in the course of their work shall be sentenced to at least one-month imprisonment or a fine not exceeding LYD300 (three-hundred Libyan Dinars .(

ARTICLE THIRTY-SEVEN

Any candidate who commits any of the acts below shall be sentenced to imprisonment or a fine not exceeding LYD 5,000 (five thousand Libyan Dinars) and shall be barred from candidacy for five years :

- 1- Use of expressions that may constitute incitement of crimes, disruption of public security, instigation of hatred or discrimination, reflect regionalism, tribalism, clannishness, or anything that may be detrimental to the public values or defamatory against some candidates or voters .
- 2- Exceed the spending limit determined by the Commission in the course of one's political campaign .
- 3- Has not submitted a detailed statement to the Commission that includes a total of received donations, their source, nature and the amounts spent on political campaigns .
- 4- Any act that may obstruct the political campaign of another candidate .
- 5- Campaigning through international media with the exception of private webpages owned by the concerned candidate .
- 6- Conduct an activity that may be perceived as political campaigning on or 24 hours prior polling day .
- 7- If it transpires that s/he used mosques, public premises or educational institutions for electoral campaigning .

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ARTICLE THIRTY-EIGHT

The penalties cited in this law are without prejudice to any severer penalties provided for in the penal code or any other law .

ARTICLE THIRTY-NINE

Without prejudice to any other provisions, the criminal lawsuit against an electoral crime, against which judicial proceedings have not been taken, shall lapse after three months of the date of the announcement of the elections final results .

CHAPTER VIII: CONCLUSIVE PROVISIONS

ARTICLE FORTY

.1 Civil Society Organizations, competent regional and international organizations as well as candidates agents may engage in observing the electoral process. The Commission shall facilitate their tasks in a manner that guarantees free and fair elections .

.2 CSOs and accredited international and regional organizations shall observe the electoral process and submit their reports to the Commission on the progress of elections .

.3 The executive regulation subsequent to this law shall determine the rights and duties of observers, agents and media representatives .

ARTICLE FORTY-ONE

Chairman and members of the Board of Commissioners, heads and members of sub-committees and heads of polling centres shall have the powers of the judicial officer, in matters related to the crimes cited in this law .

ARTICLE FORTY-TWO

The Commission shall deliver the regulations required for the implementation of this law .

ARTICLE FORTY-THREE

All state institutions shall extend the assistance and support required for the conduct of the electoral process .

ARTICLE FORTY-FOUR

State security institutions shall provide security, ensure order and guarantee the voters cast their votes freely during the electoral process . This translation was developed by the UN Electoral Support Team in Libya. It is unofficial in nature and is provided for informational purposes only .

ARTICLE FORTY-FIVE

The Constitution Drafting Assembly shall hold its first meeting, which shall be called for by the GNC, within two weeks from the date of announcement of the final results. The seat of the CDA shall be in Al-Baida City. The Assembly may hold their session in any other city .

The most senior member shall preside over the first session of the Constituent Assembly, whereas the most junior shall be selected as rapporteur, provided during this session, the members shall select a chair and rapporteur for the assembly through secret balloting .

ARTICLE FORTY-SIX

Only the Constituent Assembly shall be responsible for developing the by-laws regulating its functions within at least ten days from the first session .

ARTICLE FORTY-SEVEN

Members of the Constituent Assembly shall operate on a full-time basis, in accordance with the provisions of this law. They shall not exercise any other activities during their tenure .

ARTICLE FORTY-EIGHT

State institutions and apparatus shall extend full support to the assembly as required. To achieve its tasks, the Assembly may have the right to obtain data, information and documents that may help in the performance of its work or seek the assistance of any person deemed fit .

ARTICLE FORTY-NINE

The GNC shall appoint administrative, financial and technical departments to be in charge of the affairs of the Assembly, provided those departments work under the supervision of the Assembly chair .

ARTICLE FIFTY

Notwithstanding the provisions of Article Seven of this law, any person who besieges or breaks into the CDA headquarters, while a session is in progress, shall be sentenced to imprisonment .

ARTICLE FIFTY-ONE

The distribution of the electoral regions or constituencies, as indicated in this law shall not entail any effects or have res judicata against the legislations governing local administration.

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ARTICLE FIFTY-TWO

Membership to the Constituent Assembly shall expire due to any of the following reasons :

- 1- Death or physical infirmity that may prevent the member from living up to one's responsibilities .
- 2- A final court ruling convicting the member of a crime of moral turpitude .
- 3- Acceptance of resignation of the member, sacking or dismissal .

The vacant post shall be filled by the candidate obtaining the second highest number of votes after the outgoing member in his/her electoral constituency .

ARTICLE FIFTY-THREE

This law shall come into force as of the date of enactment and shall be published in the official gazette and different mass media. The authorities concerned by it shall implement its provisions .

General National Congress

Enacted in Al-Baida City

Date 20 July 2013