



## ANALYSIS OF N.E.C LAW BY DR. PUNG CHHIV KEK AND DANA WALLACK APRIL 2015

### **Key issues of the law on the Organization and Functioning of the National Election Committee:**

1) There are no definitions in this law. Lack of definitions means that the ruling party will be able to interpret the law in any manner that they choose.

2) Article 5, fails to comply with CEDAW. It says that NEC members will be recruited from both genders, but does not require that women fill a certain number of spots. The ruling party has not selected a women. Only 1 of nine will be female. The law should have required 4 of 9 to be female in order to have adequate representation. The same rule should apply to the provincial and commune election committees which are covered by this law.

Article 5 also has **unreasonable requirements for eligibility**. Members must be “eligible to vote,” which according to the LEMNA means on a voter list. This means that anyone currently living abroad, or who has chosen not to register to vote, or whose name was arbitrarily removed from the list is not eligible. Additionally, two of the rules are so specific that they were aimed at individuals: the ban on dual nationalities and the ban on relatives of party leaders. Another requirement is too vague: one must have 10 years’ experience, but it does not say what kind of experience.

3) The NEC structure is not neutral. Article 6 outlines the structure of the Committee, but is too biased toward the main parties. Rather than a 4-4-1 membership, a 3-3-3 structure would give the ruling party less control and make the committee more independent. Moreover, the structure would not provide balance in the event that more than two parties hold parliamentary seats; the law sets four as the number of representatives for the ruling party and four for all other parties combined.

The membership is approved by the National Assembly and appointed by the king. There is no clear explanation for how the chair and vice-chair are selected, but it is the ruling party’s government that has final say. A better method of selecting NEC members would be to have a selection committee outside of the government made of: 1 representative of each party with seats in the National Assembly, 10 from CSOs, 2 retired judges/court staff, and 2 from the media.

4) No financial independence. Article 8 bars members from employment or leadership of any kind, including both civil service and associations. Members must resign these posts and cannot vote with the committee until their positions end. This reduces the financial independence of NEC members. Since there is no minimum amount of salary for members and no ban on bribery, this makes NEC members susceptible to bribery or attempts at intimidation.

Article 59 states that all money funding the NEC must first go through the national budget process, giving the Ministry of Finance total control of the NEC budget. The NEC cannot even hire its own staff without approval from the Ministry of Civil Servants per Article 55.

5) Article 43 gives too much power to the Chair of the NEC. The chair of the NEC is the sole representative of the NEC in meetings with the king or NA or ministries. There is no provision to ensure that other members’ concerns are passed along or presented. A more neutral approach would be to have a 3-member group (1 from each party plus one neutral member) to present NEC input and prepare NEC reports.



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**Comments on each article**

**CHAPTER 1  
GENERAL PROVISIONS**

Articles of the law	Comments
	<p>Definitions. As with the LEMNA, there are no definitions in the NEC law. This leaves too much to the interpretation of the National Assembly, which has final approval of NEC members, including the right to remove members. Terms which should be defined in this section include: “ruling party,” “rank and privileges,” and “eligible to vote.”</p>
<p><b>Article 1._</b> The purpose of this law is to define the organization and functioning of ,the National Election Committee to organize, administer and manage the election of members of the Senate and the election of members of the National Assembly as well as other election defined by law.</p>	
<p><b>Article 2._</b> The National Election Committee shall be referred to in an abbreviation as “N.E.C”. The National Election Committee shall have the municipal/provincial election commissions, commune/sangkat election commissions and polling station commissions to perform its duties.</p>	
<p><b>Article 3._</b> The National Election Committee shall be independent and neutral in implementing its mandate to ensure the election is free, fair and just in accordance with the liberal, democratic, pluralistic principles. All members of the National Election Committee and members of election commissions at all levels shall be</p>	



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neutral and impartial in carrying out its work.	
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CHAPTER 2 NATIONAL ELECTION COMMITTEE	
PART 1 ORGANIZATIONAL ELECTION COMMITTEE	
<p><b>Article 4._</b></p> <p>The National Election Committee shall be composed of 09 (nine) people as follow:</p> <ul style="list-style-type: none"> <li>• 01 (one) Chairperson</li> <li>• 01 (one) Vice-Chairperson</li> <li>• 07 (seven) members</li> </ul>	
<p><b>Article 5._</b></p> <p>Members of the National Election Committee shall be selected among Cambodian dignitaries of both sexes with the following qualifications:</p> <ul style="list-style-type: none"> <li>- Must be Cambodian nationality by birth and hold only one citizenship while performing duties at the National Election Committee</li> <li>- Aged at least 35 (thirty five) years old on the day of appointment</li> <li>- Eligible to vote</li> <li>- Holding a degree in higher education</li> <li>- At least 10 (ten) year experience</li> <li>- Not a spouse or a relative by blood or relative by marriage through the third generation of the President or Vice-president of a political party competing in the elections.</li> </ul>	<p>This section gives lip service to <b>gender equality</b> by stating that NEC members will be selected from “both sexes” without a quota. The ruling party has not recommended a women to represent them on the new committee. There should be a quota of 4 out of nine members.</p> <p>This section has <b>unreasonable requirements for eligibility</b>. Members must be “eligible to vote,” which according to the LEMNA means on a voter list. This means that anyone currently living abroad, or who has chosen not to register to vote, or whose name was arbitrarily removed from the list is not eligible. Additionally, two of the rules are so specific that they were aimed at individuals: the ban on dual nationalities and the ban on relatives of party leaders. Another requirement is too vague: one must have 10 years’ experience, but it does not say what kind of experience.</p>
<p><b>Article 6: _</b></p>	<p>Structure of the Committee is too</p>



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The 09 (nine) members of the National Election Committee shall be recruited with:

- 04 (four) members recruited by the ruling party
- 04 (four) members recruited by parties that have seats in the National Assembly, not joining the government ,and
- 01 (one) recruited with a consensus among all parties that have seats in the National Assembly.

Based on the above-said principle, the Permanent

Committee of the National Assembly shall coordinate with all political parties having seats in the National Assembly to make public, open and transparent announcements for recruiting members of the National Election Committee for at least 10 (ten) days. Then, the Permanent Committee of the National Assembly shall coordinate with all political parties having seats in the National Assembly to examine and select the candidate members of the National Election Committee among the candidates who have submitted applications with qualifications as stated in article 5 of this law.

The modalities and procedures for the selection of candidate members of the National Election Committee shall be determined by the Permanent Committee of the National Assembly.

Based on the membership selected above, the Permanent Committee of the National Assembly shall prepare a list of members of the National Election Committee and submit it to the National Assembly to vote in confidence based on the absolute majority of the total number of the members of the National Assembly.

The Chairperson, vice-chairperson and members of the National Election Committee shall be appointed by the Royal Decree at least 06 (six) months after the new National Assembly starts.

The Chairperson, vice-chairperson and members of the National Election Committee shall take an oath of allegiance before holding office.

biased toward the main parties. Rather than a 4-4-1 membership, a 3-3-3 structure would give the ruling party less control and make the committee more independent.

The membership is approved by the National Assembly and appointed by the king. There is no clear explanation for how the chair and vice-chair are selected, but it is the ruling party's government that has final say.

A better method of selecting NEC members would be to have a selection committee outside of the government made of: 1 representative of each party with seats in the National Assembly, 10 from CSOs, 2 retired judges/court staff, and 2 from the media.



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**Article 7.\_**

The Chairperson, vice-chairperson and members of the National Election Committee shall have a 05 (five) year term, which ends when the new National Assembly takes an office.

In case of failure to organize the membership of the National Election Committee, the existing National election Committee shall continue to implement its work and be competent to administer and organize elections according to the law in force.



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<p><b>Article 8._</b></p> <p>The function of the Chairperson, vice-chairperson and members of the National Election Committee shall be incompatible with their positions in the civil service and with their jobs as members of other institutions as stipulated in the Cambodian Constitution.</p> <p>The Chairperson, vice-chairperson and members of the National Election Committee shall suspend their right to vote temporarily until their positions come to an end.</p> <p>The Chairperson, vice-chairperson and members of the National Election Committee who are members of a political party shall resign from the party and may join the party in 02 (two) years after they end their mandates or lose their positions or are fired as stated in articles 9 and 10 of this law.</p> <p>The Chairperson, Vice- Chairperson and Members of the National Election Committee who are members of a political party and/or who are leaders of a non- governmental organization, an association, a trade union and/or a business shall resign from the party and/or from the non-governmental organization, association, trade union and/or business and shall apply to work outside their original service until the expiration of their mandates.</p>	<p>Having a role on the committee is deemed “incompatible” with employment or leadership of any kind, including both civil service and associations. Members must resign these posts and cannot vote with the committee until their positions end. This reduces the financial independence of NEC members. Since there is no minimum amount of salary for members and no ban on bribery, this makes NEC members susceptible to bribery or attempts at intimidation.</p>
<p><b>Article 9._</b></p> <p>The Chairperson, Vice-Chairperson and members of the National Election Committee shall lose their position in one of the following cases:</p> <ul style="list-style-type: none"> <li>- He/she dies</li> <li>- He/she resigns in writing</li> <li>- He/she lost his/her professional aptitude as certified by competent ministries/institutions</li> <li>- He/she acts in contravention of the internal rules regulated by the National Election Committee</li> </ul>	<p>This article says how a member loses their position, but is too vague. It includes loss of “professional aptitude as certified by competent ministries/institutions.” This can lead to abuse.</p>



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<p>- He/she has been sentenced with imprisonment for a felony or a misdemeanor.</p>	
<p><b>Article 10._</b> The Chairperson or the Vice- Chairperson or Members of the National Election Committee shall be accountable to the National Assembly. The decision to dismiss the Chairperson or the Vice-Chairperson or Members of the National Election Committee shall be the competence of the National Assembly.</p>	<p>This section states that the NEC is accountable to the National Assembly, a clear contradiction to any claim of independence and neutrality.</p>
<p><b>Article 11._</b> In the event that the Chairperson or Vice-Chairperson or Member of the National Election Committee loses his/her office the Permanent Committee of the National Assembly shall coordinate with relevant political parties to make a public announcement for recruitment of candidates to fill the vacant position in an open and transparent manner in 05 (five) days' time. Then, the relevant parties shall select a new member from those who apply not later than 03 (three) days and submit it to the Permanent Committee of the National Assembly so that the latter can present the new member to the National Assembly for vote of confidence based on an absolute majority of all members of the National Assembly not later than 03 (three) days in case where election is held and not later than 05 (five) days in case where election is not held. In case the relevant political parties fail to select new members as determined above the Permanent Committee of the National Assembly shall choose candidates to fill the vacant positions based on the qualifications specified in article 5 of this law among those who apply as mentioned in paragraph 1 of this article in an open and transparent manner not later than 02 (two) days and submit them to the National Assembly to vote in confidence based on the absolute majority of all members of the National Assembly not later than 02 (two) days in case where election is held and not later than in case where election is not held.</p>	<p>Allows replacement members to be selected by the National Assembly by an absolute majority, meaning that the ruling party chooses new members.</p>



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<p>The formalities and procedures for the application, selection and preparation of the list of candidates for submission to the National Assembly shall be determined by the Permanent Committee of the National Assembly.</p> <p>The Chairperson or the Vice- Chairperson or Members of the National Election Committee, who replace the vacancy, shall immediately take an oath of allegiance to hold office.</p> <p>The Chairperson or the Vice- Chairperson or Members of the National Election Committee, who replace the vacancy, shall serve only the remaining term of the National Election Committee.</p>	
<p><b>Article 12._</b></p> <p>The Chairperson of the National Election Committee shall have the rank and privileges equivalent to a Deputy-Prime Minister.</p> <p>The Deputy-Chairperson of the National Election Committee shall have the rank and privileges equivalent to a Senior Minister.</p> <p>The member of the National Election Committee shall have the rank and privileges equivalent to a Minister.</p>	<p>This sections grants the same rank and privileges of ministers to NEC members but does not clarify whether this includes salaries. The salaries of ministers are substantially lower than the current salaries of most applicants, so would reduce their financial independence.</p>
<p><b>Article 13._</b></p> <p>The chairperson, vice-chairperson and members of the National Election Committee shall carry out their duties impartially, based on the principle of respect for law, without pressure, threats, intimidation or instruction, either directly or indirectly, from any person or an institution.</p> <p>Personal security and safety of the chairperson, vice-chairperson and members of the National Election Committee and those of their family shall be guaranteed as needed at their request.</p> <p>The chairperson, vice-chairperson and members of the National Election Committee shall not be subject to any criminal or civil responsibility for the decision they make under their competency and function.</p>	



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<p><b>Article 14._</b></p> <p>The Municipal/Provincial Election Commissions shall be composed of the following:</p> <ul style="list-style-type: none"> <li>- 01 (one) Chairperson</li> <li>- 01 (one) Vice-chairperson</li> <li>03 (three) or 05 (five) members</li> </ul> <p>The concrete number of members of each Municipal/Provincial Election Commission shall be determined by a decision of the National Election Committee.</p>	<p>This section lists numbers of members of municipal/provincial election committees, but fails to include quotas for women. There should be 1 woman for 3-member committees, and 2 for 5-member committees.</p>
<p><b>Article 15._</b></p> <p>The Chairperson of the Municipal/Provincial Election Commission shall have the rank and privileges equivalent to a Director of Department of a Ministry or an institution.</p> <p>The Vice-chairperson of the Municipal/Provincial Election Commission shall have the rank and privileges equivalent to a Deputy Director of Department of a Ministry or an institution.</p> <p>The member of the Municipal/Provincial Election Commission shall have the rank and privileges equivalent to a Chief of Bureau of a Department of a Ministry or an institution.</p>	
<p><b>Article 16._</b></p> <p>The members of the Municipal/Provincial Election Commission shall be recruited among the citizens or/and civil servants eligible to votes in the municipality/province, except the members of the Royal Cambodian Armed Forces, national police, court officials, religious priests, governor and deputy governor of capital/province, municipality, district and khan, members of the capital/province, municipality, district, khan and commune/sangkat councils, candidates standing for those council elections, village chief, village chief assistant and those who have been sentenced with imprisonment for a felony or a misdemeanor and have not rehabilitated.</p>	<p>This section has overly broad restrictions against eligibility for provincial election committees, including banning court staff and priests, anyone not on a voter list, and anyone with any conviction who hasn't been "rehabilitated."</p>





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<p>Commission shall be accountable to the National Election Committee.</p> <p>The National Election Committee shall have the right to dismiss the Chairperson or Vice- Chairperson or members of the Municipal/Provincial Election Commission in case he/she acts in contravention of the law in force, internal rules, regulations and procedures for elections or code of conduct for electoral officials.</p>	
<p><b>Article 22._</b></p> <p>For the election of members of National Assembly and that of the Commune/ Sangkat Councils, the Municipal/Provincial Election Commission shall perform its duties for 60 (sixty) days after the results of elections are officially announced.</p> <p>For the election of members of the Senate and that of the capital/provincial, municipal/district/khan councils, the Municipal/Provincial Election Commission shall perform its duties for 30 (thirty) days after the results of elections are publicly announced.</p>	
<p><b>Article 23._</b></p> <p>This Provincial/Municipal Election Commission shall have a Secretariat to assist it. The organization and functioning of the Secretariat shall be determined by the National Election Committee.</p>	
<p><b>Article 24._</b></p> <p>Between elections, the National Election Committee shall designate some officials of the Secretariat to maintain the continuity of the electoral work in each province/ municipality.</p>	
<p><b>Article 25._</b></p> <p>The Provincial/Municipal Election Commissions shall have the following duties and responsibilities:</p>	



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| <ol style="list-style-type: none"><li>1. To perform duties allowed or required by law, regulations, and other legal instruments;</li><li>2. To perform other duties and rights assigned by the National Election Committee.</li></ol> |  |
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**PART 3  
ORGANIZATION OF COMMUNE SANGKAT ELECTION COMMISSIONS**

<p><b>Article 26._</b> The Commune/Sangkat Election Commission shall have the following compositions:</p> <ul style="list-style-type: none"> <li>- 01 (one) Chairperson</li> <li>- 01 (one) Vice-chairperson</li> <li>- 03 (three) or 05 (five) members.</li> </ul> <p>The concrete number of members of each Commune/Sangkat Election Commission shall be determined by a decision of the National Election Committee</p>	<p>Articles 26-33 The same restrictions and issues exist with respect to commune-level committees.</p>
<p><b>Article 27._</b> Members of Commune/Sangkat Election Commission shall be recruited among the citizens or/and civil servants in the municipality/province, who are eligible to vote, except the members of the Royal Cambodian Armed Forces, national police, court officials, religious priests, governor and deputy governor of capital/province, municipality, district and khan, members of the capital/province, municipality, district, khan and commune/ sangkat councils, candidates standing for those council elections, village chief, village chief assistant and those who have been sentenced with imprisonment for a felony or a misdemeanor and have not rehabilitated.</p>	
<p><b>Article 28._</b> The National Election Committee shall establish a Selection Commission to select the composition of the Commune/Sangkat Election Commission in an open and transparent manner. The actual modalities and procedures for the selection of members of the Municipal/Provincial Election Commission shall be determined by a decision of the National Election Committee.</p>	
<p><b>Article 29._</b> The Commune/Sangkat Election Commission shall be appointed by a decision of the National Election</p>	



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<p>Committee at the request of the Municipal/Provincial Election Commission based on the result of the selection of members of the Commune/Sangkat concluded by the Selection Commission as provided in article 28 of this law.</p>	
<p><b>Article 30._</b></p> <p>The Chairperson, Vice- Chairperson and Members of the Commune/Sangkat Election Commission who are members of a political party and/or who are leaders of a non-governmental organization, an association, a trade union and/or a business shall, after being appointed, resign from the party and/or from the non-governmental organization, association, trade union and/or business and shall apply to work outside their original service until the expiration of their mandates.</p>	
<p><b>Article 31._</b></p> <p>The Chairperson, Vice-Chairperson and members of the Commune/Sangkat Election Commission shall lose their position in one of the following cases:</p> <ul style="list-style-type: none"> <li>- He/she dies.</li> <li>- He/she resigns in writing.</li> <li>- He/she lost his/her professional aptitude as certified by competent ministries/ institutions.</li> <li>- He/she has been sentenced with imprisonment for a felony or a misdemeanor.</li> </ul>	
<p><b>Article 32._</b></p> <p>The Chairperson or Vice- Chairperson or members of the Commune/Sangkat Election Commission shall be accountable to the National Election Committee.</p> <p>The National Election Committee shall have the right to dismiss the Chairperson or Vice- Chairperson or members of the Commune/Sangkat Election Commission in case he/ she acts in contravention of the law in force, internal rules, regulations and procedures for elections or code of conduct for electoral officials.</p> <p>The National Election Committee can issue a decision to delegate its powers to the Municipal/Provincial Election Commissions as needed to implement the provisions specified in this article.</p>	



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<p><b>Article 33._</b></p> <p>The Commune/Sangkat Election Commissions shall have the following duties and responsibilities:</p> <ol style="list-style-type: none"> <li>1. To perform duties allowed or required by law, regulations, and other legal instruments.</li> <li>2. To perform other duties and rights assigned by the National Election Committee.</li> </ol>	
<p><b>PART 4 ORGANIZATION OF POLLING STATION COMMISSIONS</b></p>	
<p><b>Article 34._</b></p> <p>Each Polling Station Commission shall be composed of the following:</p> <ul style="list-style-type: none"> <li>- 01 (one) Chairperson</li> <li>- 01 (one) Vice-chairperson</li> <li>- 01 (one) Secretary</li> <li>- 03 (three) members</li> </ul>	<p>Discusses polling center staff but fails to ensure inclusion of women.</p>
<p><b>Article 35._</b></p> <p>The members of the Polling Station Commissions shall, upon request of the Provincial/Municipal Election Commissions, be recruited among the citizens and civil servants in the district/khan or commune/ sangkat who are eligible to vote, except the members of the Royal Cambodian Armed Forces, National Police, court officials, religious priests, chief and deputy chief of district/khan, members of commune/sangkat council, members of the capital/provincial, municipal, district, khan and commune/ sangkat councils, candidates standing for those council elections, village chief, village chief assistant and those who have been sentenced with imprisonment for a felony or a misdemeanor and have not rehabilitated.</p>	
<p><b>Article 36._</b></p> <p>The National Election Committee shall establish</p>	



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<p>a Selection Commission to select the members of the Polling Station Commission in an open and transparent manner.</p> <p>The actual formalities and procedures for selection of members of the Polling Station Commission shall be determined by a decision of the National Election Committee.</p>	
<p><b>Article 37._</b></p> <p>The Polling Station Commission shall be appointed by a decision of the National Election Committee at the request of the Municipal/Provincial Election Commission based on the result of the selection of members of the Commune/Sangkat concluded by the Selection Commission as provided in article 36 of this law.</p>	
<p><b>Article 38._</b></p> <p>The Chairperson, Vice- Chairperson, Secretary and Members of the Polling Station Commission who are members of a political party and/or who are leaders of a non-governmental organization, an association, a trade union and/or a business shall, after being appointed, resign from the party and/or from the non-governmental organization, association, trade union and/or business and shall apply to work outside their original service until the expiration of their mandates.</p>	
<p><b>Article 39._</b></p> <p>The Chairperson, Vice- Chairperson, Secretary and Members of the Polling Station Commission shall lose their position in one of the following cases:He/she dies</p> <ul style="list-style-type: none"> <li>- He/she dies.</li> <li>- He/she resigns in writing</li> <li>- He/she lost his/her professional aptitude as certified by competent ministries/institutions</li> <li>- He/she has been sentenced with imprisonment for a felony or a misdemeanor.</li> </ul>	
<p><b>Article 40._</b></p> <p>The Chairperson, Vice- Chairperson, Secretary and</p>	



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Members of the Polling Station Commission shall be accountable hierarchically to the National Election Committee.

The National Election Committee shall have the right to dismiss the Chairperson or Vice- Chairperson, Secretary or members of the Polling Station Commission in case he/ she acts in contravention of the law in force, internal rules, regulations and procedures on elections or code of conduct for electoral officers.

The National Election Committee can issue a decision to delegate its powers to the Municipal/Provincial Election Commissions as needed to implement the provisions specified in this article.



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**Article 41.\_**

The Polling Station Commissions shall have the following duties and responsibilities:

1. To perform duties allowed or required by law, regulations, and other legal instruments.
2. To perform other duties and rights assigned by the National Election Committee.

**CHAPTER 3**

**THE FUCNTIONING OF THE NATIONAL ELECTION COMMITTEE**

**PART 1**

**THE COMPETENCE OF THE NATIONAL ELECTION COMMITTEE**

**Article 42.\_**

The National Election Committee shall be responsible for planning, organizing and managing the election in the whole country.

The National Election Committee shall have full right to implement its duties according to this law, the law on elections in force, regulations and procedures on elections determined by the National Election Committee.

The rights, authority, duties and responsibilities regarding planning, organizing, managing and supervising the election are as follows:

1. Taking all necessary measures to ensure that the elections are free, fair just and by means of secret vote
2. Preparing work plans, budget and materials and equipment for the election, and publicizing the election calendar
3. Appointing Provincial/Municipal Election Commissions, Commune/Sangkat Election Commissions, and Polling Station Commissions
4. Developing regulations, procedures and directives for the election processes within the framework of the laws in effect
5. Proposing and enforcing measures to maintain security and public order during the time of the



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election

6. Supervising the work of Election Commissions at all levels
7. Establishing the boundary of the polling stations
8. Issuing decisions regarding the locations of the voter registration stations, polling stations and vote counting stations
9. Producing and allocating the electoral materials and equipment
10. Recruiting and appointing officials to help the Revision of Voters' Lists and Voter Registration in accordance with the laws, regulations and procedures on election
11. Preparing the voters' lists and the register of voters
12. Reviewing and validating the voters' lists
13. Receiving and deciding on the applications of the political parties' registration and political parties' candidates who run for the election according to the election law in force
14. Managing and supervising the conduct of electoral campaigns
15. Organizing and managing the voting, counting of ballots, consolidation of the result of the poll, and announcement of the results of the election
16. Temporarily remove the right to vote or to restore the right to vote
17. Examining the income and financial expenses incurred by candidates and political parties during the election campaigns
18. Taking measures and providing coordination to ensure the use of the public media based on the principle of equality and equity
19. Providing information, data and statistics on the electoral processes to political parties and candidates and receiving suggestions related to the election

Register the political party running the election or delete the political party from the list.

Delete the candidacy of the candidates who stand for the Election or to recognize their candidacy.

Ensuring regular information exchanges and coordination regarding the electoral processes between



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the National Election Committee and Election Commissions at all levels and political parties, candidates and stakeholders

20. Producing IEC documents/materials about the election matters
21. Promoting the public awareness on electoral matters through voters education and public dissemination programs and by other means
22. Developing documents, programs and training for the electoral officers
23. Approving and issuing identification cards to political party representatives and national and international observers;
24. Overseeing to ensure the legality aspect of the implementation of law, regulations and procedures on election
25. Deciding on all complaints and objections related to the election through public hearing according to the law, regulations and procedures on election, except the complaints which fall under the jurisdiction
26. Preventing and monitoring the irregularities in the election
27. Establishing a committee to destroy the ballot papers used during each Election of Members of the National Assembly after these ballot papers have been stored safely for 6 (six) years and the ballot papers used during each commune/sangkat council election after these ballot papers have been stored safely for 3 (three) years, counting from the polling day of each mandate  
The afore-said ballot papers destruction process shall be conducted in an open manner and with participation of relevant political parties
28. Implementing other tasks as permitted or required by laws and regulations.

**Article 43.\_**

The Chairperson of the National Election Committee shall:

1. Ensure that all members of the National Election Committee comply with election law, its internal rules (by-laws), regulations and procedures and the code of

The chair of the NEC is the sole representative of the NEC in meetings with the king or NA or ministries. There is no provision to ensure that other members'



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conduct for electoral officers.

2. Convene and lead all ordinary and extraordinary meetings of the National Election Committee.
3. Represent the National Election Committee in relationship with the King, institutions, national and international organizations.
4. Submit annual reports of the National Election Committee to the National Assembly and the Senate.
5. Sign all official documents of the National Election Committee

concerns are passed along or presented. A more neutral approach would be to have a 3-member group (1 from each party plus one neutral member) to present NEC input and prepare NEC reports.



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<p><b>Article 44._</b> The Chairperson of the National Election Committee shall assist the chairperson according to the tasks allocated by the Chairperson. In the event that the Chairperson is absent or unable to come to work the Vice-chairperson replaces the chairperson as the Acting Chairperson through a letter of authorization.</p>	
<p><b>Article 45._</b> Members of the National Election Committee shall receive the tasks as defined in the Internal Rules and assigned by the Chairperson of the National Election Committee upon consultation with the Vice-chairperson and members of the National Election Committee.</p>	
<p><b>Article 46._</b> The National Election Committee may issue a decision to assign its rights to the Municipal/Provincial Election Commission, Commune/Sangkat Election Commission, Polling Station Commission and electoral officers or electoral agents to implement their electoral duties.</p>	
<p><b>Article 47._</b> The remuneration and benefits for members of the National Election Commissions at all levels shall be determined by the National Election Committee.</p>	<p>States that the NEC will determine its own remuneration. This gives no guarantee that an appropriate compensation will be provided.</p>
<p><b>PART 2 WORKING FORMALITIES OF THE NATIONAL ELECTION COMMITTEE</b></p>	
<p><b>Article 48._</b> The working modalities of the National Election Committee shall be determined by the Internal Rules (by-laws) established and approved by the National Election Committee.</p>	
<p><b>Article 49._</b> The Internal Rules of the National Election Committee shall be in accordance with the provisions of this Law and the election law in force after taking office.</p>	



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**Article 50.**

The Chairperson of the National Election Committee shall convene the meetings of the National Election Committee.

Members of the National Election Committee shall attend the meetings as convened and invited by the Chairperson of the National Election Committee.

In the event that any member of the National Election Committee fail to attend the meetings or are absent without reason for 3 (three) times she/he shall be deemed to give up his/her position.

One third (1/3) of the members of the National Election Committee shall have the right to make a written proposal attached the specific agenda or subject to the Chairperson of the National Election Committee to convene a meeting of the National Election Committee and the Chairperson shall convene the meeting of the National Election Committee.

The meetings of the National Election Committee shall be valid only if:

- There is a quorum of 2/3 of all members of the National Election Committee for any approvals that require a majority vote of two third (2/3) of all members of the National Election Committee.
- There is a quorum of more than half of all members of the National Election Committee for any approvals that require an absolute majority of all members of the National Election Committee.

The National Election Committee shall adopt the Internal Rules and election regulations and procedures with two third (2/3) majority of all members of the National Election Committee. If it does not meet the above quorum and/or enough vote for approval based on the two third majority of all members of the National Election Committee the Chairperson of the National Election Committee shall convene a second meeting the next day and the quorum

This section gives too much power to the chair to control scheduled activities and meetings of the NEC. It also states that missing 3 meetings will lead to a member's removal, but has no provision to prevent abuse (for example, by scheduling 3 meetings 3 days in a row at the last minute when a member is known to be out of town/country).

This section allows the National Assembly to dissolve the NEC if it deems it "stalled." This gives too much control to the legislature.



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<p>and the vote for approval shall be the absolute majority of all members of the National Election Committee.</p> <p>Other than the Internal Rules and election regulations and procedures, the National Election Committee shall approve with the absolute majority vote of all members of the National Election Committee.</p> <p>In case there is an equal vote for an approval of any issue, the vote by the Chairperson of the National Election Committee shall override.</p> <p>In the event that the functioning of the National Election Committee is stalled due to lack of quorum or lack of adequate vote to adopt any issue the National Assembly shall decide to dissolve the composition of the embattled National Election Committee and shall organize a new membership to replace it according to the provisions of this Law.</p>	
<p><b>Article 51._</b></p> <p>All decisions of the National Election Committee shall be announced in public not later than 5 (five) working days after they are made.</p>	
<p><b>PART 3 GENERAL – SECRATERIAT</b></p>	
<p><b>Article 52._</b></p> <p>The National Election Committee shall have a General-Secretariat as assistant.</p> <p>The Secretary-General, Deputy Secretary-General, all officials and staff shall be accountable, based hierarchical ranking, to the National Election Committee.</p>	
<p><b>Article 53._</b></p> <p>The General-Secretariat shall be led by 01 (one) Secretary-General and several Deputy Secretaries-General as assistants</p>	
<p><b>Article 54._</b></p> <p>The Secretary-General and Deputy Secretaries-General shall have the following qualifications:</p> <ul style="list-style-type: none"> <li>- Must be Cambodian national by birth and hold only one citizenship while performing duties</li> </ul>	<p>Discriminates against dual nationals by required the head staff of the NEC to have one nationality.</p>



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- Aged at least 30 (thirty) years old on the day of appointment
- Be Eligible to vote
- Holding a degree in higher education
- At least 05 (five) year experience
- Not a spouse or a relative by blood or relative by marriage through the third generation of the President or Vice-president of a political party competing in the elections.

**Article 55.\_**

The Secretary-General and Deputy Secretaries-General shall be appointed by the Royal Decree at the request of the Chairperson of the National Election Committee upon approval obtained based on the absolute majority of the entire composition of the National Election Committee.

The Secretary-General shall have the rank and privilege equivalent to a Secretary of State of a Ministry/institution.

The Deputy Secretary-General shall have the rank and privilege equivalent to a Under-Secretary of State of a Ministry/institution.

Officials/staff of the General-Secretariat of the National Election Committee and those of the Secretariat of Municipal/Provincial Election Committee shall be covered by a separate statute to be determined by a Royal Decree at the request of the National Election Committee after obtaining an approval from the Ministry of Civil Service.

The National Election Committee may recruit contracting staff to carry out its work as needed.

Officials/staff of the NEC must be approved by the Ministry of Civil Service, giving control of the NEC staff to the ruling party.

**Article 56.\_**

The Secretary-General and Deputy Secretaries-General shall lose their positions in one of the following cases:

- He/she dies
- He/she resigns in writing
- He/she loses his/her professional aptitude as certified by competent ministries/ institutions
- He/she has been sentenced with an imprisonment for a felony or a misdemeanor.



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<p><b>Article 57._</b> The organization and functioning of the General-Secretariat of the National Election Committee shall be determined by a Sub-decree at the request of the National Election Committee.</p>	
<p><b>CHAPTER 4 BUDGET OF THE NATIONALELECTION COMMITTEE</b></p>	
<p><b>Article 58._</b> The National Election Committee shall have an autonomous budget for its work.  The National Election Committee shall handle and use the budget for election with transparency, integrity, efficiency and effectiveness according to the Law on Public Financial System.</p>	
<p><b>Article 59._</b> A special account shall be established at the National Treasury, known as “Trust Fund Account for Election”, for the National Election Committee to administer in the conduct of the electoral work.  The electoral Fund obtained from various contributions of the Royal Government, foreign governments, international organizations, charitable individuals, non-governmental organizations, and any other legitimate revenues shall be integrated into the national budget to be directly credited to this special account.</p>	<p>All money funding the NEC must first go through the national budget process, giving the Ministry of Finance total control of the NEC budget.</p>
<p><b>CHAPTER 5 PENAL TIES</b></p>	
<p><b>Article 60._</b> Any member of the National Election Committee and Election Commissions at all levels, who does not follow the provisions of this Law, shall be meted out with disciplinary sanctions, excluding any other possible criminal penalties. The disciplinary sanctions shall be defined in the Internal Rules of the National Election Committee.</p>	
<p><b>CHAPTER 6 TRANSITIONAL PROVISIONS</b></p>	
<p><b>Article 61._</b> The Chairperson, Vice-Chairperson and members of the current National Election Committee shall continue to</p>	



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<p>perform their duties until the Chairperson, Vice-Chairperson and members of the National Election Committee appointed in accordance with the provisions of this Law take their office.</p>	
<p><b>Article 62.</b> _</p> <p>The composition of National Election Committee established under the provisions of this Law serve its term until the new Chairperson, Vice-Chairperson and members of the current National Election Committee are appointed in accordance with paragraph 5 in article 6 of this Law.</p> <p>The National Election Committee established under the provisions of this Law shall perform its duties based on the Law, Internal Rules, regulations and procedures on election and other legal instruments in force until there are new provisions to replace them.</p>	



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<p><b>Article 64._</b> The Secretary-General, Deputy Secretaries-General and officials/staff of the National Election Committee shall continue their work [in their capacity] as Secretary-General, Deputy Secretaries-General and officials/staff of the National Election Committee established under this Law until new appointments are made in accordance with this Law.</p> <p>The change and appointment of the Secretary-General, Deputy Secretaries- General and officials/staff of the National Election Committee shall be made in accordance with the provisions of this Law.</p> <p>The officials/staff working at the General Secretariat of the National Election Committee and the Municipal/Provincial Election Commission Secretariat shall be integrated into a separate statute specified in paragraph 4 in article 55 of this Law.</p>	
<p><b>CHAPTER 7 FINAL PROVISIONS</b></p>	
<p><b>Article 65._</b> Any provision that is in contrast with this Law shall be abrogated and replaced by this Law.</p>	
<p><b>Article 66._</b> This Law shall be declared as urgent</p>	