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2nd NATIONAL ELECTORAL REFORM SUMMIT

Commission on Elections * Consortium on Electoral Reforms
* House Committee on Suffrage and Electoral Reforms

1st Panel Discussion	2nd Panel Discussion	3rd Plenary Discussion
2nd National Electoral Reform Summit Declaration	Unified Agenda for Electoral Reforms	

OPENING PROGRAM

The program started with the national anthem and an interfaith prayer led by Christian and Moro participants. CER's Secretary-General, Ms. Rebecca Malay, recognized the participants from the diplomatic corps, the government and the non-government sectors.

Her Excellency Gloria Macapagal Arroyo, Senate President Franklin Drilon and Speaker Jose de Venecia did not make it to the conference but sent their respective messages instead.

Messages from President Gloria Macapagal-Arroyo, Senate President Franklin Drilon, and House Speaker Jose de Venecia.

President Gloria Macapagal Arroyo expressed that the conduct of 2004 National Elections was generally peaceful and credible. She highlighted the legislative reforms in the areas of electoral modernization and absentee voting for overseas Filipinos. But she stressed as well the challenges that still beset the electoral system, such as the failure in the computerized voting and counting system, increase in election-related violence, allegations of electoral fraud and the slow pace of counting and canvassing especially for national positions. Given this recent experience, the President expected the 2nd National Electoral Reform Summit to be contributory to conducting analysis of said problems and providing reforms in the areas of electoral modernization, absentee voting, citizen-voter education, political party reform and campaign financing and party-list system, among others. She affirmed that pursuance of election-related reforms is "vital in ensuring that the electoral system will continue to be a strong foundation of our democracy and as the primary instrument of political participation." And thus, she commended the various stakeholders-participants of this summit and commended the efforts they undertake under the spirit of unity.

Senator Drilon, on the other hand, congratulated the participants of the Summit. He commended those behind this event as "this will indeed be a time to evaluate the performance of the Commission on Elections during the past elections and to plan the electoral exercise." His message stated that he looks forward to seeing our future elections with honesty and credibility.

Speaker De Venecia meanwhile congratulated the conveners and organizers of this Summit. He stressed that clean and honest electoral exercises are essential to national stability and progress. In recognition of electoral reforms, Speaker De Venecia cited efforts in Congress, i.e. the Absentee Voting Law and the proposed bill on state financing for political campaigns. Though the latter failed to muster approval from the Senate, he expressed that they will continue to espouse said bill so as to end "unholy alliances between politicians and vested interests." He expressed confidence that this Summit will help shape up a common legislative agenda that will be responsive to people's call for political and governmental reforms.

WELCOME REMARKS FROM THE CONVENERS

From the **House Committee on Suffrage and Electoral Reforms**, Ms. Debbie Soriano-Garcia read the message that Representative Teodoro L. Locsin Jr. was supposed to deliver himself. He was not able to come because he had to be hospitalized the day before. Cited in the message were the priority agenda that the House Committee has just mapped, namely:

- Amendments to the Overseas Absentee Voting Law

- Amendments to the Electoral Modernization Law
- Extending the term of barangay officials and setting the date of the election of barangay officials, amending Republic Act No. 9164
- Strengthening the Political Party System inclusive of the Anti-Turncoatism Bills
- Providing for the manner and date of election and sectoral representatives to the local sanggunians
- Amendments to RA 7941, otherwise known as the "Party-List System Act"
- Declaring an elective official IPSO FACTO resigned from his office upon the filing of his certificate of candidacy
- Fixing the date of regular election for elective officials of the Autonomous Region in Muslim Mindanao
- Amendments to Sec.261 of BP881, otherwise known as the Omnibus Election Code of the Philippines, as amended (Permit to campaign as an election offense)
- Anti-Political Dynasty Bills

Ms. Garcia reiterated that the Committee is ready in amending the Overseas Absentee Voting Law, as well as in addressing the automation needs of our election process and in rethinking our political party system. The House Committee on Suffrage and Electoral Reforms is bent on the passage of the "Strengthening the Political Party System Act" and the "Anti-Turncoatism Bills" into law. The message recognized the fact that a whole system of reforms must be in place before we as a nation, even experience functional and exclusive electoral processes.

From the **Commission on Elections**, Commissioner Resurreccion Z. Borra welcomed everybody to the Summit and expressed openness to the constructive assessment of the 2004 elections and Comelec's performance. He felt that this Summit is the proper forum to help each other address the flaws of the elections. In setting the directions for this Summit, he called first for the assessment of the legislative agenda and the actions plans agreed upon during the first Summit. He further promised to disseminate the results of their July 28 -31 Evaluation Conference of all the Comelec's field officials and commissioners, including the assessment of the modernization program. He expected the participants to analyze, validate and contribute their wisdom to the said results.

From the Consortium on Electoral Reforms, Chairperson Ramon Casiple situated the Summit in the context of an impending political crisis, which means "if we do not – as a people – unite and face collectively" the financial and economic crisis of the country. Undertaking logical measures to counter the crisis, however, requires sacrifices from all of us. For the leadership of this country, that sacrifice implies tremendous political will. But Mr. Casiple cited that political will can only be a product of a credible political leadership and can be exercised only by a stable government, which the last national elections did not exactly provide. Bickering and doubts on the results of the elections and the whole electoral process militate against the achievement of national unity and the creation of that political will. He asserted that this situation could have been addressed had the reforms, which were identified during the 1st Electoral Summit two years ago, been achieved. While he recognized that there is some progress, i.e. the overseas absentee voting law, much has been left out in the legislative arena. Constitutional reforms, on the other hand, though optimistically discussed during the first summit got caught with the discussion on the mode of change, on whether through ConCon or Constitutional Assembly. Other reforms within the Comelec, i.e. the voters' education and the modernization program, though acted upon did not make an impact in the end. Nonetheless, a positive result of the 2004 elections is the increased consciousness among people and civil society members to take a hard look on political and electoral reforms. Recalling the first electoral reform summit, he expressed hope that this summit will be a venue for both assessment and as affirmation of pledges and commitment towards renewing unity between government and civil society stakeholders. Mr. Casiple called on everyone to share the success of this summit and to create a clear road map of electoral reform for the 13th Congress and the rest of the decade.

1st PANEL DISCUSSION 01 September 2004

The topics and panel discussants on the afternoon of the first day of the conference were the following:

- **COMELEC Report on the Conduct of 2004 National and Local Elections**
Commissioner Resurreccion Z. Borra
- **NAMFREL's Assessment on the 2004 Elections**
Namfrel Secretary General Bill Luz
- **Re-envisioning the Modernization Program: the Comelec Perspective**
Mr. James Jimenez, Office of Commissioner Borra
- **CEPPS Philippine Election Observation Mission**

Ms. Chyn San Juan, Mr. Audi San Juan and co.

- **Preliminary Points for Possible Reorientation of Voter Education Initiatives**

Mr. Jeremy Nishimori, ECPG

- **Media Performance in the 2004 Elections**

Ms. Sheila Coronel, PCIJ

COMELEC Report on the Conduct of 2004 National and Local Elections
Commissioner Resurrecion Z. Borra

The scope of the 2004 elections covered: 17,717 positions; 50,672 candidates; 216,725 precincts; 650,175 members of Board of Election Inspectors (BEI); and 43,551,281 registered voters. The unique circumstance of this election is basically having an incumbent President running for President, which resulted to extreme divisiveness. This has led to partisan passions that later questioned the results of the polls and weakened democracy in the process. But while divisiveness during elections is inevitable, misgivings on the election process and results can be avoided. Indeed, rejection of the results can be rooted in the distrust of the system. Distrust, on the other hand, would have been minimized had the electoral system shifted from a state of total dependence on the intervention of human administrators to minimized human intervention, and maximized mechanical efficiency and precision.

Nonetheless, there's consensus that 2004 elections were peaceful and orderly, and conduct of canvassing was speedier than in previous elections. Election-related violence is less and claims of fraud were unsubstantiated. The conduct of the elections of course was made possible with the participation of other government agencies and stakeholders. The relative success of the 2004 polls can also be attributed to COMELEC's flexibility, given the drastic turnabout from automation to manual election planning and preparation procedures.

Under COMELEC Resolution 6435, issued last December 2003, working Committees were created to correspond to the vital components of elections. Namely, these committees were the: Allocation, Bids and Awards, Printing, Reception and Verification, Packing and Shipping, Transportation and Communication, Media and Information, and the Firearms and Security Personnel.

In the beginning, these committees were geared toward the automated system, including the conduct of briefings to different sectors. But when the Supreme Court promulgated its decision concerning the computerization of the elections, COMELEC has no alternative but to revert back to the manual system. By then, Phase II of the project had already consumed a year's worth of effort and would have been well within reach. Unfortunately, the Supreme Court did not invite experts from the IT field during the hearings.

The decision of the Supreme Court in *Information Technology Foundation of the Philippines v. the Commission on Elections* was promulgated on the 13th January 2004, which was largely based on the majority's fear that the machines would not work as planned.

As early as June 2003, the Ballots and Ballot Boxes Team had submitted the first version of the ballot design. The second version of the ballot was provided in September 2003; the third version was a hybrid version that gave consideration to the large number of candidates for party-list representatives and councilors. The fourth version was submitted to the Commission En Banc on the 16th of December 2003

On the other hand, the Counting and Canvassing Centers Team have designed counting and canvassing centers. The design's considerations were: total registered voters per national and local elections, at least one automated counting machine (ACM) as required, ACM counting and printing cycle per precinct per 200 voters in 10 minutes, assumed reading speed, target completion time of 24 hours, assumed continuous machine operation, and voters' turn-out of 85% of total registered voters.

Briefing sessions for the media, government officials, political party were handled by Comelec Communications Team; information seminars were also held for members of the academe and for universities such as UST, ATENEO, and UP. Meanwhile, the Information Technology Team (ITT) handled the ACM Counting and Canvassing System and by the 3rd of November, the team had already completed the Process Flow for Counting and Canvassing procedures. The ITT conducted accuracy, reliability, stress, integrity, functionality, system procedure, and sensitivity tests.

Nonetheless, being a forward-looking Commission, the Comelec gathers the lessons of the past. These lessons include the need to resolve some legal, administrative and institutional roadblocks concerning the modernization program. Further, the Advisory Council on the modernization program should have members who are experienced in implementing large-scale IT projects, who have no connections to suppliers and who are willing to devote time to the council. In relation, the composition of the Advisory Council should likewise be opened to organizational representatives whether private or public. Another lesson is to first undertake the design of an automation model before amendatory legislation be prepared. On the other hand, institutional changes should include review of the BAC composition, ensuring top-level support and

commitment, minimum period of 24-month preparation for automation, proactive engagement of the Joint Congressional Oversight Committee, and public relations management.

NAMFREL's Assessment on the 2004 Elections ***Namfrel Secretary General Guillermo Luz***

Namfrel was formed in 1983 and has worked in every elections since 1984 in its capacity of poll watcher and running the Operation Quick Count. Namfrel ran the Operation Quick Count 2004 from Lasalle Greenhills for Phase I (May 10 to 22) and from the Namfrel Headquarters in RFM for Phase II (May 24 to June 5th). Namfrel was able to release 82 reports prior to final report; the audit and terminal report was prepared between June 7 to 30.

Namfrel was able to pick up 90% of ERs and processed 179,564 out of 216,382 election returns tabulated, which is around 82.98%. This has been the highest that Namfrel has processed. Some ERs were not collected because not all BEI turned them over to NAMFREL and there were no volunteers to collect Election Reforms (ERs) in "hotspots." Meanwhile, not all collected ERs were tabulated because some were unreadable copies, there were missing pages and other errors, i.e. blanks.

Namfrel cited certified voters' list (CVL) project as a problem area during the elections, the failure of which has resulted to an estimate of 5% of voters who were not able to vote. However, based on the voter turnout rate estimated at 74.3%, it can be said that there's no "massive disenfranchisement."

On the other hand, the experience with SMS as means of transmitting elections results was not as effective as expected. Eighty percent of the delay in transmitting data requests can be attributed to the mismatch of precinct numbers as recorded at the Comelec central office and the local offices.

Namfrel looked at the Overseas Absentee Voting (OAV) as a good experience from the volunteer's perspective but still leaves much to be done given only a two-third voter turnout from its 360,00 registered voters.

Among the problems within the Comelec that Namfrel cited were: turnover of election returns, delays in canvassing, multiple proclamations, and misinterpretation of the law. In relation, continuing issues include: registration vs validation; C-I-C vs division vs enbanc (too much power in single commissioner); OAV system; conflict of interest in the Comelec's role as administrator and adjudicator; politicized appointment process; and modernization contracts. It is crucial then to have a full investigation of the program, including accounting for the money spent on it.

Namfrel has been challenged with several issues in its last operations, including accusation of major discrepancies from Congress and Comelec results. Likewise, it has been accused of selective tabulation by counting pro-GMA areas ahead of pro-FPJ areas. But Namfrel merely processes data as it receives them, except in cases sent back to field chapters for re-checking. To answer the issue of discrepancies, indeed Namfrel and Congressional canvass will not match because they have different levels (ERs vs certificates of canvasses or COCs). In the end, there are no fundamental differences between Namfrel, Comelec, media, exit polls, and Congress. This brings Namfrel to question if whether the challenges were not partisan? Why was there a challenge against Namfrel but not against the others? It appeared that the 'watchdog of the watchdog' is very selective.

Namfrel calls on everyone not to lose sight of 2007. While agreeing with Commissioner Borra that there needs to be at least 24 months to prepare, it must be noted that the 24 months is already for implementation. There needs to be a planning cycle before the 24 months.

Re-envisioning the Modernization Program: the Comelec Perspective ***Mr. James Jimenez, Consultant, Office of Commissioner Borra***

Taking off from the challenge of not losing sight of 2007, Mr. Jimenez emphasized the need for Comelec to begin with a vision in tackling its modernization program. The need to focus on a vision, as opposed to how it focused on machines in 2004 elections, can help ensure success of modernization. He encouraged the group to undergo a re-envisioning exercise and to design a system based on changes that we need to work for.

He said, it may be even more realistic to assume that we can design a system, and identify all the changes that we need to work for, than it is to limit our vision and reject what is possible simply to be able to work within ancient boundaries. All it takes is an open mind and an imagination. If you can imagine it, you can build it.

To start with, he cited the following values or ideals as necessary bedrock of a modernized electoral system – accuracy, credibility, efficiency and security.

The first of these values is accuracy. Indeed, this is the very heart of elections: that they should be truly and faithfully reflective of the people's choice. However, thus far, we have relied on Election Inspectors who

have been on duty for almost 20 hours straight for accuracy in the appreciation of ballots, for accuracy in the transposition of results from primary election documents to canvassing reports, and for accuracy in explaining and deciphering canvassing documents. Human fatigue is a genuine factor that affects the accuracy of election reporting. A modernized system must be designed to negate that factor, otherwise, why modernize at all?

The second value is credibility. Credibility is what imbues the vox populi with the character of vox Dei; it is what makes the voice of the people the voice of God. And in this jurisdiction, the greatest credibility killer is delay. Delay in the primary reporting of election results at the precinct level, delay in the delivery of canvassing documents to the various canvassing centers at the city/municipal, provincial, and national levels, and delay in the release of canvassing results at all levels. Just as delay is directly proportional to political tension and distrust in the outcome of the polls, a decrease in delay will equate to an increase in credibility and, ultimately, the strengthening of the mandate of the eventual victor.

The third value is efficiency. Too often in the past, we have been forced to adopt Rube Goldberg solutions to problems that, were we not bound by the letter of the law, could have been solved with the simplest solutions. Mr. Jimenez reiterated that he's not advocating extra-legal solutions. He acknowledged that the law, however, has not kept pace with the times. If this can be said of the Constitution, then it shouldn't be taboo to say that statutes can – and do – lapse into obsolescence. And when they do, we end up expending far too much effort, wasting far too many resources, and using up far too much time for far too little returns. He suggested then that opting for simple solutions are preferable, because that is what modernization is all about: simplifying procedures, through the use of modern technology, and thereby eliminating errors, fraud vulnerabilities, and wastage of precious resources.

Finally, the fourth value adopt is security. We do not live in a utopian environment where everyone bows to the will of the majority. Hasn't it become a running joke that in the Philippines, there are no losers, only winners cheated out of their victory? Unfortunately, this joke has a strong basis in reality. Very nearly every election we have seen has been attended by threats against the integrity of the elections: from election officers held at gun-point to whole ballot-boxes being snatched and replaced. Though modernized elections will not eliminate such threats, modernized elections should be able to mitigate the effects of those threats to such a degree that the outcome remains unaffected.

In poker, aces are high, and they beat every other card. Accuracy, Credibility, Efficiency and Security – ACES. These values are the aces that will allow us to trump the problems that most people like calling 'perennial,' but what Mr. Jimenez called 'solvable.' For one, laws are obsolete because these were premised still on paper-based elections. Institutionally, the Comelec was not so ready with modernizing despite their intentions. Though there was no doubt on the intent to modernize, it can be noted that wanting a thing and maximizing your chances of actually getting it are two different bananas.

This was apparent in their incomplete vision of modernization and by focusing more on the technology aspect, not to mention the lack of qualified field personnel to implement it accordingly. Too much centralization in the decision-making also affected the process. Stakeholders, on the other hand, were psycho socially not prepared with it all. There was general distrust and lack of technology receptiveness.

On the shape of things to come, it was suggested that a multi-sectoral modernization committee (MMC) be created and be in charged with defining the vision. This will help ensure that appreciation will come from the majority if not from all of the stakeholders. Ninety days after the creation of this MMC, it is expected that an automation design will be ready. This automation design must be based on best-suited technology, with registration system that is keyed to the individual (not geography) and inclusion of electronic transmission system. It is important to have an approval first of the automation design, at least in principle, before the crafting of the amendatory legislation. Legislation can follow after 60 days of releasing the automation design.

Mr. Jimenez reminded the group that it is important to have a documentation team included in the whole project management set-up, as this will help with the sustainability of the project. Also, a separate transparency and accountability watchdog can help with the bids committee, either through the congressional oversight committee or from the DOST.

Critical Points in the Open Forum

- *On election-related cases.* One participant raised a 2001 case Quirino; the case has not been given resolution yet. The participant asserted that non-resolution of the case has affected the results of the 2004 elections, because the same election officers were able to proclaim a Congressional candidate who was still facing complaints about his nationality.
- *On "re-envisioning" the Comelec.* One strong comment was that the Comelec never lost its vision. Ms. Toby Monsod commented that to say that the Comelec needs a vision is an injustice to the professionals of Comelec who know what their vision is, as embodied in the Modex. She further raised the need to conduct a historical review before doing a re-envisioning exercise, likewise the need to look back at the context and stories of each election-related law before prescribing how to

change them. Mr. Jimenez clarified that he didn't mean any disrespect to anyone, but he would just like to note that the lack of vision was true with the implementers of the 2004 elections. He said that Modex was not mentioned in 2004's discussions on automation processes; what was often mentioned was how to use the resources for automation.

- *On assessing 2004 elections.* Ms. Monsod raised to both the Comelec matters of the 2004 elections with more honesty, e.g. on Comelec target of electronic transmission that was not covered by law and on Namfrel's not so 'best' performance. Mr. Jimenez reacted that the fact that electronic transmission is not in the law should not be a hindering factor for not including it in the future. Ms. Monsod however reminded that the context that electronic transmission needs to consider is the provision of the law on citizen count. She reiterated the need to understanding first the logic of the past, before prescribing things in the future.
- It was clarified in the end that what Mr. Jimenez presented was not exactly the Comelec. What he did was just to provide the starting point but not the vision itself.
- *On the overseas absentee voting (OAV) law.* Ms. Montemayor of DFA and who was also part of the OAV-Secretariat clarified what Mr. Luz cited earlier regarding the ten countries that have no single election return. This was true because there are no Phil. embassies/consulates in said countries; and the reasons why there was a registered voter in that country despite not having Phil. embassies/consulates can be attributed to the following possibilities: (1) the voter registered during a field registration, (2) registered as an absentee voter while in the Philippines but failed to vote, or (3) he/she could have registered in that country but transferred to another country during time of voting.
- *On selection of Commissioners.* It was reiterated that stakeholders should be involved in the selection of the Commissioners. Further, there should be criteria for selection, which refers not just to the personal criteria for individuals but also to the philosophy criteria of how choices should be made, e.g. number of nominees vis-à-vis number of vacancies.

CEPPS Philippine Election Observation Mission

Ms. Chyn San Juan, Mr. Audi San Juan and Atty. Amang Mejia

Consortium for Elections and Political Process Strengthening (CEPPS) is composed of three organizations – International Republican Institute (IRI), National Democratic Institute (NDI), and International Foundation on Electoral System (IFES). All of which have headquarters in the Washington D.C. CEPPS is a US-AID project and in March they sent an assessment team upon the invitation of the Office of the President to assess the political situation and political environment, and to look into what can be done in the May elections.

Ms. Chyn San Juan related being part of the CEPPS team during the CEPPS observation mission. They sent a 15 person team, composed mostly of Americans but also with people coming from different countries like Australia, Austria, Denmark, Bosnia and Malaysia. Part of the objectives of CEPPS was to host working group discussions and various stakeholders' discussions across the country. In terms of areas of coverage, NDI took care of Regions 1,2,3 and Mindanao, IFES took care of NCR, Regions 4 & 5, and IRI took care of Regions 6 & 7.

The areas of concerns, on the other hand, were divided according to the organizations involved. IFES was responsible for the working group on election administration and adjudication, which included looking into Comelec's performance and electoral complaints. IRI was in charged with the political parties and candidates, and electoral violence. NDI was in charged with the role of civil society and mass media.

The team conducted hundreds of interviews that are included, along with the working group and focused group discussions (FGD) results, in the voluminous report included in the kit. They stayed for three months and it can be said that these foreigners were the longest staying foreign observers during our elections and had the most extensive coverage. They are election specialists who have had experiences in doing similar observations and missions in other countries. Each of them has expertise in different fields and it was just unfortunate that they're not able to attend this Summit.

Mr. Audi San Juan added that despite the report however they have consistently refused to issue statements on whether the elections was fair or not, precisely because they feel they are just 15 people doing observations and cannot issue general conclusions. The recommendations raised in the report can be divided into short term and long term. The short term covers now and 2007 and has more recommendations on the Comelec side. On the long term, which is more on the Constitutional Reforms, but though we have been hopeful with the announcements made by the President, things have again changed recently. Another project for the long term is voters' education, and this goes all the way to elementary education; this now becomes DepEd's territory.

Mr. San Juan shared that one of the things he learned was that there was lot of heroism down in the field. However, what was apparent was problem arising from the inadequacy of information at all sides. For example, in a discussion in Cebu, ninety percent of the participants didn't know that voters' registration is on-going the whole year round. Another revelation was that since the filed complaints and minutes written at the BEI level are sealed in the ballot box, most often these have not been maximized as source of information for purposes of adjudication. Often, they have been archived. Another problem in the election process was that the actual voting was not really that confidential, one can almost see who voted for whom, and yet there seemed to be not trust in the system at all. In the end, despite knowing the flaws and who were responsible for these flaws, we end up to be forgiving. Though this can be attributed to cultural reasons, still democracy should be practiced across culture and nationalities.

Further, Atty. Amang Mejia shared that one of the observations however was that despite the observed setbacks, the people were clearly interested with this practice of democracy, which is quite comparable to the experience of other countries where election is the least of the concerns of the people. Apparently, people and stakeholders in the country know what to do or what their roles are in the elections. As a challenge, therefore, he posted that everyone who has a stake in elections really need to just do their thing and come together and prepare for the next elections. Hopefully 2007 elections will show rectifications of what went wrong in 2004 elections.

Preliminary Points for Possible Reorientation of Voter Education Initiatives
Mr. Jeremy Nishimori, Empowering Citizens' Participation in Governance (ECPG)

Mr. Nishimori stressed that his paper is really preliminary. But dictated by the country's electoral and cultural situations, his paper would like to present different possibilities and fields that the Summit can look into.

The general framework that has guided many voter education efforts can be considered to have somewhat of a modernist bias, where education is often seen as a mechanism of illumination against the false and erroneous notions contained in customary electoral practices. To illustrate, this framework often assumes that some sectors of society, specifically those from the poor and marginalized, are not sufficiently equipped with the necessary tools that would enable them to genuinely engage the electoral component of present day democracy. Against this backdrop, voter education is tasked with the insertion and operationalization in voters, of a paradigm that properly addresses the genuine demands of electoral democracy. For example, voter education should seek to undermine the present "irrationality" of voters. In addition, education should instill the recognition of the ballot's sanctity, thus supplanting the culture of exchange that pegs the value of the vote along the parameters of mutual immediate gain. In other words, voter education, within the domain of the framework set forth above, clearly defines its content and its mode of intervention: transformation through transmission.

According to the framework, there is either negative space or there is distorted content in the consciousness of voters with regard to the appreciation of elections as a terrain of engagement. This content or lack of content is then mobilized through their "irrational" participation in the actual electoral process. The challenge for voter education is the transmission of the "true" paradigm of electoral democracy into voters, to be utilized afterwards as the guide for their more meaningful participation.

As the past few elections probably revealed, it remains necessary to persist with regard to the progressive transformation of the voting population's current level of electoral discourse, both technical and ideological. Mr. Nishimori, noted this challenge in the context of the bleak voters' turnout during the last elections.

However, Mr. Nishimori also raised the question of framework. While it remains undeniable that there are types of information in election education that necessarily have to be transmitted in order to ensure the possibility of minimum and basic participation, voter education is also tasked to deliver ideological content. In other words, in addition to informing voters of their basic rights and the actual processes that allow them to cast their vote, voter education also attempts to transmit a definite set of principles that should ideally guide voters through the activity of giving content to the ballot. This intent is essentially grounded not only on the supposed framework and demands of representative democracy for which voters vote, but also on an operational conception of a voter that rest on assumptions that have to be interrogated.

Mr. Nishimori cited studies done by the Philippine Center for Investigative Journalism (PCIJ), Institute for Philippine Culture (IPC) and the Institute for Political and Electoral Reform (IPER) that pointed out notions of the poor and the marginalized. Seen by other sections of society to be dumb and unthinking, prone to manipulation and simplistic messages, not to mention vulnerable to patronage and vote buying, they are often considered the contemporary Achilles heel of electoral democracy. But the IPC and IPER studies show otherwise; that the character of the vote that emerges from the poor have a rationality of its own. Voters from the poor and the marginalized favor leaders that appear god-fearing, helpful, loyal, and responsible; are wary of leaders who appear to be capable of corruption, lying, greed, irresponsibility, and selfishness. These sets of values are then realized in an operational criterion for candidate selection that values, in its proper order, the educational attainment, the experience, the platform and the decency of the different candidates. The 2003 IPER's research also show that voters value the candidate's public servant image the

most, and in descending order, the strength of the candidate's political machinery, the candidate's popularity and the endorsement of a traditional network or organization.

These studies reveal the existence of a set of values that guide common voters through the process of filling up the ballot. Though the order of importance and the level of their influence may be debatable, what remains unquestionable is the existence of an operative rationality that voters from the poor and the marginalized attempt to concretize through the ballot. Nonetheless, this rational, albeit organic set of values though, is far from being the only determinant of voter preference and attitudes during elections in economically deprived communities. Competing with this organic set of values are the different social structures, institutions and customary norms that often have conflicting concerns, i.e. local partisan ward leaders, sectoral leaders, family-centeredness, religious organizations, media, and possibility of immediate financial gain. In the end, it is the interplay between these different influences that determine the behavior of voters during the election period.

On questioning the pedagogy of transmission and enriching content, Mr. Nishimori said that as the previous section probably clarifies, the commonly accepted notions of irrationality and misguided paradigms do not strictly determine the voting patterns of the poor and the marginalized. Further, to understand the voter outside of the accusations of irrationality though, also have implications on the framework that has often been utilized for voter education efforts. As mentioned in the introduction, voter education has often been seen as a mode of intervention that transmits into voters the appropriate paradigm for electoral engagement. But as raised earlier, the aim of ideological transmission becomes generally questionable.

First, given that voters from the poor and the marginalized already have an appropriate paradigm for electoral engagement, ideological transmission can be seen as a form of intrusion. Second, transmission assumes that the introduction of appropriate ideological information suffices to induce a transformation of fraudulent electoral practices in economically deprived communities, that the transfer of ideas can introduce behavioral change.

Alternatives then, must be posed to the generally confrontational nature of ideological transmission. A first step could be voter education initiatives should try to empower the organic concepts leadership by allowing their target communities to articulate these values. Second, voter education should also consider optimizing the different centers of legitimization present in the community. In addition, local governance must also be seen as a venue that can further enrich electoral education and discourse. It is further suggested that voter education should strive to organize communities with the aim of safeguarding the already progressive notions of the community regarding leadership, thus insulating it from the domination of other more partisan concerns.

In conclusion and as mentioned earlier, the challenge of improving electoral discourse, both technical and ideological, is still substantial for voter education practitioners and electoral reform advocates. For one, it may be necessary to recognize that voters from the poor and the marginalized are not the unthinking voters that they have often been perceived to be. Outside of their instrumentalist view of electoral engagement, there also lies the belief that the electoral terrain is also a venue for the pursuit of progressive transformation. Voter education should focus on assisting communities and voters through the process of articulating their organic values of leadership.

Media Performance in the 2004 Elections

Ms. Sheila Coronel, Philippine Center for Investigative Journalism (PCIJ)

The studies of Philippine Center for Investigative Journalism (PCIJ) show the unprecedented role of media in influencing the voters, primarily due to the popularity of the TV, the weakness of the political parties and the historic role that media played. As a "media nation", 96% of the population has access to television which is higher than those having access to radio (78%). Television as the King, Pulse Asia's study show that 71% said TV is most credible source of election-related information. According to Social Weather Station (SWS), 42% of the poorest watch TV daily and only 37% listen to radio daily.

In an IPC study, media has also been identified as the most influential in factors affecting voting of the poor. During elections time, media indeed is the primary source of news and information. It is the arena of battle and is the "kingmaker", and therefore costs to around 30% of total campaign expenditure. This was basically manifested in the 2004 elections, when there was virtually no limit to political ads and when rankings corresponded to spending on advertising. With the lifting of political ad ban, rankings in national races more or less corresponded to spending on advertising. Virtually, there were no limits on advertising. Also, because the race was between an incumbent president and a popular movie star, there was unprecedented use and influence of celebrities and showbiz media. There was increased spending (vs 1998) on all items, including media; and rise of TV as major media arena has influenced quality & nature of election discourse.

In particular, PCIJ studies looked into the preparedness of the media to cover the elections, the conduct of the coverage (what are the influencing factors? was there corruption?), and lessons learned in the process. Their respondents were mostly female (54% females, 46% males). The average age of the respondents was 34, ranging from 21 to 63 years old, with an average of 11 years in journalism practice. Most or 76% have a

bachelor's degree and 15% have postgraduate education. Monthly income of about 44% of the respondents range from P10,000- 19,999, while 36% have income ranging from P20,000 to P29,000.

Research findings show that there were few media releases on issues, platforms and voters' views, as compared with releases on personalities, conflict, surveys, campaign trail, and presidential race. In the prints, for example, it was difficult to get statements on issues because candidates skirted around issues and simply could not articulate their platform. And since reporters have to meet the "boundary," reports usually cover only what they see. Discussion of issues and platforms were often in the inside pages of the newspapers.

Also, the media owners played crucial role in influencing the TV networks, as in the case of one major TV network and the government-owned station. Government TV obviously had bias for the Malacañang agenda. For big newspapers, on the other hand, editors and owners had no strong preferences, so they say it was a "balanced coverage." Other print media showed colors -- Tribune for FPJ; Malaya for Lacson; some detected pro or anti-FPJ bias in PDI. For radio, many commentators were for sale; it was a free for all.

The survey of media persons involved in the elections showed that there were high incidences of corruption. Media persons were offered payments during period of coverage; 62% of the respondents admitted that they accepted the money offered to them. How such corruption influenced and manifested in the reports were done in various ways. About 83% said that they highlighted positive stories about the giver; while 31% said negative stories were killed or buried. Also, either giver got more quotes and more exposure, or giver's opponents got negative stories.

Other observations include that there should be more attempts to provide background, context, and in-depth reports. However, reporting is generally shallow because still, there is an unquestioning belief in the primacy of ratings and sales, which is true even for news and public affairs. There's also a need for training and mentoring though it alone cannot resolve all the problems. There's still little will to do something about existing corruption.

Indeed, media need to address issues of ethics, content, reporting skills and self-regulation. But Ms. Coronel emphasized that improving media's performance requires effort not only from media alone, but also from the government and civil society sectors.



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2nd PANEL DISCUSSION 02 September 2004

The topics and panel discussants for the second day were:

- **Election Administration and Election Related Constitutional Reforms**
Atty. Christian Monsod
- **Strengthening Political Parties: the Current Situation and Prospects for REFORMS**
Prof. Victor Andres C. Manhit, De La Salle University
- **Mainstreaming Representation of the Marginalized: Strengthening the Party-list System**
Dr. Agustin Martin Rodriguez, Ateneo de Manila University
- **The Challenges for Local Sectoral Representation (LSR)**
Ms. Rebecca Malay, PRRM
- **Overseas Absentee Voting (OAV): 2004 & Beyond**
Ms. Ellene Sana, CMA
- **PPCRV's Assessment of 2004 Elections**
Mr. Antonio Ventoza, PPCRV

Election Administration and Election Related Constitutional Reforms **Atty. Christian Monsod**

Chair Monsod assessed the 2004 elections from the perspective of being both a process and results. Each can range from being credible, tolerable, questionable to non-credible.

As a process, the 2004 elections was tolerable, with Comelec's competence as the main issue given its questionable Commissioners, wrong prioritization, indecisiveness on key issues, misleading responses to public questions, and other inefficiencies related to the automation project. The perceived partisanship of

the Comelec's high level officials and the prolonged canvassing process contributed to the issue of credibility. Moreover, the prolonged and badly managed canvassing in Congress, with the sidelight of a Supreme Court case, did much to also hurt the credibility of the process. And NAMFREL, perhaps for the first time in its existence, perceived as not being totally transparent or decisive, lost some ground in credibility as well.

However, Chair Monsod lauded the professionalism of the Comelec career officers as the key element that saved the elections process from disaster; as well as the election officials at the ground level, both Comelec and its deputies. The vast majority of them did their job well, despite the unnecessary burden of poor leadership.

In terms of results, it can also be defined as tolerable if not acceptable. This was not because it was decisive but because the opposition simply self-destructed. Contrary to popular belief, the Filipino voters do cast intelligent votes, as in the case of the 2004 elections or even the 1998 elections, when Estrada won. It was clearly a class vote. The disenfranchisement on the other hand was not because it was deliberate but simply due to incompetence of Comelec Central (commissioner level).

If one were to juxtapose the 2004 elections with past elections, what comes to mind are two elections, with Marcos as a common personality. Before martial law, except for Marcos in 1969, all previous incumbent presidents lost in the quest for another term (Osmena, Quirino, Garcia, Macapagal). And to stay in power, Marcos raided the national treasury in what may be the dirtiest elections in our history. After 1986, Gloria Macapagal-Arroyo is the only incumbent president running for election, by operation of the constitution.

1986 was also the only other time that Comelec tried to centralize the voters' lists and to conduct its own quick count. Both projects failed miserably in their objectives. Massive disenfranchisement did not deter people from guarding the vote and the Comelec quick count was so blatant an attempt at manipulating the results that it caused a walkout of programmers and lost the credibility battle with NAMFREL.

One of the lessons that can be learned from the last elections is that even when democracy is not in its best behavior, still it works. This is not to condone irregularities and incompetence, but to remind you that there is hope.

In moving forward, Chair Monsod referred to the Operation MODEX (i.e. 'Modernization and Excellence', circa 1992), and also from the Comelec report on the results of the 1992 synchronized elections. These reports are familiar to Comelec professionals as compared with the cut and paste observers, foreign and local, who don't have the intellectual curiosity or honesty to look into the institutional memory of Comelec. Chair Monsod reminded the body that indeed Comelec has a vision. He also emphasized that elections is more than the problem of law but also a management problem that requires looking into the system and even into behavior.

Some of the recommendations that Chair Monsod shared were:

- appointment of impartial, competent and honest Commissioners;
- ensure a flexible legal framework; refine the permanent system of continuing registration;
- modernize the system through automation with more flexible legislation;
- decentralize and delegate functions (discard the commissioners in-charge system);
- fully operationalize the management information systems (including financial aspects of electoral campaigns);
- design and implement public education campaign;
- human development programs to develop, train, and motivate Comelec personnel;
- get a new building, upgrade equipment and create a working environment that tells employees how much they are valued.

Critical Points in the open forum

- *on the appointment process:* if the appointing power is serious in conducting thorough search then there wouldn't be a problem with the appointees, as opposed to making appointments based on patronage. Unfortunately, the process is highly politicized and in the end is not friendly to civil society's participation, i.e. forwarding nominees to positions.
- *on upgrading the qualifications of the candidates:* the signs of intelligent voting is there and there's really no direct correlation between a candidate's high educational achievement and his/her level of honesty.
- *on the administration and adjudication role:* the idea should be explored more in further study
- *on the role of civil society:* basically the civil society is doing a good job as far as the reforms concerned, however they are seldom present in the selections committee

- *on the OAV law:* Chair. Monsod expressed that he views OAV law as convoluted and cost-inefficient to the point of being absurd (how can we sustain the cost of deputizing and sending people abroad for purpose of getting votes of around thirty people for example)
- *on amending the Omnibus Election Code:* experience has shown that lobbying for amendments in the Code was more acceptable, as compared with lobbying for change in the whole Code. Chair. Monsod however noted that precisely because of these piecemeal successes that a holistic approach of putting these changes and laws together will be timely.

Strengthening Political Parties: the Current Situation and Prospects for REFORMS **Prof. Victor Andres C. Manhit, De La Salle University (DLSU)**

Making democracy work requires working institutions, such as the political parties. Prof. Manhit emphasized that programmatic political parties in particular are critical factors in achieving a more transparent and participatory system of government and in creating a modern state. While political parties have specific roles, i.e. nominate candidates, etc., they serve three fundamental purposes, namely (1) defining and expressing a group's needs in a way that the public and the political system can understand and respond to; (2) developing common ideas among a significant group in order to exert pressure upon the political system; and (3) facilitating political socialization.

In the reality of emerging democracies, political parties are generally weak, too personalistic, corrupt, and do not enjoy the support of the public. In the case of the Philippines, most political parties exist only in paper, have no clear party ideology and party program, and are personality-oriented and patronage-based. There's high prevalence of political turncoatism especially under the culture of money politics.

There is a deterioration of public trust and confidence in traditional political parties. Many have become hopeless in reforming our country's political party system and the brand of politics that we have. Studies have shown that high cost of political and official corruption has been perpetuated indirectly in the name of party interest. Indeed, corrupt politics and poor governance is a vicious cycle.

To address these concerns, Prof. Manhit put forward the need for civil society-political parties complementation, especially on specific issues and reforms. In this manner, political parties will become stronger institutionally and will be held in higher esteem by citizens. Other reforms that can be further considered in the 13th Congress are: Campaign Finance Reform Law; Political Party Reform Law; Transforming political parties into instruments for social change and good governance; Democratize political parties to level the playing field.

Specifically, these reforms aim to provide equal opportunity for citizen participation and adequate funding for party competition. Also, the reforms will provide consistent rules for all parties, will relieve parties of donor influence, and will alleviate them from the burden of corporate fundraising. The reforms seek to level the playing field.

In reforming the public finance, the specific suggestions were: creation of state subsidy fund to augment the electoral funds and operational expenses of political parties; full public disclosure of sources of campaign funds and expenditures, as well as auditing of party funds. It was also recommended to prohibit and criminalize the use of public funds and illegal money in electoral campaigns. There should also be a limit on private contributions of individuals and corporate entities.

In strengthening the political party system, on the other hand, one goal recommended was to create a State Subsidy Fund to finance party building and program operations of political parties during the non-election years. There was also the call to democratize selection of candidates of political parties and to mandate formulation of concrete policy agenda and platform consistent with their party philosophy and ideology. Lastly, to penalize political turncoatism.

All in all, there's a need to transform political parties to become instruments of change. They should become active organizations that are more responsive and dynamic, with enhanced sense of civic responsibility and social conscience. They should embody 'public trust,' with the values of participative democracy, civic participation, accountability, transparency and good governance. Democratizing political parties to level the playing field involves opening opportunities for small players, i.e. strengthen the party-list system, and also making the political parties accountable to the taxpayers. In the end, these reforms must come from a vision of new politics that is independent from vested interests and is ready to move towards a politics of dialogue, consensus and critical collaboration.

Mainstreaming Representation of the Marginalized: Strengthening the Partylist System **Dr. Agustin Martin Rodriguez, Ateneo De Manila University (ADMU)**

After having had three rounds of implementation already, the Party list System has shown very strong possibilities for reforms considering that 20% of the House of Representatives could potentially be filled with alternative Representatives from the marginalized and underrepresented, i.e. sectors other than the traditional elite. Foremost, given that the Party-list System steers voters away from personalities to

platforms, it can already be an area for reform – orienting voters on the programs and not on the personalities. Secondly, the elections are taken away from the realm of local politics. Though this frees Party-list from getting caught up with the dynamics of local politics, the problem would be the nation-wide character of its campaign. Third, though Party-list is said to be not a win-lose situation, the threshold of votes needed is still difficult to achieve in reality.

Though there are only 16 Party-lists and 24 Party-list Representatives in Congress today, which is barely half of the seats reserved for the party-list, there seems to be progressive growth in the number of Party-list voters. Likewise, there's limited growth of Partylist parties winning seats in Congress. Thus, however modestly gained, the Partylist system has contributed to the plurality in Congress – from Reps of indigenous people to Reps of labor leaders to Reps of the progressive left and traditional left. Indeed they are truly alternative representatives. Despite fears that the traditional parties would try to dominate the party-list system, there are no groups clearly identified with the traditional political elite occupying party-list seats. Rather, we have groups that are part of a new party-list elite of sorts.

But Dr. Rodriguez claimed that while these groups truly compose an alternative representation, they can also be considered “new elites” with the claim that they represent the marginalized and underrepresented. While this is not necessarily bad, still it must be recognized as the case.

Because winning a seat in Congress is not easy, there is the challenge of having to build a working network of voting supporters. This has meant having to play the horse trading game with local politicians and national political networks. But most have worked within large national coalitions of ideological groups or non-ideological cause oriented groups. These coalitions and civil society groups have already been lobbying for social reforms; and therefore, have taken on the burden of speaking for the marginalized. But the process by which they articulate the issues of the marginalized comes from a political or developmental framework that in turn comes from an elite group of intellectuals. In effect, what the voters buy is already a “packaging” of the issues of the marginalized.

This is not a negative phenomenon in itself. In a representative democracy, groups will really vie for the title of representative and will do this by trying to best package the concerns of the populace. It is perhaps more accurate to say that the agenda of the party-list representatives is really an agenda defined in certain centers of discourse and then later brought to the grassroots so that their constituency can own this agenda.

Although many including the Supreme Court believed that the party-list system was established to promote direct representation for the marginalized, it seems that this is not the way the party-list system will work. As it stands, the party-list system is creating a new system for civil society elite to engage Congress with their development agenda.

Nonetheless, many still believe that the Party-list System should provide Congressional seats to those who are actually marginalized. But then again, should this be the focus of discussions? In previous efforts to amend the law, what has been silenced is the issue of removing the threshold. Likewise, other points for reform could be: ensuring that the Partylist has national following, increasing the number of Representatives of the winning Partylists (from 3 to 5); and then redefining who represents the marginalized and underrepresented based on track record. He concluded that perhaps the real work for genuine representation for the marginalized is in the broader political party movement, and in mainstreaming their representation in mainstream parties also.

Additional Points from Chair Monsod:

- *On direct representation.* Chair Monsod reiterated that the original purpose of the party-list was to provide direct representation for the marginalized. He even shared that during his time in Comelec, their position was to fill up all the seats allotted for the party-list representatives, regardless of the number of votes they got.

The Challenges for Local Sectoral Representation (LSR)

Ms. Rebecca Malay, Philippine Rural Reconstruction Movement (PRRM)

The Local Sectoral Representation (LSR) provisions under the Constitution and Local Government Code have not been fully implemented. Its legal bases are: Section 9 of Art. X, 1987 Constitution; Section 41(c) of R.A. No. 7160 or the LGC that requires representation from the women, from the workers, and from any of the following sectors: the urban poor, indigenous cultural communities, disabled persons, or any other sector as may be determined by the sanggunian.

In 1995, Congress enacted R.A. No. 7887, which instituted certain electoral reforms, including Comelec's role in setting the rules for the election of sectoral representatives. Proposed enabling laws have been filed and have evolved since 1992, the salient features of which include: election of (3) sectoral representatives each in the Sangguniang Panlalawigan, Sangguniang Bayan and Sangguniang Panlungsod – from the women sector; from the workers; and from any of the following sectors: indigenous cultural communities, differently-abled persons, senior citizens, victims of calamities and disasters, children and urban poor, or

any other (marginalized) sector as may be determined by the sanggunian concerned not later than one (1) year prior to the holding of the next local elections.

Other salient features of the bill tackle: election period, qualification requirements, qualifications of sectoral nominees, grounds for forfeiture, and conduct of voters education. The proposals set here were in the same manner that the party-list election was framed. In the overall LSR advocacy, there were challenges that must be taken into consideration if the advocates aspire for better prospects in the 13th Congress.

These challenges and issues include the apparent lack of interest by the Senate, the cost of LSR (roughly P1.6 B for 5,607 positions) vis-à-vis the current fiscal crisis, and LGUs too much dependence on the internal revenue allotment (IRA) as main source of income vis-à-vis proposed IRA withholding.

Particularly in the Senate, lack of interest can be reflected in the failure to schedule even a hearing on the LSR bill, despite vigorous lobbying from the NGO-PO side. Meanwhile, carrying the cost of the LSR is affected both by the actual cost and by available resources. Being very much dependent on IRA, it would be hard for 5th or 6th class municipalities to afford LSR cost. For instance, 6th class municipalities are almost 90% dependent on the IRA. On the aggregate of all LGUs, about 63% of the total income of LGUs is derived from IRA, 21.8% is from taxes, and 14% from non-tax revenues, and the rest from share of the national wealth. With the current fiscal crisis hanging over our heads, the government may be reluctant to carry the cost of LSR. As it is, the proposed withholding of the IRA is estimated to save for government forty billion pesos. With this situation and if the President declares that we have an unmanageable public sector deficit, that could mean non-automatic appropriation for the IRA.

However, Ms. Malay asserted that despite IRA cuts as a deficit relief measure (though she does not approve of it from the perspective of poor class municipalities), it should not be used as an excuse to not having the LSRs. Actually, she has high hopes for LSR in the 13th Congress, as the bill has been re-filed already.

She reiterated that LSR would really be helpful for the sectors being represented and can make government closer to the people; LSR will also promote broader autonomy and will help develop new and truly representative local leaders. Further, LSR will challenge local personal, patronage-based politics; and thus make the people emerge as winners and selfish political interest as losers.

Critical points in the Open Forum

- *On national network as basis for winning party-list:*
Manggagawa (PM) cited that this might not be necessarily true to some of the party-list winners in the last elections, i.e. An Waray. Dr. Rodriguez agreed to the observation but still cited that most of the groups that won seats are those with national scope in terms of network.
- *On the Local Sectoral Representation.* Prof. Edna Co of the National College of Public Administration (NCPAG) reminded that elections are not just always procedural form of democracies; elections entail cost that may not always be affordable for poor municipalities. Elections can likewise be divisive, which may affect achievement of unity in small municipalities. In this light, she asked if there are other proposed ways, like consensus-building, as means for putting sectoral representatives to the Sanggunian. Ms. Malay responded that there are already practices of consensus-building in some localities, but still the push for LSR comes from the fact that it is already mandated and it is a right that needs to be fulfilled. She cited other complementary measures and advocacies that can address IRA-dependency and increase capability of poor municipalities to shoulder LSR cost. These measures include adopting a more poverty-sensitive formulation of IRA allocation. Another participant recommended the maximum use of the development councils as major venue for local representation.

Overseas Absentee Voting (OAV): 2004 & Beyond **Ms. Ellene Sana, Center for Migrant Advocacy (CMA)**

RA9189 or the Overseas Absentee Voting (OAV) Law substantiates the provision in the 1987 Constitution Sec. 5 Art.2. It was signed into law on Feb 13, 2003, with the rationale of restoring the right of suffrage to Filipinos overseas who have been denied it due to physical absence in RP. OAV's coverage for voting is the President, VP, Senators and Party-List; voting can be done personally and through mail in selected countries.

The law provides that counting and canvassing be done on-site, with automation for voters numbering 5000 and above. There was no prohibition from personal campaigning and information campaign was conducted through agencies and Comelec-accredited NGOs.

The 2004 election results show an OAV turn out of 37% registration applications and 65% voters turn out. The highest registration turn out is in Hong Kong and the highest significant voters turn out is in Dubai. Ms.

Sana commended the manner of deputizing election manners, wherein around 54% are from the Filipino communities.

Still, there were problems that weighed down OAV implementation, namely:

- Few and Far Between Registration and Voting Centers;
- Non-User-Friendly Forms; Missing Names, ID Problems;
- Tedious Counting Process;
- Special Ballot Reception and Custody Group (SBRCG);
- Insufficient human power and Training; and,
- Lack of Information Dissemination.

To address these, Ms. Sana cited recommendations:

- Option on Personal or Postal Registration & Voting;
- Implement ASAP Continuing System of registration;
- No to Affidavit of Intent to Return for Immigrants;
- Adaptable Mechanism for Registration and Voting of Seafarers;
- Sufficient time & Budget for information & political campaign;
- Full Automation of Counting;
- Filling Up Forms;
- Voters' IDs.

The fact that the estimated population of Filipinos overseas has reached a high of **7.76** million in **192** countries and destinations, with women composing 73% of the deployed workers, the importance of OAV really cannot be less underscored. After GMA's declaration that the economic opportunity that she wants to provide is both at home and abroad, it is most likely also that Filipino out-migration/diaspora will continue.

For this reason, their political empowerment must be defended. Despite flaws and limitations of the RA9189, it remains a "positive little step for the democratic participation of overseas Filipinos in the country's political and electoral processes."

Additional Points:

- Members of the Overseas Absentee Voting Secretariat added some points they observed during the elections. In particular, Director de Mesa stressed the hardships and sincerity that the volunteers had during the elections.
- *On voting by mail.* Ms. Montemayor of DFA related that voting by mail was allowed in three countries, namely Tokyo, Canada and United Kingdom, because the assumption in these countries was that each has an efficient mailing system. However, there were problems that led to the 44% turnout among voters by mail, i.e. high incidence of 'return-to-sender', wrong addresses, incidences of labor strikes. This problem will be one of the concerns that will be subjected to the mandatory review of the law. In general, however, she said OAV proved to be a good experience.
- *On the supposed cheating in Hong Kong.* There was an accusation of cheating in the conduct of elections in Hong Kong, as based on a video footage of a poll clerk inserting the ballot in an envelope. It was noted that the use of the envelope is peculiar to absentee voting; the voter must put the ballot inside the envelope before dropping it into the ballot box. Unfortunately, the video was presented to the media and was even headlined in the papers, and Comelec asked for an explanation from the people concerned (those who took the footage) but there was none given. Atty. Balmonte raised the point that it was unfair for those in Hong Kong to have been tagged for cheating the elections. As a lesson on the procedural flaws of OAV, it's now being proposed to get rid of the use of the envelope.

PPCRV's Assessment of 2004 Elections Mr. Antonio Ventoza, PPCRV

Enlightened and prompted by the holy spirit, Parish Pastoral Council for Responsible Voting (PPCRV's) faith and heart continue to burn in the crucial elections of 2004. Through the years, PPCRV has always been inspired by the act and degrees of the second plenary council of the Philippines, by the support and guidance of the church and by the enthusiastic support and acceptance of the people of God. In the recently concluded electoral exercise, PPCRV has once again answered the call to be the catalyst of change and guardians of the ballot in the national and local elections of May 10, 2004.

The thrust of PPCRV was to continue the advocacy of giving one self to faith and fire for clean, honest, peaceful and credible elections, and to fight and reform the eroding evils of guns, goons and gold, pay-offs,

personality and patronage. But most of all to act as protector of everyone's sacred right to vote. The task and the road towards that end were not easy, but because of the support of all Archdiocesan and Diocesan unit nationwide, together with all collaborating groups, PPCRV was able to make a difference.

Mr. Ventoza shared that since 1992, their faith and fire continued to burn hoping to once again shape the lives and destinies of our people in the new millennium. Recognizing that there were reports of violence, frauds, and disenfranchisement of voters, the PPCRV ceased the May 10 election exercise more on its positive light. So instead of asking what went wrong, Mr. Ventoza said that we should categorically ask – what went right? The May 10 2004 national and local elections brought three unprecedented phenomena: first was the outpouring of voluntarism among the individuals seeking to join poll watch group like the PPCRV. During the previous elections, the PPCRV would have a number of spare IDs in the national office; but the influx of over 443,975 volunteers this year's elections has even created a deficiency of IDs. Second was the outgrowth of a politically aware voting population, thanks to the help of media that really devoted its resources and time to build this level of consciousness among our electorate. Third was the strengthening of the electoral process through the on-going linkage of Comelec with other civil groups like the PPCRV. Though there were some misunderstandings with Comelec, e.g. some regional directors did not recognize PPCRV and some materials were denied to them, still Mr. Ventoza expressed his thanks, love and respect for the Comelec people. He further shared that when the Chairman was saying that the presence of some Commissioners there may make some of the reforms we're seeking impossible, he felt very sad and disheartened but he believed that there's still a bright hope for change, as long as there's the people, the rank and file, of Comelec. This is necessary to cultivate the confidence of our people in the electoral process and in the elected leaders it produced.

Even after May 10, 2004 elections, PPCRV coordinators have decided to continue to meet their volunteers because PPCRV is pang-eleksyon na, panghabang panahon pa. Its local units will continue to be abreast with the national and local issues involving our national welfare in the light of gospel value. They will also implement their flagship programs: voter's education, political affair, local governance. He shared that their local governance committee will be fully implemented by October, and will be launching their Voter's Education Book entitled 'Our Best Kept Secret.'

Truly, there's something we should be unsatisfied and unhappy about the recently held election. But PPCRV also believed that there is much greater reason to be jubilant and affirmed for. For all PPCRV volunteers are the unsung heroes in Philippine politics, their involvement in the political arena is an answer to God's call to mission in the renewal of the temporal order. They risk their lives for the love of God in faith and fire, in the service of the country as highest possible manifestation of true patriotism.

Critical Points in the Open Forum

- *On disenfranchisement of voters.* Mr. Verzola clarified if it was really PPCRV that provided to the media the estimate of 36% disenfranchisement of voters. PPCRV said that they were misquoted because the said percentage referred to was based on the incident report and on the actual voters.

Workshop Reports

Mr. Jerry Nishimori introduced the guide questions for the workshop, namely these are:

1. What is the current policy environment?
2. What are the important considerations and provisions that should be included in the proposed bills and amendments?
3. What are the possible strategies for engagement that will help expedite the realization of the desired considerations and provisions in the proposed bills? What type of networks must be instituted? What are the possible research agenda? How can this be transformed into a concrete action plan?

He stressed that the important thing would be to be able to articulate opinions and positions on specific matters. There's a need to consider two things – the action plan and the two timeframes, namely, the 13th Congress period and the 2004-2010 Administration.

The following were the key results of the workshop groups.

Electoral Administration and Election-related Constitutional Reforms WORKSHOP

Members:

Melissa Lao
Chyn San Juan
Leopoldo Camacho
Noy Berja

Amang Mejia
Milo S. Oropeza
Andie Lasala
Dong Calmada

Facilitator: Atty. Luie Guia
Documenter: Patrick San Juan

ISSUES/PROVISIONS FOR AMENDMENTS/INCLUSIONS

- Automation of Elections by 2007
 - OMR machines can still be used if allowed
 - Review and consolidate the laws regarding elections (flexibility for Comelec)
 - No IT department in Comelec
- Registration Process and Database must be improved
 - Database should be posted in Comelec website
 - Cleansing of election voters' list
- Improvement of Commissioners' Appointments
 - Constitutional amendment
 - JBC-type of selection (civil society lobby)
 - Multi-sectoral
 - Management and IT experts (not only lawyers)
- Improvement of Leadership and Operational Aspects of Comelec
 - Civil society should support Comelec
 - Capability-building of Comelec staff
 - 'Comelec Watch' (civil society)
- Work Together
 - NGOs can access data from Comelec
- Marketing of Electoral Information
 - Competence of people in information dissemination
 - Appropriate strategy
 - Infusion of young blood/ early retirement for 'old' Comelec officials

Political Party Reform WORKSHOP

- Transparency and Accountability of Comelec

Members:

Audie San Juan
Adeline M. Angeles
Roberto A. de los Reyes
Francine Anne Sayoc
Emman J. Garcia

Joel M. Calla
Lalaine Apugan
Sonny Azores
Tessie D. Galleta

Facilitator: Debbie Soriano Garcia
Documenter: Dulce C. Saglesi

ISSUES/PROVISIONS FOR AMENDMENTS/INCLUSIONS

- Political Party System
 1. Define 'Political Party'
 2. Penalize Violations/ Deviations from submitted M-V, Party Constitution
 3. Prescribe Structures and Processes
 - ideology/ platform
 - selection process
 4. Expound & expand provisions on 'turncoatism'
 - who is an 'independent'
 - time frames
 5. Create & fund specific Comelec division to monitor campaign funding
 6. Add proviso on parties being deemed as having waived protection under bank secrecy law of campaign fund account.
- National Party Finance
 1. Add ITR (year immediately before election) requirement for donor.
 2. Add caveat on ineligibility of donor from being appointed to any government, quasi-gov't position for the next three years.
 3. Study proportional counterpart state funding scheme (50-5).
 4. Study provision on funding for new parties.
- Action plan
 1. Lobby!
 - attend committee hearings
 - write your rep
 2. Use media
 - favorable column feeds
 - RV/ radio/ print polls

Local Sectoral Representation WORKSHOP

Members:

Joel Erediano
Sr. Eden Orlino
Tony R. Villasar
Juanito L. Oliva
Filemon C. San Antonio
Edna A. Co

Jet PM Flores
Edson S. Arceo
Jamael A. Eril
Ruel Punongbayan
Cathy Tiongson

Facilitator: Mertz Certifico
Documenter: Raul Ragay

ISSUES/PROVISIONS FOR LEGAL REFORMS

- Provide definite guidelines in choosing the 3rd sector
- Applicable to ARMM areas
- Self regulation
- Maluwag ang qualification for sectoral organization
- Setting of standards

STRATEGIES

- Policy Advocacy
 - Engaging local government units, Congress (HOR and Senate), and the Leagues (Barangays, Municipalities, etc.)
 - Engaging the Executive

- Get support from the Barangay
- Strengthen information dissemination/ IEC
- Media advocacy work
- Constituency bldg
- Research
 - Mapping of NGOs/POs
 - Scanning local legislative agenda vs. sectoral agenda advocated by POs/NGOs

Local Sectoral Representation WORKSHOP

Members:

Ephraim Bejar	Girly E. Amarillo
Tom del Monte	Tess de Leon
June B. Jordan	Lecie Arce
Dong Romero	Elizabeth Lorenzana Diaz

Facilitator: Erwin Lara
 Documenter: Rosalinda Luna (Buna?)

ISSUES/PROVISIONS FOR CONSIDERATION IN AMENDING THE LAW

- Screening of party-list groups for registration
 PL groups funded by traditional political parties/big business, "religious" groups, foreign funded, adjuncts of the military/government must be disqualified; Comelec must improve and strictly implement screening procedures
- The law must ensure the representation of marginalized sectors enumerated in Section 5 of the RA 7941
 Amend manner of voting; introduce mechanisms where voters may be able to vote for the sector and/or political party of their choice
- There must be a continuing voters' education on the partylist system; tap PTV4 and other government broadcast stations for this purpose
- Participatory mechanism: use of alternative media; support the legislation of public broadcasting system; include provisions in the law that would require partylist groups/nominees to present their program for participatory mechanism such as the holding of regular public consultations; promote best practices and give recognition for such; Comelec to monitor such participatory mechanisms;
- Allocation of seats: increase the number of seats for every partylist group from 3 to 5 or 6; formula for allocation of seats must fill up the 20% reserved seats for partylist; threshold will depend on the best formula that would fill up all the seats

Lobby activities:

- Briefing with Congressmen and Senators on the partylist issues and proposed amendments
- Regional/island consultations
- Lobby with the LGUs/local Sanggunians
- Draft/distribute primers in major local dialects
- Reactivate CER e-group
- Incumbent partylist groups must unify and actively lobby for the bill amending the partylist law
- Information dissemination/voters' education through mass media

Absentee Voting Law Reform WORKSHOP

Members:
 Marilyn C. Montemayor

ISSUES/PROVISIONS FOR AMENDMENTS/INCLUSIONS

- Repeal/ Reconsider Sec. 5d of RA 9189
- Include participation of voters in national plebiscites/ referendum
- Allow the processing/ verification/ approval of OAV application for registration at Comelec COAV (through in-house ERB)
- Allow the appointment of non-lawyers as SBOC Chairs
- Reconsider personal delivery of the certificate of canvass
- Provide option for postal/ personal registration/ voting
- Improve registration/ voting mechanisms for seafarers
- Allow the establishment of additional registration/ voting centers where feasible
- Simplify forms
- Simplify registration/ voting procedures
 - get rid of the need to use an envelope for the ballot during personal voting
 - get rid of the need to use one ballot box per voting day
 - get rid of the need to affix thumb mark alongside individual vote totals for each candidate in the election returns
- Ensure a secured network for the transmission of election results from the Posts to Comelec
- Automate elections
- Provide resources for the strengthening of information campaign activities

STRATEGIES

- Submit Post-OAV Implementation Report and Evaluation/ Recommendations to Comelec and JCOC
- Continued lobbying for the amendment/ improvement of the law and the IRR
- Mobilize non-government organizations and Filipino communities overseas
- Ensure inter-agency cooperation in the advocacy/ implementation of OAV
- Mainstream campaign to amend/ improve OAV law and IRR



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3rd PLENARY DISCUSSION 03 September 2004

Ms. Malay Malay welcomed the participants to the third day of the conference. She reminded the participants of the task at hand on this last day, which was primarily to achieve unity on the conference resolutions. To start with, Ms. Irene – from the Office of Commissioner Borra presented the consolidated results of the five workshop reports – (1) election administrative and ; (2) political party reform; (3) party-list reform; (4) local sectoral representation; and (5) overseas absentee voting.

The following is the table presented:

CONSOLIDATED WORKSHOP REPORTS

WORKSHOP NO. 1 - ELECTION ADMINISTRATION AND ELECTION-RELATED CONSTITUTIONAL REFORMS

Policy Concern & Environment	Policy Recommendation	Activities
1.Automation of 2007 Elections		
- modernization – not only focused on machines	• OMR machines can still be used if allowed (automation for counting only)	
- legislative process might be a drawn-out process, as a doable therefore modernization	• Review and consolidate the laws re: elections (flexibility for Comelec) – 8 major laws that need to be consolidated	

related resolutions can be done in stages		
- immediate concern (automation of counting of votes)	• Create IT department in Comelec	
2.Registration Process and Database must be improved	• database should be posted in Comelec website (currently being consolidated for website uploading) • cleansing of election voters' list	
3.Improvement In Commissioners' Appointments • context: highly political	• constitutional amendment (amending president's sole power to appoint) • JBC-type of selection Multi-Sectoral Body (will receive nominees) • Hire a Commissioner who has management and IT background (not only lawyers)	
4.Improvement of Leadership and Operational Aspects of Comelec	• civil society should support Comelec • capability-building of Comelec staff • create comelec watch (civil society) – <i>will focus on the actions of Comelec, but not to impose, only to act as watchdog</i>	
5.Work Together: Comelec and Civil Society	• NGOs can access data from Comelec	
6. Social Marketing of Electoral Information ** information dissemination of Comelec does not work	• competence of people in information dissemination • utilize appropriate strategy • infusion of young blood/early retirement of "old" Comelec people	
7.Transparency and Accountability of Comelec	• strengthen transparency in Comelec	
8. Lobby Comm. Borra as Chair of Comelec		

WORKSHOP 2 – POLITICAL PARTY REFORMS

*Take-off point: HB#6418- work within the constraints of the present constitution; work within the 2007 and 2010.

Policy Concern & Environment	Policy Recommendation	Activities
Political Party – Definitions	1. define political party 2. penalize violations/deviations from submitted M-V, party constitution 3. prescribe structures and processes (ideology/platform; selection process) 4. expound and expand provisions on turncoatism (who is an independent? What are the time frames?)	1. Lobby! - attend committee hearings - write your report 2. Use Media - favorable column feeds - tv/radio/print polls
National party finance	1. Add ITR (year immediately before) requirement from donors 2. Add Caveat on ineligibility of donor from being appointed to any gov't, quasi-gov't	

position for the next 3 years
 3. study proportional counterpart state funding scheme (e.g. 50M fund raised = 5M add'l fund; counterparting scheme- provides COA chance to inspect donors' list)
 4. study provision on funding for new parties (limited to national parties only?)
("wishlist"/ not so doable because may involve other committees in the process)
 5. create & fund - specific comelec division to monitor campaign funding
 6. add proviso on parties being deemed as having waived protection under bank secrecy law of campaign fund accounting

* It must be noted that party definition cannot be imposed, however, if they go beyond their own definition, they can be penalized.

WORKSHOP NO. 3 – PARTY-LIST REFORMS

Policy Concern & Environment	Policy Recommendation	Activities
- Screening of party-list groups for registration - PL groups funded by traditional political parties/big businesses - Law must ensure representation of the marginalized - Amend manner of voting to introduce mechanisms where voters may be able to vote for the sector and/or political party of their choice - Need for continuing voters' education - Participatory mechanisms - Allocation of seats (to fill up the 20% reserved seats) – PRIORITY in terms of tactics		- Briefing w/ Congressmen and Senators on the party-list issues and proposed amendments - Regional/island consultations lobby with the LGUs/local Sanggunians - Draft/Distribute primers in major local dialects - Reactivate CER e-group - Incumbent party-list groups must unify and actively lobby for the bill amending the partylist law - Information dissemination/ voters education through mass media

- On how to proceed, it was suggested that recommendations of this workshop group must be tied up with the recommendations of the workshop group on the political party. In a sense mainstreaming the whole partylist issues in the whole political system.

WORKSHOP NO. 4 – LOCAL SECTORAL REPRESENTATION

Policy Concern & Environment	Policy Recommendation	Activities
	- Provide definite guidelines in choosing the 3rd sector - Applicable to ARMM areas - Self regulation - Maluwag ang qualification for sectoral organization - Setting of standards	- Engaging local government units - Engaging Congress (HOR and Senate) - Engaging the Leagues - Engaging the Executive - Get support from the Barangay - Strengthen information dissemination/ IEC - Media advocacy work - Constituency bldg ----- - Research

- Mapping of NGOs/POs
- Scanning local legislative agenda vs. sectoral agenda advocated by POs/NGOs

WORKSHOP NO. 5 – OVERSEAS ABSENTEE VOTING

Policy Concern & Environment	Policy Recommendation	Activities
	• Repeal/ Reconsider Sec. 5d of RA 9189 • Include participation of voters in national plebiscites/ referendum • Allow the processing/ verification/ approval of OAV application for registration at Comelec COAV (through in-house ERB) • Allow the appointment of non-lawyers as SBOC Chairs • Allow the appointment of non-lawyers as SBOC Chairs • Reconsider personal delivery of the certificate of canvass • Provide option for postal/ personal registration/ voting • Improve registration/ voting mechanisms for seafarers • Allow the establishment of additional registration/ voting centers where feasible • Simplify forms • Simplify registration/ voting procedures • get rid of the need to use an envelope for the ballot during personal voting • get rid of the need to use one ballot box per voting day • get rid of the need to affix thumb mark alongside individual vote totals for each candidate in the election returns • Ensure a secured network for the transmission of election results from the Posts to Comelec • Automate elections • Provide resources for the strengthening of information campaign activities	• Submit Post-OAV • Implementation Report and Evaluation/ Recommendations to Comelec and JCOC • Continued lobbying for the amendment/ improvement of the law and the IRR • Mobilize non-government organizations and Filipino communities overseas • Ensure inter-agency cooperation in the advocacy/ implementation of OAV • Mainstream campaign to amend/ improve OAV law and IRR

After the presentation, Ms. Malay solicited questions pertaining to the report. She encouraged the participants to raise issues and suggest actions that were not raised in the workshops.

On Workshop no. 1 - Election Administration and Election-Related Constitutional Reforms

Atty. Louie Guia raised some points to help clarify their report under workshop 1 – election administration. First, on the subject of automation, he said that the group believed that there should be no compromises in automating the 2007 elections and that civil society should lobby for this. To answer, however, the question on what kind of automation system should be implemented, he clarified that their workshop group did not decide on it. But there were proposals to look into the existing automation law and make it more flexible and open to new technologies. Further, to consider past experiences in the several attempts to automate the elections. He recounted that Commissioner Borra, who also sat with their workshop group, mentioned that the machines were already bought and paid for. There may be questions about the contract of these machines but still, they are available for use. Though there may be legal considerations on the use of the machines, but it is important to note that we are in a political and economic crisis, as what Mr. Casiple said in his opening remarks on the context of this summit. Atty. Guia reiterated that since the country is facing a financial problem, practicality should be considered in proposing the 'doables.' Another issue that he

mentioned was the reality that Comelec does not have an IT or technology department that can be in-charged with managing the elections modernization program. Again, he encouraged the group or the participants to support Comelec with this.

On the registration process, Atty. Guia shared that the consensus was that the existing law is already sufficient, as also supported by Comm. Borra's information about the matter. But still Comelec has to manage the database well and that the registration system should be more accessible to the voter. One suggestion was to have the registration available in websites.

Atty. Guia further mentioned that one important aspect of election administration concerns the ability of Comelec to manage and run the elections. This inevitably relates to the competence and integrity of the Comelec Commissioners. In this regard, it is important for civil society to get involved in the process of appointing Commissioners, who should be selected based on management skills rather than legal acumen. One proposal for achieving this is the creation of a judicial and bar council (JBC) type that will come up with a list of nominees for the President to choose from. But institutionalizing this will require some kind of Constitutional amendment. So in the meantime, Atty. Guia suggested that this group can perhaps lobby this process (JBC process) to the president. As a show of sincerity towards election reform, the President herself could perhaps create voluntarily this JBC type of group where she would afford all stakeholders a chance to nominate and to screen qualified people for Comelec Commissionership.

On the "marketing" of electoral information, Atty. Guia suggested to reword 'marketing' to 'social marketing.' What the workshop group meant by this was for Comelec to effectively communicate to the people and to the various stakeholders what they're doing in the promotion of democracy. He said that this also means to sell Comelec's projects by infusing young people who have competence in information dissemination. This also means professionalizing the people in Comelec and putting people where they are fit. Other suggestions were to provide skills training for those with deficiency in skills and perhaps an early retirement scheme for some incorrigible Comelec employees.

Lastly, Atty. Guia cited Comelec's transparency and accountability as important to answering questions on the last elections. He said that it will not be to the interest of our democratic processes if we will leave those questions unanswered.

Mr. Mertz Certifico of IPG would have liked to raise a question on workshop #4 but he was reminded by Ms. Malay to focus questions on workshop #1 first.

Mr. Casiple raised the matter of constitutional reforms, particularly on the mandate of the Comelec as both an administrative body and an adjudicatory body. He asked if the first workshop group discussed this dual function and if there were related recommendations.

Atty. Guia related that the group had a consensus that the matter needs looking into. But since the group was more concerned with things that are "doable," they laid out a plan that can be done in stages, the first of which is the 2007 elections. Though the group's discussions focused more on the 2007 elections, there was a positive opinion on separating the judicial and the administrative functions of Comelec.

Mr. Ventoza of PPCRV shared his opinion on what should be the immediate concern of election administration reform. He said that more important than the automation of counting of votes is the cleansing of the voters' list. The last elections had a lot of disenfranchisement because of flaws in our CVL. He clarified that he's not counting out the automation of counting of votes as important but priority should be given to the cleansing of voters' list. Because a good counting machine will be useless if we will still have inaccurate and unclean voters' lists; it will be "garbage in, garbage out" case.

Atty. Lui replied that the consensus of the group was the automation of the voting and counting process in 2007. This means going hand in hand with the cleansing of the voters' list. Ms. Malay interjected that the recommendation is quite clear in section (2) of the group's policy recommendation.

Related to the matter of what should be immediate, Mr. Obet Verzola raised the urgency of punishing the cheats. He said that this should be not difficult considering that we can very easily pinpoint the provinces and regions where major cheating occurred, based on major discrepancies between the elections results from the Congress and Namfrel. He reiterated that "until we punish the cheats, the cheating will go on." Mr. Verzola was keen to note that computerizing elections will not guarantee a stop to cheating. It may even be worse because the cheats will use the computers and tabulations less transparent and therefore it would be more difficult to question the results. It will make cheating easier to hide.

Again in behalf of the workshop group, Atty. Guia shared that there were passionate discussion on going after the cheats. He apologized for not including it in their report since they looked more into the structure of Comelec. What they noticed, however, was that the system and the procedures are there and it just needs political will from the implementers of the law. He suggested that civil society can really do something in pushing for this concern.

Comm. Borra stated his admiration of Mr. Verzola's interjection on punishing the cheats. He shared that this is applicable to areas like South Upi, where the municipal board of canvassers proclaimed three mayors and four vice mayors one day after the other. The Comelec conducted a hearing and found these proclamations

all unlawful, illegal, and fraudulent and must be nullified. The military, Namfrel, and church-based organizations testified that the proclamations were really a fraud. He updated the participants that a resolution has already been approved by the Commission-en-banc and the law department is now preparing the information against the cheaters. He gave other areas with similar cases, i.e. Kolumbyo and Talitay. He affirmed that unless these are sanctioned, the temerity of these people for what price we have not counted will continue. He mentioned that there should be sanctions as well as rewards -- reward for the outstanding, very clean and honest elections, and punishment for those who cause a mockery of the sovereignty of the people.

Another suggestion on the automation of the elections was to use bar coding system. Roberto de los Reyes of Davao suggested that there should be a centralized bar coding instead of using simple numbering, so as to avoid manipulation from technical or computer experts. Atty. Guia responded that the group did not go into these details but the suggestion was noted.

On making sanctions, Mr. Ventoza added that there should also punishment for election officers of member of the board of canvassers who do not function. He cited as an example the case of Bifan where the election officers convened the board of canvassers but took off after counting one ballot box, allegedly due to sickness. This caused a four-day delay in counting.

Mr. Ventoza also suggested that creating an information technology department (ITD) in Comelec may not be timely due to budgetary constraints in government. He suggested hiring of information technology consultants instead.

Comelec Director Aguam recounted that the creation of the ITD or information technology department of the Commission has already been built-in in the law. During the time of Chair Monsod, whom Dir.Aguam referred to as the father of Comelec modernization program, ITD has been imprinted in RA8046 or the pilot-testing of the automation of the electoral process in the ARMM. This was again current in the provision of RA8436, the present nationwide modernization law. Actually, DBM has already allocated and approved a plantilla position for about one-half of the personnel required. Director Aguam mentioned that a Director for ITD has been appointed by the Commission but the rest of the required personnel has yet to be appointed. But the function of the ITD is being undertaken by the MIS office, or the management information system, under the planning division. Commissioner Borra is the Commissioner-in-Charge (CIC) of the planning department.

On the issue of enhancing process and mechanisms for appointing Commissioners, Mr. Norman Patiño of IPD expressed that this is a long term project. But his concern was on the more immediate and controversial issue of present appointees, particularly citing Barcelona's and Garcellano's re-appointments. He reiterated that this needs looking into as this has an effect on the Comelec's credibility.

In response, Comm. Borra emphasized the JBC screening process as one of the suggestions of the workshop group. But since this will need a constitutional amendment, an administrative scheme can be recommended to the President. This scheme will ensure that there will be inputs from the NGO, civil society, and other stakeholder of the electoral process. This process can address the issues on morality, integrity, competence and all those requirements for independent Comelec Commissioners. Comm. Borra further recommended that the conference resolution should include suggesting the list of nominees as the basis for the President's appointment. He said that with this process, the Comelec Commissioners will not be totally beholden to the appointing authority and therefore they can exercise independence. At present, the process has become politicized.

Mr. Ventoza of PPCRV pushed the issue further by proposing to the consortium to lobby for the bypassing of the two said Commissioners, and to recommend people who are more acceptable.

Actually, the National Council of Consortium for Electoral Reforms (CER) has already discussed the matter earlier this month. Mr. Mon Casiple narrated the National Council's resolution to intervene with the confirmation hearings of the two re-appointed Commissioners. The first point of the resolution was to make the Congress aware that civil society stakeholders are concerned about the circumstances, qualifications and the actual act of re-appointing people who have questionable backgrounds. Mr. Casiple noted that it is not so much a question about whether or not the accusations are true about these people, but more importantly, the presence of public doubt on the circumstances surrounding the original appointments already put the integrity and credibility of the institution at stake. Also, it was made clear in the resolution that there are choices and that government is not constrained to selecting only or exclusively the two people concerned. The message of CER was for the President and Congress to make the maximum effort in making the whole electoral process and the institution credible. There must not be any cloud of doubt on the Comelec leadership, and therefore the selection process must be transparent and participative.

The second point of the national council's resolution was to intervene in the selection process if these two people are not re-appointed. Meaning, the consortium is open to participating in the selection of credible people with integrity and competence for the position.

In reaction, Comelec Director de Mesa emphasized that the civil society should take a preventive stance rather than a curative stance with regards the appointment of Commissioners. She observed that this issue

has always cropped up in many consultations she has attended, and one reality is it's really difficult to remove a person from a position once appointed. To reiterate the importance of civil society lobby, she cited the Davide impeachment case wherein civil society groups were in uproar and campaigned against the case. At about that same time, there was no development on the proposed impeachment of one Commissioner despite evidences filed against the person. Director de Mesa said that one Senator attributed this lack of development in the case to the lack of a lobby group.

Mr. Casiple affirmed that indeed many of the civil society members were in the forefront of defending Justice Davide. But there were efforts done also when former Chair Benipayo was under attack not only within the Comelec but also from politicians, who for various reasons used the problem of disunity within Comelec to undermine the position of the Chair. The CER at that time discussed the issue and made representation to the leadership of Congress, specifically to Speaker de Venecia and Senate President Drilon, and to the Malacañang. And to their credit, they (legislative and executive) faced the problem, i.e. the President had breakfast together with Comelec people so as to further discuss the problem. Nonetheless, CER learned from experience that the appointments of Senior Comelec officials are indeed highly politicized. Being arbiter in an electoral contest, Comelec faces a political wall with respect to Commissionership appointments. Simply, politicians do not want to change anything that is to their advantage.

If the highest officials in our land already have decisions contrary to the opinion of public or civil society groups for example, then the situation becomes a black and white issue. Mr. Casiple said that it can be a choice of going to the streets again (e.g. Edsa) or negotiating it with executive and legislative leaders. The context of defending Justice Davide at that time was its immediate threat. The intensity of the campaign was approaching the level of Edsa2 or Edsa1 since the public themselves realized that Justice Davide's impeachment bears fundamental effect on our democracy itself. There was no more alternative but to go to the streets. On the contrary, the issues surrounding the appointments in Comelec have not reached that point (Edsa1 or 2). Mr. Casiple therefore raised the question of how to resolve the problem from the civil society's perspective. He asked if there were no alternatives other than going to the streets. He said that if all issues were to be approached from that frame, then it would mean the failure of the democratic processes. Actually, the question applies not only to Comelec but to other government agencies and constitutional bodies also. This is also why there are clamor for constitutional reforms because some of the problems result from the loopholes in the Constitution. An example of which is that only an impeachment can get a Commissioner out of Comelec, all others are not legal. Mr. Casiple said that that's actually the problem.

Ms. Malay summarized the main points raised for election administration reform. First point was on what should be the immediate concerns; i.e. punish the cheats, cleanse the voters' list, automate the counting, and use the machines. To administer automation, the Commission must fully implement the provisions of RA8046 and RA8436. Second point was on issues that imply constitutional reform; i.e. separating the administration and adjudication roles of Comelec and making appointment of Commissioners more transparent. The suggestion was to lobby the President to adopt a JBC type of selection for the Commissioners. Lastly, marketing of electoral information actually means social marketing of election information and communication activities.

As one last point, Atty. Guia pursued Director de Mesa's statement on what civil society can actively do in the appointment and confirmation of Comelec official. His perception was that Director de Mesa's statement was a statement of frustration on the part of the career people in Comelec and therefore should not be disregarded. He said that if the situation requires going to the streets, we have to go to the streets.

Another participant however reiterated that it is not civil society that must be pressured on these issues in Comelec but the electorate themselves. Since the law and the institution are already in place, it is now the level of awareness of the electorate, being the sovereign will, which determines what the situation will be. The civil society members have various interests and not all are focused on the voters' interest. He cited as an example the information technology requirement of modernizing elections. Why this should be treated separately through the creation of a new department, when in fact it is similar to blood that needs to be present in the whole system. He said that he just reacted because it is really the task of the people's organizations to educate and unify their ranks on electoral reform. And therefore it should be clear that elections it is not really about Comelec but about people (electorate).

On Workshop no. 2 – Political Party Reforms

Since there were no questions on the report of the workshop group on Political Party Reform, Mr. Audie San Juan aired his worry that every time political party reform comes up, civil society seems to keep quiet. He stressed that the group should not forget political party reform as this in the end will influence electoral reforms in the legislative level. Since electoral issues are systemic, there should be more attention given to the roots of these issues. Mr. San Juan believed that in reforming the political parties, there is better chance that better people will get elected, and hence, a better chance for reform to be instituted. Until this political party reform is achieved, existing political parties will keep bringing people who will not be sympathetic at all to what we are saying. The dynasties will continue and people who do not have the requirements will continue to be elected. He implored to the civil society groups to put as much importance to political party reform. He suggested that the participants look into HB6418 and provide inputs for its further improvement.

Corollary to the suggestion, Mr. Ventoza asked the Consortium to create working committees on pertinent reforms being suggested. For example, lobbying and advocating for HB6418, modernization law and other bills require studying and consolidating their important provisions. Ms. Malay informed the body that in the last electoral summit of 2002, working groups were organized and have been active since. The Consortium have divided itself organizationally, with the members of ExeCom of CER as conveners of each of the working groups. These working groups have also served as part of the technical working groups for both the Senate and the House on some of these bills, including this political party reform.

On Workshop no.3 – Party-List Reforms

There were no major concerns raised in the Party-List reform, Ms. Malay just reminded the body that as discussed during the previous day, party-list reform goes together with political party development as a whole.

On Workshop no. 4 – Local Sectoral Representation

Ms. Malay, being the resource person on LSR in one of the earlier panels, added to the report the presence of a pending bill in Congress. As a description of the policy environment, it must be noted that the LSR bill is pending in the House and has no authors yet in the Senate.

One comment on the report was Mr. Ventoza's observation that there's no recommendation as to how LSR campaign will proceed given that one of its considerations is funding requirement, which is being threatened now by pending proposals to cut the IRA. In behalf of the workshop group, Sr. Eden Orlino clarified that the group adopted what have been presented earlier by Ms. Malay Malay, and she asked if this can be reflected in the table of workshop group (4).

Ms. Malay also mentioned that related studies on LSR vis-à-vis the budget cut are actually on-going and being conducted with both the Local Governance Forum and with the Ateneo School of Government. She said that they're doing the studies with them to update their data on IRA financing.

Lobbying activities, not only on LSR but also on general electoral issues, have been major components of the summit resolutions. Mr. Ventoza, however, noted that so far only one bill have been lobbied successfully, which was the overseas absentee voting law. He therefore recommended that CER review its lobby work and assess the strengths and weaknesses of the group's lobby skills. Ms. Malay acknowledged this suggestion and recognized that what was raised is actually a problem not only to CER but also to most civil society organizations.

Mr. Tony Villasor suggested that part of the research activities concerning LSR can include experiences of other Asian countries. For example, in the experience of Asian Cultural Forum on Development (ACFOD), there were strong grassroots organizing on issues pertinent to development projects, like dams. In these instances, people get to be united, as in the case of the 'Assembly of the Poor.' The idea of peoples' participation and local governance have already been infused in the Constitution of Thailand, and therefore they may be willing to share in terms of research and on how local sectoral representation should be boosted more in the Philippines.

On Workshop no. 5 – Overseas Absentee Voting Law (OAV)

Ms. Marilyn Montemayor of DFA pointed out that some of the recommendations that their group raised were missing in the presentation. To review said recommendations, the slide presentation was again flashed on the screen. Ms. Montemayor elaborated further on these recommendations. First was the recommendation to repeal or reconsider section 5(d) of the OAV law, which disqualifies the immigrants or permanent residents to vote. This has been a major issue for the immigrants or permanent residents since many of them are not willing to sign the affidavit of intent to return. Another recommendation was to allow Filipino overseas to also vote during referendum, as lobbied by NGO representatives like Ms. Sana. Ms. Montemayor also stressed the lengthy process of approving application for registration by absentee voters, which have to be sent to Comelec and then distributed to Electoral Review Board (ERBs) in the municipalities. The group suggested that it would be easier to have the verification and approval done in-house in the Comelec. Ms. Montemayor also added that she's strongly lobbying for a system of continuing registration for absentee voting.

In relation, Mr. Ventoza asked which specific portion of OAV is being proposed for amendment. He again stressed that the consortium should conduct studies on these proposed amendments so as to help with the lobbying. Ms. Malay replied that as mentioned, the proposed amendments were on the repeal of section 5(d) and on allowing overseas absentee voters to vote during referenda and plebiscite.

The plenary on the workshop reports ended with the consensus that the issues raised would be the major unities of this conference, notwithstanding of course the lobbying or advocacy processes that the group will

still have to decide on. Ms. Malay then invited the representatives of the forum conveners -- Ramon Casiple, Com Borra, Debbie Soriano-Garcia, to sit in front for the final part of the program.



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The Second National Electoral Reform Summit Declaration

Mr. Casiple introduced the DRAFT Declaration of the Second National Electoral Reform Summit, which will be subjected to plenary discussion. This Declaration was prepared by the executive committee or the organizers of the summit, which was based largely on the workshop resolutions and earlier plenary discussions. As mentioned at the very start of the conference, the declaration will serve as a common guide for government and non-government stakeholders in advocating for electoral reform in the 13th congress and eventually for the rest of the decade. Though the declaration does not deal with specific provisions, since it needs to be very flexible, Mr. Casiple reiterated that the spirit of the declaration is still to act as a general guide for all of us. However, this declaration will not preclude any organization or even government from pursuing their own positions. Serving as the least common denominator, this declaration leaves out the controversial and the specifics. There will be venues to discuss specifics and details, an example will be the future summit on electoral modernization to be hosted by Comelec. Mr. Casiple assured the group however that if there would be strong objections, then it can be changed.

The declaration is the roadmap that the participant should be aware of. It will in effect update the contents of the Declaration of the First Electoral Reform Summit, which still holds as part of the CER unities. This declaration will not supercede the previous declaration; rather it will continue the unfulfilled part of the earlier unities and update the obsolete ones. Three sections will be reviewed respectively; namely, the preamble, the legislative agenda and the action agenda.

Ms. Debbie Garcia read the draft unified agenda. (Please refer to the agenda below.)

There were no questions on the preamble and legislative action portions. Comm. Borra, on the other hand, informed the group that in the Comelec, similar legislative agenda are being pursued through committees, i.e. committee on modernization law, committee on the amendment of the Omnibus Election Code, respectively headed by Directors of Comelec. He then requested the civil society members to provide counterpart to the said committees. From there, it would then be easier for CER to present a common front for purposes of legislation.

Mr. Casiple recounted what Ms. Malay said earlier, CER is indeed organized along those lines. There's a committee that deals with political reform, with electoral modernization, with partylist, local sectoral representation and the like. CER adopted the earlier resolution of the 2002 summit as the basis for organizing the group. In relation, these committees have already engaged with Senate and House Committees concerning the drafting of the bill on political party reform. Presently there's an initiative to conduct a workshop with the leadership of all major political parties, as well as with the Senate Committee on Constitutional Amendments, Revision of Codes and Laws and the House Committee on Suffrage and Electoral Reforms. This workshop, to be held sometime in the end of September or early October, will review the current status of the bill and update it for the 13th Congress. He assured that this is open for other interested stakeholders.

Commissioner Borra rejoined that this will be a good move considering that previous bills have already died. Ms. Garcia, on the other hand, informed that most of these bills, at least those approved on 3rd reading last Congress, have already been re-filed. What CER just needs to do is to fine tune the provisions and insert all recommendations.

In this regard, Mr. Casiple encouraged the conference participants to get involve with these efforts. But being part of this electoral summit, one advantage is that lobbying is not done from the outside, already everyone is part of constructing the bills themselves. The exercises done in the workshops will go into record as input to the Congress. For stakeholders who really want to ensure that their point of view will be considered in the making of bills they are interested in, the summit can serve as continuing opportunity to be involved in the actual making of the bill. Although, Mr. Casiple noted that there's no guarantee that all positions or points of view will be included in the bill. It would still depend on the process itself. Future activities will be announced in relation to continuing the initiatives of this summit, e.g. a separate summit on modernization.

Comm. Borra urged that since the summit was integrative in character, it could be possible to formulate the time frame for the working committees. For a start, he said the summit participants, both NGOs and government, could set the target date for specific outputs. Mr. Casiple, however, answered that the schedule will depend on the Congressional calendar. Comm. Borra clarified that the schedule he was suggesting to have an agreement on was actually for activities preparatory to the actual re-filing. So following that suggestion and if Comelec is already ready with its position, Mr. Casiple asked the group if they are amenable to schedule a preliminary meeting to assess the areas of cooperation. This proved to be a new

development, given that the CER has previously worked with the legislative bodies only. Mr. Casiple further proposed that a new process can be created to include both the Congress and the Comelec.

At this point, representatives of the Congress were called on stage. They were representatives from the Offices of Senator Gordon and Senator Pangilinan, who serve as the Chair of the Committee on Constitutional Amendments, Revision of Codes and Laws and as the Majority Floor Leader respectively. The representatives of the Senators were asked to relate the possibility of having Senate tackle the electoral reform bills vis-à-vis its present schedule. The representative of Sen. Gordon updated the body that the schedule of recess is on Sept.24 and will resume on Oct. 25; another break will be on Oct. 29 until Nov.2. While, the representative of Sen. Pangilinan shared that two bills were filed on the postponement of the ARMM elections. These bills were filed by Sen. Pangilinan and Sen. Pimentel and have been referred to the proper committee. She said that they are hopeful that this bill, being the identified priority of LEDAC, will be passed before Congress adjourns this September. With regards to how Sen. Pangilinan can help push through the electoral reforms, she said that being the Majority Leader, Sen. Pangilinan sits as Chair of Committee on Rules and as ex-officio member in all the committees and therefore can raise to the committees to schedule said bills. On his own, he already filed election-related bills such as the postponement of ARMM elections and another related with the barangay elections. On the part of the House of Representatives, Ms. Garcia reiterated that thirty electoral reform bills have been re-filed and they have in fact discussed the ARMM elections postponement this August31, though the authors have yet to agree on when to re-schedule it.

The Congress representatives were asked to provide the body copies of the bills re-filed. In the interest of being able to lobby effectively, Mr. Villasor asked if CER has a webpage where the participants can access the bills and where they can put up their own position papers. Mr. Casiple said that there's a website, www.cer.org.ph, but it's not updated. The website was actually a resolution of the Summit, along with having a common journal where they can exchange opinions. Mertz Certifico of IPG mentioned that apart from the website, CER can activate again its e-group where they can exchange opinions and polish discussions before these are uploaded in the website. He also asked the representative of Sen. Pangilinan if there's an update on the re-filing of the LSR. The representative answered that one of their lawyers is already updating the proposed bill based on the previous committee reports and assured that the LSR bill is one of the bills being considered.

Mr. Becky enjoined all the CER members to be active in all the meetings that will be convened by the CER secretariat. The meetings will be the venue for discussing specific concerns and for continuing to work with the other conveners – the house and the senate.

Getting back to the proposed resolution, Ms. Garcia continued reading the part on the action agenda. Mr. Casiple clarified again that resolution points of the first summit's action agenda still hold true and still stand as a commitment among the first summit's participants. One example that he cited was on building broad consensus regarding Constitutional Reform, which was not tackled in this conference but will not be replaced since there was no discussion about it. Mr. Casiple read the provision of the previous summit's resolution on the constitutional reform, which seemed to be biased towards a Constitutional Convention.

This time, Atty. Dizon was called on stage to participate in the exchange of commitments to the action agenda. He is from the Office of the Congressman Lapus who is the Vice-Chair of the Committee on Suffrage and Electoral Reforms.

Then Mr. Casiple continued to recall the anti-dynasty bill which was also part of the first summit resolution. There have been discussions about the topic and apparently the consensus was the bill is a hard bill to pass. As Ms. Garcia and Comm. Borra shared, there have always been disagreements in the Congress regarding this anti-political dynasty bill; an example was the disagreement on the degree of consanguinity that this bill shall be applicable to. Atty. Dizon stated that with this bill, there should be specific proposals that will help Congress decide which is palatable and which is not. However, Mr. Casiple noted that the problem is not so much on the content but on the process. There's simply no support from legislators to make the bill move. Thus, the move against political dynasty may prove to be a battle not through legislation but through actual elections, as in the case of Padaca episode in Isabela. Mr. Casiple further qualified that dynasty per se is not bad but will be if in actual governance, dynasty is used in its dominance over economic and political power in the area to ensure its stay in power. There's a need to make sure that people are not being deprived of their choices and that democracy is not compromised. This means putting up an electoral system that places dynasties in equal footing with other people who want to be in public service. Still, Atty. Dizon and Comm. Borra pushed that any proposal on anti-dynasty starts with the 'fourth-degree' (of consanguinity). This suggestion was accepted and noted for future discussion.

Mr. Casiple continued to review the previous summit's resolution by enumerating the activities identified to help sustain the earlier initiatives, i.e. holding of annual electoral reform summit (last year's was the voters' education summit), putting up the summit website, publication of common journal as venue for dialogue, and maintenance of summit conveners and executive committee.

Comm. Borra said that he was impressed with the high level discussion reached in this particular summit. He also expressed that, based on the resolution points; the Comelec is looking forward to the programs that

can be done at the ground level. Mr. Casiple welcomed this as indication of a productive period following this summit.

There were other points raised with regards the content of the Declaration. Foremost, Mr. Robert Verzola reiterated the point he raised earlier with regards the need of punishing the cheats. Mr. Casiple's response was to address cheating at the systems level, which can be reflected from suggestions that look into plugging loopholes, correcting mistakes, and learning lessons from what happened. But in addressing specific incidences or cases of cheating, he said that there are already on-going processes being undertaken outside of this summit; processes that have their own dynamics. An example is the Presidential Electoral Tribunal's process to address the question of cheating at the national presidential position. Mr. Casiple asked the body if they would agree to put as specific provision in the resolution for Comelec to act on these cases. Comm. Borra reacted that beyond cheating, what the resolution can include is ensuring a clean and honest administration of elections, which is actually the governing principle. Ms. Malay seconded that it is indeed important to include that principle – "clean and honest, free and fair elections" in the preamble.

Mr. Certifico of IPG raised as an action point the conduct of study on web-based voting as practiced in some European countries. Another point was on registration, particularly on participation of the voters. Apart from just checking their names in the website, there could be a system where voters can check the legitimacy of their registration. Comm. Borra affirmed that this will be looked into and that future registration will be individual-based rather than geographic.

For the last time, Ms. Malay read the draft agenda and resolution. She inputted the agreement that the preamble will include the commitment for free and fair elections and for pursuing the conduct of clean and honest elections to minimize or eventually remove fraud.

Ms. Sana raised the point that it is important to also include an affirmation of the overseas Filipinos as part of the Filipino nation and they must take part in the political and electoral processes of the country. She recommended that for agenda # 4, the word "amend" it should be emphasized with the word "immediately." Moreover, Comm. Borra suggested including the words "strong advocacy from our group."

The conference ended with a consensus on the statement; Ms. Ellene Sana from the CMA motioned for the body to adopt the Unified Agenda for Electoral Reforms and was seconded by Ms. Julieta Flores from the ERDA Foundation.



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UNIFIED AGENDA FOR ELECTORAL REFORMS

Declaration of the Second National Electoral Reform Summit

September 3, 2004

Recognizing the grave economic, social and political crises besetting our country today;

Believing that these crises are intimately related to the doubtful quality of governance and the problem of credibility of political leadership in our country;

Firmly adhering to the basic tenets of broad grassroots-based democracy and rejecting elite monopoly in our political system;

Stressing the necessity of bringing national consensus and national unity in facing the national crises within a broad democratic process;

Heeding the voice of our people, including the overseas Filipinos, for democratic participation in the electoral process and in governance;

Taking off from the gains of electoral reform advocacy and work since the 2002 First National Electoral Reform Summit and the current impetus for governance reforms; and

United in pursuing and realizing electoral reforms towards a clean and honest election, and the building of a broad-based, genuine, and strong Philippine democracy;

We, stakeholders in the Philippine electoral process coming from both government and civil society and meeting in the 2004 Second National Electoral Reform Summit, urgently set forth the following unified agenda for legislative and cooperative action during the period of the 13th Congress and for the rest of the decade:

LEGISLATIVE AGENDA

1. Amend the electoral modernization law.

This is in order to ensure flexibility in technology, provide legal basis for specific components, and assure the success of its implementation.

2. Amend the Omnibus Election Code within the context of modernizing the whole electoral process.

This is to rationalize and unify major election laws and ensure the maximum benefits, efficiency, and thoroughness in the implementation of the stated policy of modernizing Philippine elections.

3. Enact the law on political party reform and development.

This is to ensure the development of a genuine, strong and effective political party system based on program and platform. The law will enable political parties to maintain and develop their political and electoral work, discourage sourcing of campaign financing from dubious or illegal entities, and protect the political system from undue influence. The law should clearly define political parties, spell out their duties and responsibilities, prescribe democratic party structures and processes, ban political turncoatism, enable state financing of qualified political parties, punish illegal campaign contributions and campaign expenses, place restrictions on individual and corporate contributions, and require effective audit of campaign finances. It should include provisions for civic literacy and promotion of democratic values.

4. Immediately amend the law on overseas absentee voting towards ensuring its simple, practical and participative implementation.

This is to correct the glaring restrictions, inconsistencies, and impractical provisions of the law and encourage the widest participation of overseas Filipinos in the electoral process.

5. Amend the law on the party-list system.

This is to incorporate lessons in the implementation of the party-list law, plug loopholes permitting the entry of groups not representing marginalized and underrepresented sectors, and enabling the maximum participation of party-list groups in the legislative process.

6. Enact the implementing law on local sectoral representation.

This is to enable the effective representation of key grassroots-based sectors in local governance and broaden the base of democracy at the grassroots.

ACTION AGENDA

1. Immediately implement electoral automation in a comprehensive, step-by-step and transparent manner with accompanying effective public education and civil society cooperation.

This is to ensure technology upgrade proceeds in the most efficient manner, with strong public acceptance and support, and accompanied by modernization of Comelec infrastructure and organization.

2. Conduct an intensive and massive citizen-voter education based on cooperation of government, civil society, private sector, and media.

This is to build a mature, critical, and responsible citizenry effectively participating in both democratic governance and the electoral process. It should also cover public information and knowledge of new and modernized electoral systems, including the party-list system and the overseas absentee voting.

3. Establish a transparent, democratic, and merit-oriented system of selection of senior election officials, especially at the level of the members of the Commission on Elections. Professionalize the whole Comelec personnel, undertake effective staff development and prepare the organization for electoral modernization.

This is to ensure a non-partisan corps of electoral managers and workers with integrity, competence and dynamism required of electoral administration.

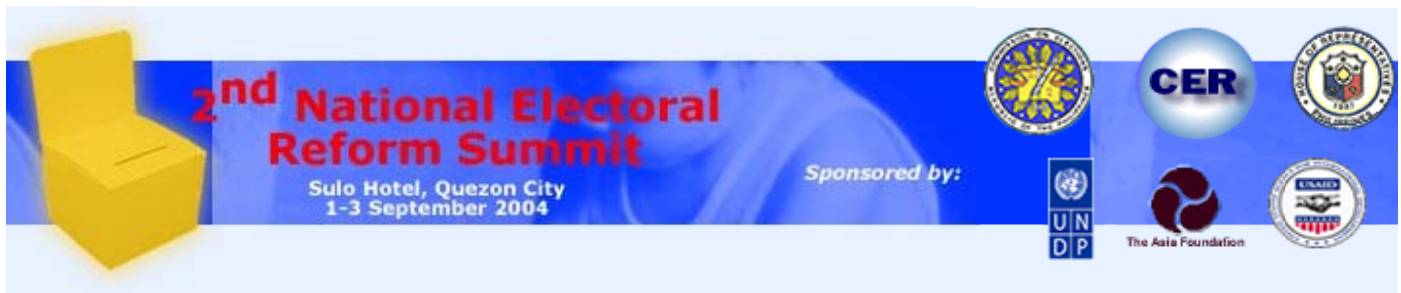
4. Affirming the continued advocacy for and cooperation towards the implementation and achievement of the applicable common agenda of the 2002 First National Electoral Reform Summit.

This is to sustain the momentum of electoral reform advocacy and work in various areas and achieve common goals.

We affirm our commitment, strong advocacy and agreement on the foregoing agenda for electoral reforms this 3rd of September 2004 at the Sulo Hotel, Quezon City.



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I would like to commend the men and women behind this event for organizing such summit. This will indeed be a time to evaluate the performance of the Commission on Elections during the past elections and to plan the electoral exercise. We shall look forward to seeing our future elections with honesty and credibility. Rest assured of my support in all your endeavors!

Mabuhay Kayong Lahat!

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City**

**JOSE DE VENECIA, JR.
House Speaker**

I congratulate the convenors and organizers of the 2nd National Electoral Reform Summit to be held on September 1-3, 2004.

The conduct of elections is truly the lynchpin of our representative democracy – the medium by which our people express their sovereign will. Needless to say, we must ensure that electoral exercises are clean and honest because these are essential to national stability and progress.

We in Congress, have recognized the need for electoral reforms. Our efforts toward this end are reflected in the Absentee Voting Law that finally enabled millions of overseas Filipino workers to exercise their right of suffrage. During the 12th Congress, we also proposed state financing for political campaigns, to end unholy alliances between politicians and vested interests. While this latter bill failed to muster approval by the Senate, we will continue to espouse this and other fundamental changes in our political system, to make our government truly responsive to the needs of the people.

I am confident this Summit will help crystallize a common legislative agenda that will meet our people's call for political and governmental reforms.

Mabuhay!



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COMELEC REPORT ON THE CONDUCT OF THE 2004 NATIONAL AND LOCAL ELECTIONS

HON. RESURRECCION Z. BORRA

Commissioner

Commission on Elections

May 10, 2004 Election

- Scope
 - 17,717 positions
 - 50,672 candidates
 - 216,725 precincts
 - 650,175 members of BEI
 - 43,551,281 registered voters

May 10, 2004 Election

- First electoral exercise under the 1987 Constitution to see an incumbent President running for President
 - One of the most controversial and closely watched events in Philippine political history
 - Made country extremely divisive

Polarization of the 2004 polls

- Weakened democracy by spawning fiercely partisan passions in the voting public
- Led portion of population to question results of elections
- Slowed down post-election return to national unity

Divisiveness of the polls

- Caused by distrust of the system
- Could have been drastically minimized had the electoral system been allowed to evolve
 - from a state of total dependence on the intervention of human administrators
 - to one of minimized human intervention, and maximized mechanical efficiency and precision

Minimum human intervention; maximized mechanical efficiency & precision

- Would have
 - mitigated ill effects of political polarization by making it easier to accept the results of the elections
 - removed the suspicions engendered by long delays in the reporting of election results
 - greatly strengthened democracy by placing the outcome of the polls squarely beyond all reasonable doubt

Successful conduct

- Widely held consensus that the elections of May 2004 were peaceful and orderly
- Conduct of the canvassing was speedier than in many previous elections
 - proclaimed all but one winning Senatorial candidates after only 10 days of National Canvassing

Planning flexibility

- In large part, success was due to the flexibility of the COMELEC's election planning and preparation procedures
- *e.g.* Creation of several working Committees tasked oversee the eight vital components of election preparations
 - COMELEC Resolution No. 6435
 - 05 December 2003

Working Committees

- Allocation Committee
- Bids and Awards Committee
- Printing Committee
- Reception and Verification Committee
- Packing and Shipping Committee
- Transportation and Communication Committee
- Media and Information Committee
- Firearms and Security Personnel Committee

Focus on automation

- In the beginning, these Committees were all geared towards automated elections.
- The plans that were being drawn up were specifically tailor-fitted for the unique requirements of
 - deploying Automated Counting Machines (ACMs)
 - setting up Automated Counting and Canvassing Centers, and
 - training COMELEC field personnel in the complexities of that new procedures to be adopted for the automated system

Redrawing of plans

- However, these plans – while customized for automated elections – were based on fundamental considerations of efficiency and practicality that would remain true whatever form the election took
- Thus, when the Supreme Court made it impossible to automate the elections, the COMELEC was not caught flat footed and was able to re-draw its plans, adjust its timetables, and adapt automated election procedures to the demands of manual elections

Reversion to manual system

- With less time on our hands than ever before, the COMELEC was still able to manage a drastic turn-about from automated elections to jump-start preparations for a manual election

Deputies

- Of course, this would have been impossible to accomplish were it not for the invaluable assistance provided by the COMELEC Deputies
 - Government agencies
 - Citizens' arm

Six accredited major political parties

- LAKAS-CMD
 - Dominant Majority Party
- Koalisyon ng Nagkakaisang Pilipino or KNP
 - Dominant Minority Party –
- Aksyon Demokratiko
- Liberal Party
- Nationalist People's Coalition, or the NPC;
- Partido Demokratiko Sosyalista ng Pilipinas

Party-list system

- Total of one hundred and eighteen (118) organized groups officially signified their intention to participate in the polls
- Only sixty-five (65) made it to the official list of participating groups

National Candidates

- President
 - Eighty-four (84) certificates filed
 - Five actual contenders
- Vice-President
 - twenty-one (21) certificates filed
 - Four actual contenders
- Senator
 - Eighty-eight (88) for Senator certificates filed
 - Forty-eight (48) actual contenders

Local Candidates

- Member, House of Representatives
 - Six hundred forty-two (642)
- Governor
 - Two hundred seventy-three (273)
- Vice-Governor
 - Two hundred eighteen (218)
- Member, Sangguniang Panlalawigan
 - Two thousand twenty-six (2,026)
- Mayor
 - Four thousand three hundred seventy-three (4,373)
- Vice-Mayor
 - Four thousand three hundred ninety-three (4,393)
- Member, Sangguniang Panlungsod/Bayan
 - Thirty-eight thousand seven hundred forty-seven (38,747)

Unsubstantiated allegations of widespread fraud

- Allegations of widespread fraud have remained largely unsubstantiated.
- Some allegations – such as the supposed cheating in the Overseas Absentee Voting – have, in fact, been shown to be false.
- By traditional benchmarks, the 2004 polls must be considered a success.

Modernized Election System

- However, the Commission did not just want successful elections. It wanted successful MODERNIZED elections.

Modernized Election System

- In line with this resolve, the COMELEC embarked upon a comprehensive Modernization Project that covered the three phases of the electoral process
 - *Voters Validation System*
 - *Automated Vote Counting and Canvassing*
 - *Electronic Transmission/ Consolidation and Dissemination of Results*
- Minute Resolution No. 02-0170, 29 October 2002

Voters Validation

- Aims for the eventual cleansing and updating of all Voters Lists
 - through the use of biometrics technology
- Preserve and maintain the integrity of the permanent lists of voters
- Eliminate confusion in the assignment of voters in their precincts, consistently with the law
- Systematize the present method of registration in order to establish a clean, complete, permanent list of voters.

Voters Validation

- Captured the demographic and biometric information of 16.9 million voters. After cleansing and updating of the voters list, the total number of registered voters for the May 2004 elections stood at forty-three million five hundred fifty-one thousand three hundred and thirty-six (43,551,356). This represents a successful first step in the Commission long-range vision of a rehabilitated roll of voters.

Automated counting and canvassing

- Utilize appropriate technology for voting, and electronic devices for counting of votes and canvassing of results, containing the following basic features
 - use of appropriate ballots
 - stand-alone machine that can count votes and an automated system which can consolidate the results immediately
 - with provisions on audit trails
 - minimum human intervention
 - adequate safeguard/security measures

Automated counting and canvassing

- Over-arching goal
 - Use state-of-the-art automated counting machines equipped with robust and secure canvassing software that would:
 - Speed up the counting of votes;
 - Minimize, if not totally eliminate fraud and human error in the counting of votes;
 - Speed up the canvassing of election results; and
 - Minimize, if not totally eliminate fraud and human error in the canvassing of votes.

Automated counting and canvassing

- Would have shortened the waiting period between the end-of-voting and the proclamation of
 - local election winners to within 2 days,
 - provincial winners to within 5 days
 - senators and party-list representatives to within 7 days.

Automated counting and canvassing

- Set-up a multi-disciplinary project organization where separate teams, working under one project management organization, would be charged with the completion of the various components that were necessary to ensure the success of the whole system

Automated counting and canvassing

- However, the decision of the Supreme Court in *Information Technology Foundation of the Philippines v. the Commission on Elections*, that was promulgated on the 13th of January 2004 and which was largely based on the majority's fear that the machines would not work as planned, effectively brought the automation project to a halt

Automated counting and canvassing

- By then, the Phase II project had already put in almost a year's worth of effort towards establishing the country's first truly modernized election system
 - almost three years, if the concerted COMELEC-Private Sector effort to craft the automation project Terms of Reference were to be counted
- As a result, when the Supreme Court ruling was handed down, the full automation of counting and canvassing was already well within reach.

Electronic transmission

- Would have allowed the almost instantaneous consolidation of results by eliminating the need to physically transport election returns from precincts to the municipal or city canvassing centers; and eventually to the national canvassing center.
- This has traditionally been one of the major causes of delay in the canvassing of election results, giving rise to weeks of waiting before election winners are finally proclaimed.

Electronic transmission

- Use of Very Small Aperture Terminals (VSAT) satellite dishes
- Allow nationwide consolidation of election results within 24 hours after the close of voting.
 - By eliminating delay, and enabling prompt proclamations of poll results, electronic transmission would have significantly enhanced the credibility elections.

Electronic transmission

- Unfortunately, the good that the Electronic Transmission system would have done to speed up and improve the reliability of the reporting of election results was overshadowed by the fact that no law *explicitly* provided for electronic transmission.
 - On the 6th of May 2004, a scant four days before the elections, the Supreme Court restrained the implementation of the Electronic Transmission project.

Looking forward

- This is a forward-looking Commission that takes lessons – however bitter they may be – from the past.
- Although it was cut short, the implementation of the Project gave the implementers valuable insights into the complexities and difficulties of attempting to create an entire automated election system out of whole cloth, while trying to work within a legal, administrative, and institutional framework that was inadequate to the task.

Looking forward

- There is, therefore, the need to resolve some legal, administrative, and institutional roadblocks to ensure that the project makes better progress this time around.

Looking forward

- While the Modernization Program of the COMELEC failed to take-off in time for the 2004 elections, two indisputable facts remain:
 - Despite the truncated preparation time available to the Commission, the manual elections were successful; and that
 - The technology behind the Automation and the Electronic Transmission Projects are sound, and are certain to greatly benefit the electoral system.

Pursuing election modernization with renewed vigor

- On balance, therefore, it would be fair to say that the COMELEC successfully fulfilled its mandate of conducting honest, orderly, and peaceful elections in 2004, and is in the perfect position to pursue the Modernization of future elections with renewed vigor

Recap of the 2004 Elections

National Citizens Movement for
Free Elections

*presented before the
2nd National Electoral Reform Summit
1 September 2004*

TERMINAL REPORT

NAMFREL OPERATION QUICK

COUNT 2004

- Phase I - May 10 to 22 (LSGH)
- Phase II - May 24 to June 5 (RFM)
- Audit and Terminal Report - June 7 to 30
- 82 reports released

Picking up the Election Returns

- NAMFREL picked up 90% of ERs
- 179,564 out of 216,382 election returns tabulated (82.98%)
- Reasons for uncollected ERs
 - » not all BEI turned them over to NAMFREL
 - » no volunteers in “hotspots”
- Reasons why ERs not tabulated
 - » unreadable
 - » missing pages
 - » some contained errors

Problem #1 - The CVL

- Voter Validation program and New CVL project failed.
- Voters List not posted on time.
- Mismatch, mix up of birth details, names, addresses, precinct assignments.
- Result : Some voters not able to vote because unable to locate their names and or correct precincts. [est. 5%].

Voter turnouts and fill-up rates

- No “massive disenfranchisement”.
- Voter turnout rate estimated at 74.3%. [32.6 million]
- Disenfranchisement : 900,000 to 2 million voters
- Among those who voted -
 - » 3 percent abstained from voting for a President
 - » 9 percent abstained from voting for a Vice President
 - » Voters also elected an average of 7.56 Senators

SMS not as effective as hoped or expected.

WHY ?

Master list of precincts from Comelec **Central Office** inconsistent with Comelec's **local** offices.

Example:

Comelec National clustered Precincts 122A and 123A and assigned a new Precinct No., **86...but**

Comelec Local, on the other hand, clustered Precincts 122A and 123A and assigned a new Precinct No., **122A- 123A**

SMS not as effective as hoped...

- Database has Precinct No. 86 from Comelec Central Office; Precinct No. 122A-123A no longer on database.
- If 122A-123A was reported, message becomes invalid. Sender receives *"Precinct 122A-123A does not exist."* or *"You are not allowed to submit for Precinct 122A-123A."* This problem accounted for 80% of the perceived delay.
- While Filipinos are adept at "texting", training and practice are mandatory for "formatted" texting.

But SMS did work

- First text message to be received at NAMFREL OQC Center was at 7:22 pm of May 10 (Election Day) from Glan, Sarangani.
- The first completed pair of text messages (submit/confirm message for a precinct) came from Mandaluyong at 7:26 pm, May 10.
- Total messages sent = 56,161
- SMS is potentially a good transmission mode provided precinct numbers are set properly, training is adequate, and areas are secure for obtaining election returns and texting.

Overseas Absentee Voting

- A good experience but...
 - > OAV countries = 74 = 360,000 RVs
 - > Two-thirds voter turnout
 - > 40 countries with <200 Voters who voted, including 10 with Zero votes cast (Norway, Uganda, Botswana, Mozambique, Afghanistan, Paraguay, Senegal, Yemen, Portugal, Mali)

The Election Results

Total number of precincts reported : 179,564

Percentage of precincts reported : 82.98 %

For President – 10,400,401

MACAPAGAL-ARROYO, Gloria

For Vice President – 12,407,792

DE CASTRO, Noli

Senators

1. ROXAS, Manuel	15,600,830
2. REVILLA, Bong	12,768,697
3. PIMENTEL, Aquilino	10,765,934
4. MADRIGAL, Jamby	10,686, 544
5. GORDON, Richard	10,155,236
6. DEFENSOR – SANTIAGO, M.	9,854,631
7. CAYETANO, Pia	9,682,950
8. LAPID, Manuel	9,011,789
9. LIM, Alfredo	9,006,419
10. ENRILE, Juan Ponce	8,827,554
11. ESTRADA, Jinggoy	8,826,119
12. BARBERS, Robert	8,466,116
13. BIAZON, Rodolfo	8,449,127

Problems within the COMELEC

- Turnover of Election Returns (Ilocos Norte)
- Delays in canvassing (Binan, Laguna; Isabela province; Columbio, Sultan Kudarat, etc.)
- Multiple proclamations (more than one mayor in several towns, Mindanao)
- Misinterpretation of the law (Solano, Nueva Vizcaya) - later corrected

Continuing Issues

- Registration vs Validation : CVL problem
- C-I-C vs Division vs En Banc leads to confusion and misinterpretation; places too much power in single Commissioner
- Overseas Absentee Voting system needs improvement
- Conflict of interest : election administration vs adjudication
- Appointment process too politicized
- Modernization contracts

Post-Election Projects

- Election Modernization Plan
- Citizens Against Corruption (with CBCP, BBC, CODE-NGO, TAN, and MBC)
 - > Textbook Count Project
 - > Monitoring Medicines
 - > Infrastructure Monitoring
 - > Bids and Awards Committees

Next Steps

- Full investigation of modernization program. Why didn't they work ? Who is responsible ? Where is the money ?
- New modernization design for 2007 :
 - > Voters List
 - > Automated Counting and Canvassing
 - > Modernizing the COMELEC itself

“A Challenge to NAMFREL”

1. Major discrepancies between NAMFREL and Congress / COMELEC.

(Discrepancy = GMA margin under Congress minus GMA margin under NAMFREL)

2. Conclusion : GMA could not have won by 1.1 million as per Congress, but won anyway under NAMFREL because -

- (A) Count based on ER and did not pass cheats
- (B) Cheats would concentrate on Official and not Unofficial Count
- (C) Teachers and Volunteers tabulate in full view

“A Challenge to NAMFREL”

3. NAMFREL had selective tabulation

(defined as counting pro-GMA areas ahead, thus creating a skew and artificial high lead)

(also defined as not counting pro-FPJ areas)

4. The writer suggests splitting reports in two which shows GMA leading first half and FPJ leading the second half; or tabulating in reverse from Report 82 to

1. But what's the point ???

(He earlier suggested we slow down reporting to slowest moving region or province !)

“A Challenge to NAMFREL”

5. Conclusions -

- GMA did not win by 1.1 m or by 681,000
- NAMFREL manipulated data to show skew
- Contest was close, with either candidate a possible winner
- NAMFREL keeping data from public

Here's how we saw it...

- NAMFREL processes data as it receives them, except in cases sent back to field chapters for re-check (e.g., Sto Tomas, Pangasinan; Sta Cruz, Laguna; etc).
- NAMFREL gives out regional breakdowns and eventually a provincial breakdown.
- NAMFREL and Congressional canvass will not match because of (a) different coverage levels and (b) it is a comparison of ER vs COC.

Rejoinder to Challengers

- NAMFREL is Voluntary and Unofficial
- There are no fundamental differences between NAMFREL, COMELEC, Media, Exit Polls, and Congress
- So why is there a challenge against NAMFREL but not against the others ?
The “watchdog of the watchdog” is very selective.
- Are these challenges non-partisan ?

**Let's not lose sight of
2007.**

RE-ENVISIONING ELECTION MODERNIZATION*

by

James Jimenez**

INTRODUCTION

THE MODERNIZATION OF THE PHILIPPINE ELECTORAL SYSTEM must begin with a vision: A clear idea of the shape and form that future polls in this country will take, from the very start of the electoral process to the very finish. This includes, not just the technology to be used, but also the statutory, institutional, and psycho-social environment into which the tech was to be introduced. In other words, to ensure the success of modernization, we should not have just focused primarily on the machines we felt were needed, we should have also sought to define the milieu. Instead, we took for granted that the existing infrastructure was capable of accepting such a sweeping paradigm change. Obviously, we were wrong. We had a vision of what how we wanted to modernize the electoral system, but it was an incomplete vision.

What I am proposing today, therefore, can be called a vision-setting exercise of sorts where we, *first*, set out the primordial values that we can all embrace, relative to the conduct of elections in this Republic. These values, I hope, will form the parameters, as well as the highest imperatives, of any future attempt at modernizing the elections. And *second*, we sketch out the shape of things to come as though we had a free hand in designing the future,

* Speech delivered at the 2nd National Electoral Reform Summit, held at the Sulo Hotel, on the 1st of September 2004

** Consultant, Office of Commissioner Resurreccion Z. Borra

guided only by the values we adopt, and with a view to identifying what we need to change in the laws, in the COMELEC, and in the public consciousness.

A word of warning however. Many may think that this is a futile approach; that it rests too much on overly rosy assumptions regarding our ability to make change happen. I, on the other hand, believe that quite the opposite is true. Too assume that the existing statutory, institutional, and psycho-social infrastructure, with little or no changes, can accommodate a truly modernized electoral system is precisely to look through rose-colored glasses. Statutes are not meant to last an eternity; institutions that do not change stagnate and lose relevance, and what the public can accept depend entirely on how it is convinced.

It is, by far, more realistic to assume that we can design a system, and identify all the changes that we need to work for, than it is to limit our vision and reject what is possible simply to be able to work within ancient boundaries. All it takes is an open mind and an imagination. If you can imagine it, you can build it.

VALUES

Let's start with our values. I am not speaking of moral values, although such values must obviously be part and parcel of all our endeavors. Instead, I am speaking of those ideals that we want to be the bedrock of a modernized electoral system.

The first of these values is **ACCURACY**. Indeed, this is the very heart of elections: that they should be truly and faithfully reflective of the people's choice. However, thus far, we have relied on Election Inspectors who have

been on duty for almost 20 hours straight for accuracy in the appreciation of ballots, for accuracy in the transposition of results from primary election documents to canvassing reports, and for accuracy in explaining and deciphering canvassing documents. Human fatigue is a genuine factor that affects the accuracy of election reporting. A modernized system must be designed to negate that factor, otherwise, why modernize at all?

The second value is **CREDIBILITY**. I sincerely doubt anyone will disagree with that. Credibility is what imbues the *vox populi* with the character of *vox Dei*; it is what makes the voice of the people the voice of God. And in this jurisdiction, the greatest credibility killer is delay. Delay in the primary reporting of election results at the precinct level, delay in the delivery of canvassing documents to the various canvassing centers at the city/municipal, provincial, and national levels, and delay in the release of canvassing results at all levels. Just as delay is directly proportional to political tension and distrust in the outcome of the polls, a decrease in delay will equate to an increase in credibility and, ultimately, the strengthening of the mandate of the eventual victor.

The third value we must embrace is **EFFICIENCY**. Too often in the past, we have been forced to adopt Rube Goldberg solutions to problems that, were we not bound by the letter of the law, could have been solved with the simplest solutions. Please do not get me wrong. I do not advocate extra-legal solutions. But I do acknowledge that the law has not kept pace with the times. If we can say this of the Constitution, I do not see why it should be taboo to say that statutes can – and do – lapse into obsolescence. And when they do, we end up expending far too much effort, wasting far too many resources, and using up far too much time for far too little returns. We should, instead, opt for simple solutions, because that is what modernization is all about: simplifying procedures, through the use of modern technology, and thereby eliminating errors, fraud vulnerabilities, and wastage of precious resources.

And finally, the fourth value we must adopt is **SECURITY**. We do not live in a utopian environment where everyone bows to the will of the majority. Hasn't it become a running joke that in the Philippines, there are no losers, only winners cheated out of their victory? Unfortunately, this joke has a strong basis in reality. Very nearly every election we have seen has been attended by threats against the integrity of the elections: from election officers held at gun-point to whole ballot-boxes being snatched and replaced. I am not saying that modernized elections will eliminate such threats. What I am saying is that modernized elections should be able to mitigate the effects of those threats to such a degree that the outcome remains unaffected.

Has anyone ever played poker? In poker, aces are high, and they beat every other card. Accuracy, Credibility, Efficiency and Security – ACES. These values are the aces that will allow us to trump the problems that most people like calling perennial, but which I like calling SOLVABLE.

ROADBLOCKS

Having identified the values we would do well to embrace, let us first identify some of the major statutory, institutional, and psycho-social roadblocks we encountered.

One of the reasons for the difficulty encountered by the COMELEC before the 2004 polls was the fact that the **statutory infrastructure** in which it had to operate is not designed for modernized elections. The laws that comprise the Omnibus Election Code were all written for paper-based elections; the Modernization Law, while revolutionary in its day, carried this bias and attempted only to superimpose modern technology on a system that still

essentially revolved around paper; the Continuing Registration law provides no easy answer to the serious challenge posed by the increasing mobility of the voting population; And the Fair Elections Law leaves much to be desired.

For example, Republic Act 8436 requires the use of paper ballots. Because it does, the need for special ballot paper, security markings, and security for the printed ballots – artifacts of paper-based elections – not only persisted but even complicated the prosecution of the automation project. At the time the law was passed, this may have been unavoidable, but today, the technology exists that will allow us to bypass these complications. Except, of course, that the law specified the use of Optical Mark Readers. OMR means there must be a mark to be read, and that means ballots.

RA 9006 – the Fair Elections Law – complicated matters further by providing that a vote for a substituted candidate does not count for the substitute unless they have the same last name. This negated the elegant solution provided by RA 8436, where a vote for the substituted candidate is deemed a vote for his sub. To make matters worse, RA 9006 provided that ballots should have spaces for write-in votes.

These provisions in RA 9006 underscore the hostility of the statutory environment to simplification. Because of these two requirements, the modernized ballot had to have ovals that represented substitute candidates, thereby increasing the number of ovals per contested position, per ballot. In a country where synchronized elections typically have more than fifty thousand candidates, the provisions of RA 9006 practically guarantee either multi-page ballots or ones the size of tabloids. Both options severely complicate everything from the design of the ballots, to the design of the automated counting machines, to the counting center procedures. Worse, numerous vulnerabilities are introduced into the system by this insistence on practices that are practical only for paper-based elections. Imagine shipping multi-page

ballots to far-flung provinces. Now imagine them arriving with some ballots missing pages. Or imagine a machine that can count tabloid sized ballots. Good luck.

The registration laws, not only exhibit a similar resistance to simplification, but also fail to provide any easy solution to the phenomenon of population mobility. In large part, the problem can be traced to a registration process that has grown sclerotic. At this point, we are simply incapable of efficiently monitoring the movement of voters from one place to another. As a result, people remain listed as voters in places they have long abandoned, and people find themselves unlisted where they have moved to. Worse, when voters shuffle off this mortal coil the COMELEC, in many cases, is the last to know.

While it is a sound argument that the accuracy of elections depends primarily on ensuring that each voter gets to vote only once, the confusion that results from a disorderly list of voters impacts adversely on the elections' credibility. And lack of credibility is at least as serious a problem as lack of accuracy.

And of course, there is the problem of transporting canvassing results up to the National from the City/Municipal levels. Traditionally, this process has at least two glaring vulnerabilities that impact on the accuracy, credibility, efficiency, and security of elections. *First*, election documents can be altered or doctored en route to the canvassing centers. While it is true that these documents travel under guard, the threat of physical injury, even death, is a strong inducement for anyone to just turn a blind eye. It is a sign of the weakness of this practice that election administrators are routinely placed in a situation where they have to choose between their personal safety and the integrity of the vote. And *second*, the inefficient transportation of election documents from one place to another inevitably causes delay. Delay engenders

suspicion and escalates post-election tensions, both of which seriously undermine the credibility of elections.

Despite these considerations, RA 8436 states in no uncertain terms, and with very little reason, that “the machine must not be capable of being connected to external computer peripherals for the process of vote consolidation;” that the machine should “stand-alone.”

And this is the crux of the problem. The machines we sought to introduce for the 2004 elections were, on the whole, fine. Extensive testing showed that both the automated counting machines and the VSATs would have probably worked as advertised. But, the governing laws either made them illegal to use, or imposed such demands that the machines and their systems had to be so tortuously modified that they ended up almost as complicated as the manual systems they were meant to replace. But the problems of the 2004 Modernization Project did not end there.

Even assuming that a happy harmony could have been achieved between the tech and the law, there was a palpable lack of **institutional** capability to maximize and consolidate the gains that could be derived from modernization. The systems that we wanted to introduce were complex. Arguably, as far as modern technology goes, they may have been pretty simple. But tech-savvy individuals are in desperately short supply beyond the borders of our major urban centers. This is not an “only-in-the-Philippines” situation; it is universal. No matter how advanced a country is, individuals who are technologically adept do not stay in the hinterlands for too long. As a result, you end up with a concentration of tech-savvy in urban centers, and a lack of it elsewhere.

In the case of election modernization in the Philippines, we would have done fine if the entire country were made up Manilas and Cebus and Davaos. But it isn't. Very few COMELEC field officials have had the necessary training to

properly maintain the machines and related paraphernalia we wanted to send them. And in any case, these field officials already had a lot on their plates without having to deal with the bells and whistles of unfamiliar gadgets.

On a different level, we must ask the question: was the COMELEC ready, at the highest levels to implement the sweeping changes of modernization? An honest answer would be, it wasn't quite as ready as it should have been.

Before I get fired, allow me to explain.

There was no doubting the intent to modernize. We wanted it and we wanted it so bad we could almost taste it. But wanting a thing and maximizing your chances of actually getting it are two different bananas.

The reality of it was that the management of the modernization project suffered from, *first*, an incomplete vision of modernization, as I said, that focused too keenly on making sure that the tech was perfect; *second*, too much compartmentalization, such that each Phase proceeded semi-autonomously of each other despite the fact that each could have given invaluable design input to the two others; and *third*, and this may sound quite paradoxical, too much centralization in the decision making process, in the sense that far too many decisions had to be referred to the Commission *en banc*. Considering the volume of other work the *en banc* had to tackle, it was hardly surprising that necessary decisions were not always immediately made.

And finally even assuming for the sake of argument that the project was ideally managed and that all COMELEC field officials possessed the necessary mastery of the technology they were required to deploy, the fact remains that the majority of the voting public, including the political players, was **psycho-socially** unready, both generally, and with regard to specific components of the modernization program in particular.

In general, there was a sense of distrust in the ability of the COMELEC to pull off the project, and about modernization *per se*. As far as I can tell, this distrust stemmed primarily from a lack of knowledge about the project. People just didn't know enough facts, and that translated to fear. Vested interests from all quarters exploited this fear and started blackballing modernization every chance they got.

All of this would have created negative buzz that might have been manageable, were it not for the inexplicable silence of those who claimed that they supported modernization. While the COMELEC is perfectly willing to accept some of the blame for the negative perception, it must also be said that those who knew the facts, those who knew that everything was being done to ensure the cleanliness of the automated elections, and those who knew what modernization truly meant for the future of elections, those people could have done much to mitigate the situation. Instead, the negative perception snowballed until it got to the point that the bare and unsubstantiated fear of election rigging was used as a major argument in striking down the automation contract.

But apart from the general public distrust of modernization, it was also acknowledged that specific components of the project would be difficult for the public to accept. After all, the sudden introduction of technology into a system that is more than a half-a-century old can be a jarring event. And, dollars to doughnuts, the migration from a manual election model to a technological one will have considerable casualties. So, no matter how intuitive we believed the 'shade-in-the-oval' ballots were, we knew that we were likely to encounter major problems when we gave those ballots to rustic folk. And if people couldn't accomplish the ballots correctly, then they would have been disenfranchised just as surely as if we had prevented them from voting at all. GIGO. Garbage In, Garbage Out.

The lack of technology receptiveness would have also worked against the VSATs we wanted to deploy. While it is true that electronic transmission does not require the participation of unskilled individuals, its operation – dealing as it does with the reporting of election results – would have been a matter of intense public interest. If people – even tech-savvy voters – do not completely comprehend the workings of the VSAT, if there is even the slightest doubt that the integrity of the data it sends could be compromised, then the VSAT would have been just another source of public distrust. Inasmuch as modernization was supposed to have increased COMELEC credibility among other things, an untrusted electronic transmission system would have been a badge of failure.

THE SHAPE OF THINGS TO COME

Which brings us to the future. If our approach to modernization left something to be desired the last time, how should we do it now?

For obvious reasons, I don't have the answer to that question. I cannot supply the vision because I am just one person (although from most angles, I seem to be more than just one person). A vision must be shared by all who have a stake in it. Otherwise, it will not work. This is one of the bitter lessons of the past that we must take to heart. I am convinced that if the COMELEC is to successfully modernize the electoral system, it must, first and foremost, ensure that the vision it ultimately pursues is shaped by a majority of the stakeholders. All the stakeholders would be better, but that would be like asking the rain to fall only over the *Angat* reservoir.

To achieve this shared vision, the COMELEC should actively seek out the contributions of all stakeholders in the formulation of the new modernization vision. From the academe to the media, from advocacy groups to the business

sector, the ideas must be made to flow. Occasions such as this shouldn't be special events, but regular occurrences so that the vision of modernization that the COMELEC adheres to enjoys broad-based support.

For this reason, I believe that the Modernization Project – targeted for the 2007 Elections since anything before then will be too soon – should be designed by some sort of a Modernization Committee headed by a COMELEC Commissioner with cross-sectoral membership from, among others, both Houses of Congress, the Academe, Business Groups, and other NGO's. For this discussion, let's call it the Multi-Sectoral Modernization Committee or **MMC**.

The broad membership will give the **MMC** access to new ideas, thus ensuring that the new vision of modernization will not be bound by the parameters set by existing law. Also, by giving Congress a voice in designing modernization, we can make certain that any proposed changes in the statutory environment will enjoy at least a foot-hold of support in Congress. And naturally, the representatives from each sector will be bringing with them what their peers believe to be necessary and those beliefs can then be openly discussed. This will minimize confusion and, hopefully, guarantee well-informed support or opposition, either of the two being infinitely preferable over unwarranted conclusions.

The mandate of this proposed **MMC** will be to formulate, within 90 days from its creation, an Automation Design that will be the action agenda for the Commission's Modernization Program and which incorporates the following fundamental components:

- Modernized Registration Procedures and CVL Rehabilitation;
- Automated Voting, Counting, and Canvassing
- Electronic Transmission

A re-designed registration system should preferably be keyed to the individual, not to a geographic location, and built around a Voters' Data Base (VDB) that is created by rehabilitating the existing CVL and inputting voter information culled from the databases of other government agencies. This includes the databases of the Government Service Insurance System (GSIS), the Social Security System (SSS), and the Land transportation Office (LTO).

Naturally, there should be mechanisms designed to ensure that such a system will be regularly updated by active capture – by the data base administrators – of information from local civil registrars, the Department of Justice (DOJ), the Bureau of Jail Management and Penology (BJMP), the Department of Foreign Affairs (DFA), the Bureau of Immigration (BI), as well as from other sources, such as obituaries.

And since the **MMC** will be re-envisioning everything anyway, they may also institute new, more efficient, procedures for registration and registration validation; even registration on-line through the *www*. A lot of ideas have been floated for this, and among the most promising I have heard is a *Barangay*-based system where local COMELEC offices – in coordination with the *barangays* in their jurisdiction –generate voter registration forms and validation forms for everyone in those *barangays*. Distribution and retrieval of those forms can be through the mail, or otherwise accomplished at the *Barangay* level, with *Barangay* assistance.

Ideally, the **MMC** should ensure that the Automation Design shall be geared towards maximum user-friendliness, particularly with regard to Automated Voting. This is to say that the design should be based on technology that is best suited for the Philippine milieu; not necessarily state-of-the-art but easily comprehensible even for rustic folk. The Automated Voting, Counting, and Canvassing system, for instance, may be based on symbol recognition

technology, principally to address the problem of literacy and literacy-related errors in voting. Along these lines, Automated Voting should, if possible, incorporate a user-accessible Help function that features an animated character that will walk the voter through the entire voting process, including ballot review and re-do.

Also ideally, Automated Counting within a precinct should proceed simultaneously with voting. With Automated Canvassing being conducted on-line, this will speed up the over-all count immensely, translating to increased levels of credibility for the polls.

Another area where the **MMC** can truly make a difference is in designing a robust electronic transmission system that will deliver the benefits of rapid transmission of election reports, but will be secure against threats of hacking and loss of data or data integrity. For maximum efficiency, the mode of electronic transmission will be determined based on the unique requirements of each location. Thus, for instance, VSAT technology will be limited to use in far-flung areas where no other practicable means of telecommunications are available, whereas, in urban centers, electronic transmission will be through existing telecoms facilities.

Once completed, the Automation Design will then be submitted to the Commission *En Banc* which shall either propose changes or vote to adopt it. In case of the former, the proposed changes will be studied in-depth by the **MMC**, which shall afterwards present a report to the *en banc* detailing the reasons why it adopted or declined the changes. Once the *en banc* approves it, the Automation Design will then be submitted to Congress – through the Joint Oversight Committee created by RA 8436 – for adoption in principle.

As with the *en banc*, any changes proposed by Congress will be studied in-depth, and returned to Congress with detailed justifications for why the

changes were adopted, or why not. Once the Automation Design is adopted by Congress, the **MMC** will begin a comprehensive review of election legislation and, within 60 days of adoption of the Automation Design, propose the amendments to all related laws necessary to enact the Automation Design. By front-loading Congressional deliberations on the merits and demerits of the **MMC's** Automation Design, adoption of the amendments should be much smoother and should take considerably less time.

The goal of legislative review is to completely do away with manual voting and its artifacts. In this undertaking, the **MMC** would be well served by taking into consideration the modernized election laws of those countries that have successfully migrated from paper-based voting, counting, and canvassing to fully electronic modes.

Once the laws are in place, the COMELEC should immediately launch a modernization project based on the Automation Design. Calling this future endeavor **MP07** for Modernization Project 2007, please allow me to share some basic features of **MP07** which I believe should form the minimum standard for its organization and function.

MP07 should have three inter-dependent components, NOT three semi-autonomous Phases. Indeed, the use of the word "Phase" should be avoided entirely as it creates the wrong mindset that these three components have a linear chronological relationship to each other. For ease, let's call these Components **M1** – for Registration and CVL Rehabilitation Project (RCRP); **M2** – Automated Voting, Counting, and Canvassing Project (AVCCP); and **M3** – Electronic Transmission Project (ETP).

M1, M2, and M3 will proceed simultaneously, with close coordination to ensure that each Component accommodates the design and implementation input of the other two Components, particularly with regard to the essential system requirements of each Component. There should be only one Project Management Organization (PMO), with one Project Manager per Component. The PMO should be headed by two Commissioners and one Project Director who shall, as far as practicable, have the following qualifications:

- Extensive experience in Change Management
- Extensive experience in Operations Management
- Experience in IT Management an advantage

The PMO must, as far as practicable, have full operational control over **MP07**. Recourse to the Commission *En Banc* should be limited to broad policy issues only, such as:

- Statutory Periods and Deadlines
- Hiring of Personnel Services beyond those already provided for in the MP07 Budget and TOE
- Pruning of MP07 deliverables
- Ballot face design, but only within the parameters of the approved ballot technical specifications (if applicable)
- Design of all other official forms, but only within the parameters of the approved technical specifications for such forms

To assist the PMO, it would be best if a number of Ancillary Committees were to be created, each drawing membership from the Commission itself and individuals from relevant disciplines or fields of endeavor.

First is the **Ancillary Committee on Contracts and Legal Concerns**. This Committee will be tasked with handling all legal issues relating to the prosecution of **MP07**, as well as all contracts entered into by the PMO for the project, including contracts for supply of Equipment, Peripherals, and Supplies, such as Data Capture Machines, Automated Counting Machines, and Electronic Transmission devices; contracts for Consultancies and other personnel services; and contracts for supplies and such.

Second, there should also be an **Ancillary Committee on Documentation and Logistics** to handle all documentation activities for **MP07**, as well as all logistic needs that may arise during the prosecution of the project.

Third, an **Ancillary Committee on Risk Management and Statutory Oversight** ought to be created to identify significant risks and potential problem areas, as well as recommend policies and procedures necessary to address or mitigate the adverse effects of contingencies should they arise.

And *fourth*, to more effectively and efficiently counter the negative publicity that will inevitably arise, an **Ancillary Committee on Media and Public Relations** – to mount a continuing public acceptance campaign and a broad cross-sectoral public information effort for **MP07**.

Needless to say, **MP07** must be prosecuted with utmost transparency and accountability. To guarantee this, the Commission *En Banc* should form a Transparency and Accountability Committee (TAC), independent of the PMO that shall be mandated to formulate and enforce a Transparency and Accountability Protocol (TAP). This Protocol should have the following minimum provisions, in addition to the punitive:

- Proceedings of the Bids and Awards Committee shall be observed by the TAC and, as far as may be practicable, by

representatives from the Joint Congressional Oversight Committee and other similar bodies created by R.A. 8436, by one independent private observer, and by one observer from the government agency whose core competency is relevant to the subject of the public bidding;

- A system that tracks project schedules, particularly slippages and missed deadlines;
- A system for formulating and updating punch lists for every Component of MP07; and

The Transparency and Accountability Committee shall submit periodic reports to the *En Banc*, copy furnished the PMO, on compliance with the TAP.

CONCLUSION

In conclusion, let me say only this. The road to the full modernization of the Philippine electoral system begins, like any journey worth taking, with a vision. But it does not end there. After we articulate the vision, we must then immediately begin to make it happen. And that is the hardest part. During that arduous process of turning a vision into reality, not everything will go as we want. Obviously, even the best laid plans can be derailed. But when that happens, having a strong vision of where we want to go is the best guarantee that we will eventually get there. As I have said often before, if you can imagine the future, you can build it.

Preliminary Points for the Possible Reorientation of Voter Education Initiatives*

Jeremy Philippe T. Nishimori
Empowering Civic Participation in Governance

Introduction:

The general framework that has guided many voter education efforts can be considered to have somewhat of a modernist bias, where education is often seen as a mechanism of illumination against the false and erroneous notions contained in customary electoral practices. To illustrate, this framework often assumes that some sectors of society, specifically those from the poor and marginalized, are not sufficiently equipped with the necessary tools that would enable them to genuinely engage the electoral component of present day democracy. For example, due to poverty, which limits access to alternative sources of information and education, not to mention traditional and formal schooling, they are assumed to be victims of shallow and created images, popularity and sloganeering. This is then taken to explain the relative success of entertainers and famous personalities in the electoral arena, regardless of their lack of experience in politics and public service. As another product of the current economic situation of the poor and the marginalized, their political culture is also seen as promoting the value of immediate gain over principled engagement. Already assumed to be unfamiliar with the “true” demands of electoral democracy, vote-buying and other types of voter fraud are similarly seen as products of an economic predicament that is open to manipulation by unscrupulous politicians, thus, further aggravating and diminishing the possibility of their meaningful participation.

Against this backdrop, voter education is tasked with the insertion and operationalization, in voters, of a paradigm that properly addresses the genuine demands of electoral democracy. For example, voter education should seek to undermine the present “irrationality” of voters that remain solely determined by forces of personality and popularity, or even the carnival atmosphere provided by candidates by replacing it with the calculated rationality of voting based on platforms and public service records. In addition, education should instill the recognition of the ballot’s sanctity, thus supplanting the culture of exchange that pegs the value of the vote along the parameters of mutual immediate gain. In other words, voter education, within the domain of the framework set forth above, clearly defines its content and its mode of intervention: transformation through transmission. According to the framework, there is either negative space or there is distorted content in the consciousness of voters with regard to the appreciation of elections as a terrain of engagement. This content or lack of content is then mobilized through their “irrational” participation in the actual electoral process.

* Discussion paper delivered at the 2004 National Summit of the Consortium on Electoral Reforms, September 1-3, 2004, Sulô Hotel, Diliman, Quezon City. Slight revisions for clarification have been added here.

The challenge for voter education is the transmission of the “true” paradigm of electoral democracy into voters, to be utilized afterwards as the guide for their more meaningful participation.

As the past few elections probably revealed, it remains necessary to persist with regard to the progressive transformation of the voting population’s current level of electoral discourse, both technical and ideological. For example, with regard to the voters’ technical knowledge of election processes, not to mention the plain recognition of the importance of the exercise, the statistics do not paint a praiseworthy image. Out of the 43,536,028 registered voters, only 74.3% turned up to vote, almost six percentage points down from the usual 80% voter turnout for national elections.¹ The newly instituted mechanism for overseas absentee voting (OAV) also painted a bleak picture. There are approximately 7 million overseas Filipinos, but only 358,660 registered to exercise their newly legislated right. Of the number of registered overseas Filipino voters, only 65% turned up to vote on election day. The assessment of the Center for Migrant Advocacy-Philippines indicated a number of reasons that proved influential to the turnout, but it must be underscored that they also indicated a serious flaw in the system of information dissemination. Despite the efforts then, of advocates and concerned Filipino communities abroad, the lack of information regarding the processes and the requirements, not to mention the candidates and the positions to be voted upon, undeniably influenced both the registration and the voting turnout.² The Party-List results also pointed to a similar situation. Even though the system has already been present for two elections prior to 2004, that lower left hand side of the ballot continues to baffle voters. Clearly indicating this is the fact that only 12,721,952 voters voted for the Party-List system, only 39% of the actual turnout of voters.

As these numbers probably reveal, the transmission to voters of the necessary technical information regarding election procedures and processes remain a substantial challenge to voter education practitioners and electoral reform advocates. This means that the continuation of present efforts to reach wider audiences and communities remain imperative.

At the same time though, it may also be necessary to question the framework that has too often guided these efforts. While it remains undeniable that there are types of information in election education that necessarily have to be transmitted in order to ensure the possibility of minimum and basic participation, voter education is also tasked to deliver ideological content. In other words, in addition to informing voters of their basic rights and the actual processes that

¹ It is clear that there are multiple determinants in the discrepancy between the number of registered voters and the number of voters who actually voted. The contention here is that besides the possibility of local and wide scale fraudulence, the levels of familiarity with the actual processes, as well as the rights of voters within these processes, also played a considerable role.

² Sana, Ellene A., “The OAV Law: Defend and Amend, Guarantee its Continued Exercise”, KASAMA Vol. 18, No. 2/April-May-June 2004/ Solidarity Philippines Australia Network

allow them to cast their vote, voter education also attempts to transmit a definite set of principles that should ideally guide voters through the activity of giving content to the ballot. This intent is essentially grounded not only on the supposed framework and demands of representative democracy for which voters vote, but also on an operational conception of a voter that rest on assumptions that have to be interrogated. For instance, would it be safe to assume, as the framework does, that the electoral behavior of the poor and the marginalized, the usual targets of voter education efforts, is a manifestation of a distorted electoral paradigm, produced wholly by the lack of information? More pointedly, can the assumption be made that the poorer sectors of society will simply vote for the more popular candidates, or that they will patronize fraudulent means because they cannot comprehend the arena of elections within its proper paradigm? Since it these conceptions of the voter that provide the ground that define the means and the content of voter education's intervention, the interrogation of the validity of these numerous, interlocking and mutually supporting assumptions are imperative.

Preliminary Points for Interrogating the Present Conception of the Voter:

As an article by the Philippine Center for Investigative Journalism (PCIJ) points out, the poor and the marginalized, those that make up the majority of Filipino voters, are often, "blamed for the sorry state of electoral politics and the low level of electoral discourse".³ Seen by other sections of society to be dumb and unthinking, prone to manipulation and simplistic messages, not to mention vulnerable to patronage and vote buying, they are often considered the contemporary Achilles heel of electoral democracy. First, it is undeniable that there has indeed been continuing depreciation of electoral discourse and politics. In addition to this, it is also clear that the views and interests of the poor and the marginalized, because of sheer their number, have gained electoral advantage. What remains debatable though, are the connections that have been made between the current state of electoral discourse and the cumulative vote of the poor. The premise is questionable because it is also debatable if there is validity in the present multi-layered characterization that seeks to define the nature of the vote of the poor and the marginalized as irrational and misguided.

As the studies of the Institute for Philippine Culture (IPC) and the Institute for Political and Electoral Reform (IPER) reveal, the character of the vote that emerges from the poor and the marginalized have a rationality of its own. Through the various Focused Group Discussions (FGDs) conducted by IPC in different urban and rural poor communities, they discovered that most voters do have a rational criterion for leadership that they utilize for selecting candidates during elections. It was made clear, for example, that voters from the poor and the marginalized favor leaders that appear god-fearing, helpful, loyal, and responsible. On the other hand, they are wary of leaders that appear to be

³ Coronel, Sheila S. and Chua, Yvonne T., "The Poor Vote is a Thinking Vote",

capable of corruption, lying, greed, irresponsibility, and selfishness. These sets of values are then realized in an operational criterion for candidate selection that values, in its proper order, the educational attainment, the experience, the platform and the decency of the different candidates. The 2003 IPER study on voter influences and preferences, an update of their 1995 study, also presents an operational criterion extracted from common voters and other electoral stakeholders. According to this research, voters value the candidate's public servant image the most, and in descending order, the strength of the candidate's political machinery, the candidate's popularity and the endorsement of a traditional network or organization.

What do these preliminary points reveal? First and foremost, they reveal the existence of a set of values that guide common voters through the process of filling up the ballot. Though the order of importance and the level of their influence may be debatable, what remains unquestionable is the existence of an operative rationality that voters from the poor and the marginalized attempt to concretize through the ballot. Their guiding ideas can in fact be seen in some of their concrete demands during the election period. For example, voters from the poor and the marginalized value the initiative of candidates who are willing to meet with them face to face. Though this demand can be simply be seen as a manner of measuring whether candidates have the ability to empathize with their situation, it can also be seen as an alternative means through which the poor accesses information. Through the demand that candidates themselves meet with the voters in their communities – *na bumaba sa lugar ang kandidato* - voters attempt to analyze the negative and positive traits of a candidate through the candidate's interpersonal demeanor. For example, does the candidate show respect to the people with whom he or she talks? Does the candidate look into their eyes? These interpersonal traits are taken to be revelatory of other behavioral traits that may be of concern, such as the capacity to lie, greediness and self-centeredness. Without a doubt then, voters from the poor and the marginalized have a rational criterion of their own, not to mention their own organic means of verification.

This rational, albeit organic set of values though, is far from being the only determinant of voter preference and attitudes during elections in economically deprived communities. Competing with this organic set of values are the different social structures, institutions and customary norms that often have conflicting concerns. Local partisan ward leaders, for instance, compete for consolidation of a bulk of votes that can be delivered to their local patrons and their respective national partners. Likewise, different sectoral leaders also compete for the loyalty of their members, similarly aiming to deliver their constituencies to local and national campaigns with whom they have struck a deal with. The family-centeredness of Filipinos is, in fact, also an arena of intervention and a partisan concern for election tacticians, since they recognize in it the possibility of vote determination, consolidation, and protection. The strength of religious organizations, especially those with much desired command

votes, remain a strong influence, not to mention other religious organizations with less than partisan concerns. The media, with its expansive and penetrating reach, is also an obvious factor, especially for urban areas and nationally elected positions. Lastly, the possibility of immediate financial gain sometimes offered by candidates in exchange for different types of fraudulent acts is also a factor in the decision-making process of voters from the poor and the marginalized.

In the end, it is the interplay between these different influences that determine the behavior of voters during the election period. Far from the conception of a dumb and unthinking voter determined exclusively by poverty and its baggage, what the current analysis reveals is a voter that is produced by very specific and historically legitimated types of intervention. The voter is clearly not determined by simple the lack of an appropriate paradigm for election engagement because their organic values of leadership, through which they analyze candidates, attest to its presence. Along with their organic criterion though, they are fashioned by the proliferation and competition between the different pointed interventions and the different paradigms that aim to create and produce a voter that is of a specific type.⁴

To illustrate, the basic aim of local ward leaders, whether territorial or sectoral, is the delivery and protection of votes in favor of their patron. This goal though, is pursued at multiple levels. While the vote is indeed protected by ensuring the capacity to vote and the establishment of a system which ensures that the actual vote cast is indeed favorable, election operators also attempt to produce a temporary environment that is favorable to their partisan concerns. This may mean a process of limiting and filtering the information that reaches their constituencies (*operation tapal, operation baklas, etc.*). It may mean utilizing social institutions as means of ensuring partisanship (*family, elders, respected community individuals, etc.*). It may also mean limiting the access of electoral opponents to specific communities (*hamleting*). The process may even involve veiled threats. In the end, the overall process is guided by a specific type of rationality aimed at producing, not only partisan voters, but also partisan election stakeholders. Religious leaders and organizations also institute processes that aim to determine a type of voter and election stakeholder that serves the needs of their paradigm. As conduits of partisan interests and as modes of safeguarding their own institutional needs, the media is also involved in the construction of specific types of election consciousness. Clearly, for most

⁴ Possibly, the capacity of voters from the marginalized and underrepresented to view the electoral arena on multiple levels is also a product of the interplay between these different institutional, social, and economic interventions that bear down on them during the election period. For example, as the IPC study indicates, voters from the poor and the marginalized willfully engage the electoral process on two levels. On one level, elections are still seen as one of the possible means of achieving their transformative agenda. On the other hand, the process is also seen from an instrumentalist point of view. According to some participants of the IPC study, the two are not contradictory, manifested in vote-buying, for example, where people gamely accept money if they are sure that their vote cannot be checked.

election stakeholders and operators, the question is not limited to ensuring that voters are sufficiently provided with types of information that will ensure partisanship. The aim in fact, is to organize communities and control the politically charged climate that surrounds the voter. Such an aim not only attempts to determine the choice that the voter will make. The parameters of choice, at multiple levels and through multiple means are also determined by the interventions. This effectively transfers the question of voter identity and behavior from the terrain of providing information to the terrain of producing subjectivities specifically designed for partisan electoral engagement.

Questioning the Pedagogy of Transmission and Enriching Content:

As the previous section probably clarifies, the voting patterns of the poor and the marginalized are not strictly determined by the commonly accepted notions of irrationality and misguided paradigms. They are in fact products of drawn out and historically legitimated partisan interventions by the different election stakeholders that attempt to produce subject-voters that are appropriate for their concerns. First and foremost, this clarifies the fact that the poor and the marginalized are not the primary determinants of the current level of election discourse. The poor and the marginalized do not, by nature, gravitate towards famous personalities and they are not immediately attracted by prospects of immediate financial gains. These notions and practices within the electoral arena are not organic to the poor and the marginalized. They have been introduced and they are currently being perpetuated by other election stakeholders with more partisan interests.

To understand the voter outside of the accusations of irrationality though, also have implications on the framework that has often been utilized for voter education efforts. As mentioned in the introduction, voter education has often been seen as a mode of intervention that transmits into voters the appropriate paradigm for electoral engagement. Given the preliminary ideas that were presented in the previous section though, the aim of ideological transmission becomes generally questionable. First, given that voters from the poor and the marginalized already have an appropriate paradigm for electoral engagement, the aim of ideological transmission can be seen as a form of intrusion. It is probably for this reason that some voter education initiatives have been tagged as elitist. Second, transmission assumes that the introduction of appropriate ideological information suffices to induce a transformation of fraudulent electoral practices in economically deprived communities, that the transfer of ideas can introduce behavioral change. It must be remembered that some of the practices that voter education condemns have become customary, historically legitimated by its perpetuation in the electoral life-world. In addition to this, as fraudulent as some of these acts may be, the immediate results are used by voters to address very legitimate concerns. Ideological transmission then, is again seen as elitist and insensitive to the temporary and informal sustaining mechanisms that

provide relief to economically deprived communities. Alternatives then, must be posed to the generally confrontational nature of ideological transmission.

As a first step, voter education initiatives should try to empower the organic concepts leadership by allowing their target communities to articulate these values. As mentioned earlier, these values by themselves are not deficient or distorted. They are in fact only watered down by the competition with other partisan electoral interventions that are trying to control the political environment. It is imperative then, that these values are strengthened through the community's own articulation, if only to allow the organic criterion equal opportunity in the skirmishes that seek to determine electoral behavior.

Second, voter education should also consider optimizing the different centers of legitimization present in the community. Unlike past efforts though, that only used these centers as influential conduits of information, the suggestion proposes that these centers also be consciously utilized in determining the temporary political climate considered to be favorable to progressive electoral practices, thus diluting other more partisan electoral concerns.

In addition to the notions introduced above, local governance, although a clearly defined arena by itself, must also be seen as a venue that can further enrich electoral education and discourse. Engagement in local governance touches base with at least two important electoral issues. First, through participation in local governance, voters are given the chance to experience, first hand, the effects of their electoral decision making. Second, such engagements would further reveal the knot that binds governance and elections within the domain of institutional democracy. This should effectively unseat, in the consciousness of voters, the common notion that the electoral terrain is the privileged and the primary arena for engagement in a working democracy. Also, without a doubt, engaging local governance can also lead to the further enrichment and refinement of the organic values that voters utilize in their decision making process with regard to electoral candidates.

Clearly, the reformulations in strategy that have been proposed here take their cue from ideas that have been utilized for more practical purposes in the electoral arena. As mentioned earlier, while partisan election stakeholders have singular aims, the tactics that they utilize to achieve their aim are multiple and multi-level. Though their main targets are essentially the voter and actual vote, the means through which they engage these targets involve not only the targets, but the environment within which they exist. The aims of voter education are not different in the sense that such initiatives are also trying to produce a specific type of voter. Just as partisan election stakeholders then, attempt to produce the environment that will be beneficial for the production of their desired voter, voter education should also strive to manufacture the environment that will prove to be beneficial to the production of their desired voter. In other words, much more than trying to transmit the types information that it deems to be important for

genuine electoral engagement, voter education should strive to organize communities with the aim of safeguarding the already progressive notions of the community regarding leadership, thus insulating it from the domination of other more partisan concerns.

Conclusion:

As mentioned earlier, the challenge of improving electoral discourse, both technical and ideological, is still substantial for voter education practitioners and electoral reform advocates. As the 2004 national elections again revealed, there is still much work to be done.

At the same time though, there is also a need to evaluate and reorient the present voter education efforts and initiatives. For one, it may be necessary to recognize that voters from the poor and the marginalized are not the unthinking voters that they have often been perceived to be. Outside of their instrumentalist view of electoral engagement, there also lies the belief that the electoral terrain is also a venue for the pursuit of progressive transformation. In the end, this is the belief that needs to be supported. It does not need an additional paradigm, but it does need looking after. Pursuant to this, voter education should focus on assisting communities and voters through the process of articulating their organic values of leadership. These are then to be strengthened and reinforced through a comprehensive intervention strategy that creates an ideal climate for progressive electoral engagement. For many election operators, the electoral terrain is composed of realities that are exclusive to it. Voter education has so far attempted to learn of these realities for their information dissemination efforts. In the end, voter education should also utilize its many lessons.

Media Performance in the 2004 Elections



The media were a major influence on how people voted

- Unprecedented media penetration, especially phenomenal growth of TV audience
- Weakness of other institutions, especially political parties
- Historic role of the media



A “Media Nation”

- Television is King
- ➔ 96% of Filipinos have access to TV; in Metro Manila, it's 98%
- ➔ 71% said TV is most credible source of election-related information [PULSE ASIA]
- ➔ 67 % said TV is most credible information source on elections [PULSE ASIA]
- ➔ 42% of the poorest watch TV daily; only 37% listen to radio daily [sws 2003]
- Radio & Newspapers
- ➔ 78% have radio access but only 24% said radio is most credible information source
- ➔ Only 11% read newspapers daily [sws 2003] & only 4% depended on them for election information.
- ➔ Only 5% said print is most credible information source [PULSE ASIA]



What factors affect voting?

IPC Study: Vote of the Poor

- Media
- Family
- Church
- Political Party
- None
- Surveys
- School/Organization
- Employer
- Movie Star Endorsement



During elections, the media are...

- The primary of news and information
- An arena of battle
- Kingmaker
- A major expenditure: about 30% of total campaign expenses for national candidates
- Major profit centers



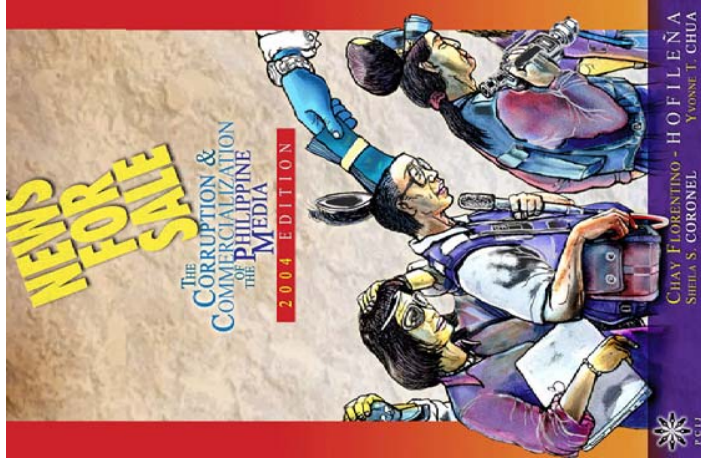
What made 2004 different

- Lifting of political ad ban: Rankings in national races more or less corresponded to spending on advertising. Virtually no limits on advertising.
- Incumbent president vs popular movie star (unprecedented use and influence of celebrities and showbiz media)
- Increased spending (vs 1998) on all items, including media
- Rise of TV as major media arena, influencing quality & nature of election discourse



Focus of Study

- Media preparedness
- Coverage
Who shouldered expenses?
- What was the focus?
- Influence on Coverage
(by media bureaus, media owners and need to raise ratings/circulation)
- Corruption in the Coverage
- Lessons Learned: What can be done better?



Demography: Who reported on the election?

- Gender: Male – 46%
Female – 54%
- Mean age: 34 (range from 21-63)
- Years in journalism: 11 (mean)
- Highest degree earned:
Bachelor's (76%)
Postgraduate (15%)
- Monthly Income
P10,000-P19,999 (44%)
P20,000-P29,000 (36%)

59 reporters surveyed
36% - broadsheets
15% - tabloids
25% - radio
24% - TV



I. How prepared were they to cover the election?

- Nearly 8 in 10 of reporters surveyed said their news organization had a briefing or orientation before the start of the campaign period.
- But most briefings were on assignment and general guidelines on fairness, objectivity, accuracy, and human-interest angles.
- One big network notable for early investment in training.
- Another big network saw unprecedented coordination between marketing and editorial.



II. Who paid for coverage? (what reporters said)

- News organization shouldered expenses
 - All the time: 42%
 - Most of the time: 17%
 - Sometimes: 19%
 - Never: 17%
- Per diems or allowances during coverage
 - 19% said they didn't get any from their news organization. Of these one in four reported they got allowances from the candidate/political party
 - 80% said they got allowances from their organization, but still one in five among them got allowances from candidate/political party



III. Focus of Coverage

What editors & news managers said...

- Print: Not enough on issues and platforms because...
 - ... Candidates skirted issues or couldn't articulate their stand on them
 - ... Reporters tend to just meet "boundary," they simply write what they see. Reportage was superficial
 - ... Issues were in the inside pages

Broadcast : Issues ignored, but

... Personalities make news, there was a hunger for information on candidates

... Issues don't sell newscast. They don't rate. There's no space in the newscast for analysis.

... Analyses harder to do for TV, takes more out of reporter

... There's public affairs or cable

Content of Coverage

- What were mainly reported...
 - Celebrity
 - Conflict
 - Surveys
 - Campaign Trail
 - Presidential race

What were often missed ...

- Platforms
- Backgrounders on issues
- Views of voters
- Senate, local and party-list races





Who set the news agenda?

Bias of media owners

- Big TV networks: Management didn't interfere although in one network, the perception of management preference influenced coverage
- Gov't TV: Malacanang defined agenda
- Big newspapers: Editors and owners had no strong preferences, so it was a "balanced coverage"
- Other print media: Tribune for FPJ; Malaya for Lacson; some detected pro or anti-FPJ bias in PDI
- Radio: many commentators were for sale; it was a free for all





IV. Corruption in the Coverage (view of reporters)

- Were you offered money?
No: 44%
Yes: 49%, mainly by PR or campaign staff
- Did you accept?
No: 62%
Yes: 35%
- Did other reporters accept?
No: 29%
Yes: 59%
- Did your editors accept money?
No: 24%
Yes: 34%
Others: 39%



Corruption in the Coverage

(view of reporters)

- Was coverage influenced by money given to reporters?

All the time: 7%

Most of the time: 32%

Sometimes: 49%

- How was influence manifested?

Positive stories highlighted: 83%

Negative stories killed or buried: 31%

Giver got more quotes: 22%

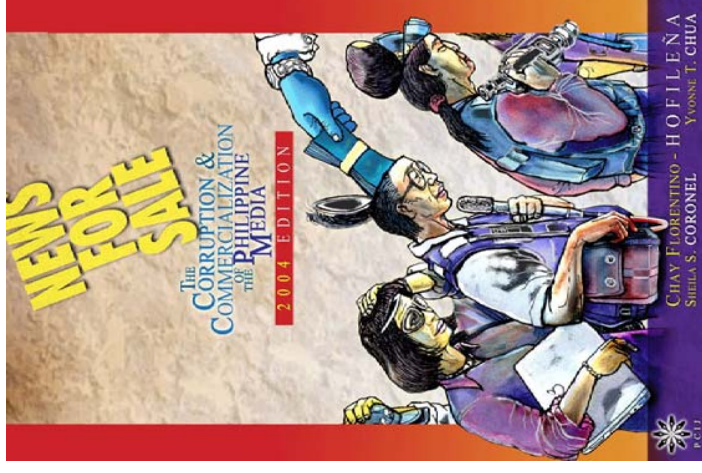
Giver got more exposure: 29%

Giver's opponents got negative stories: 22%



News for Sale

- Subsidies & payoffs for reporters
- Payoffs to star journalists, including monthly retainers for some anchors
- Entry of entertainment PR: Paid appearances & mention in entertainment sections
- Radio packages: ads plus regular reports and interviews & “embedded reporter”
- Sachet packages: P3,000-5,000/interview
- Amounts for corruption diminished by spending on advertising although moneyed candidates spent massive amounts on both



Observations

- More attempts to provide background, context, and in-depth reports
- But still, there is an unquestioning belief in the primacy of ratings and sales, even for news and public affairs. So reporting generally shallow.
- Recognition of the need for training and mentoring but not enough being done. But training alone cannot resolve all the problems.
- Acknowledgment that corruption exists but little will to do something about it.



Areas that need to be addressed

➤ By the media

- Ethics
- Content
- Reporting Skills
- Role of the Media in Elections and Democracy
- Self-regulation

➤ By the government

- Limits on political advertising and campaign spending
- Media ownership, especially sequestered media

➤ By civil society

- Mobilization of publics to demand better and more responsible

- Media literacy for media consumers



Election Administration and Election-Related Constitutional Reforms

By: Christian S. Monsod
Second National Electoral Summit
Sept. 1-3, 2004, Sulo Hotel

I. Some Constitutional Provisions Affecting Elections and Electoral Reform:

- (1) Philippines is a democratic and republican state. Sovereignty resides in the people and all government authority emanates from them (Art. II, Sec. 1)
- (2) Social Justice as the heart of the new constitution
“....in all phases of national development (Art. II, Sec. 10)
“... measures to....”reduce social, economic and political inequalities and remove cultural inequities by equitably diffusing wealth and political power for the common good.” (Art. XIII, Sec. 1)
- (3) no religious test for the exercise of civil and political rights (Art. II, Sec. 5
- (4) “...and prohibit political dynasties as may be defined by law.” (Art. II, Sec. 26)
- (5) absentee voting (Art. V, Sec. 2)
- (6) free and open party system shall be allowed to evolve.. (Art. IX-C, Sec. 6)
- (7) sectoral representation in legislative bodies of local government (Art. X, Sec. 9)

II. Observations on the Conduct and Results of the 2004 Elections:

Elections consists of both process and results. The process refers to the procedures and the environment (such as the peace and order situation) and can be credible, tolerable, questionable or non-credible. The results similarly can be credible, tolerable, questionable or non-credible. There can be a questionable process with credible results, as there can be a credible process with questionable results.

As a process, the 2004 elections was tolerable, with the competence of the Commission as the main issue:

- i. starting with the appointment of two new commissioners with questionable credentials;
- ii. wrong priorities of the Commission itself i.e. an electronic transmission project that the Comelec promised not to implement, finally stopped by the Supreme Court on which P400 million was spent;
- iii. high cost-low relevance projects, i.e. a voter validation project that did not issue a single ID costing about P1 billion;
- iv. an automation contract also struck down by the Supreme Court;
- v. indecisiveness on key issues;
- vi. perceived blundering or misleading responses to public questions, i.e. availability of voters lists etc.).

Corruption at the highest levels of the Comelec and partisanship for a sitting President were the other issues. The Commission has a credibility problem of its own making. It did not even command the respect of candidates sufficiently to conduct presidential debates. And the violence and casualty rates were too high to ascribe to local rivalries.

Moreover, the prolonged and badly managed canvassing in Congress, with the sidelight of a Supreme Court case, did much to also hurt the credibility of the process. And NAMFREL, perhaps for the first time in its existence, perceived as not being totally transparent or decisive, lost some ground in credibility as well. But, fortunately, the Comelec is more than the commissioners and elections is more than the Comelec. Virtually every sector in society has a hand in a credible elections.

But the key element that saved the 2004 process from being a disaster was the professionalism of the Comelec career officers (as exemplified by the composed performance of Betty Pizana before Congress) and, above all, the election officials at the ground level, both Comelec and its deputies. The vast majority of them did their job well, despite the unnecessary burden of poor leadership.

Because credible elections are delivered in the field, and not at the Comelec Head Office, the results were largely credible across some 17,000 elected officials. With respect to the results of the Presidential elections, it can also be defined as tolerable, if not acceptable, not because it was decisive but because the main opposition candidate self-destructed, and people wanted to get on with their lives.

Regardless of conventional thought to the contrary, Filipinos do cast an intelligent vote and the 2004 elections can be considered in the same light, even if, for some, it was a matter of lesser cost rather than better benefits. This was the conclusion of the Comelec in 1992, which was recently validated in focus group studies by Ateneo University. Even the vote for Estrada in 1998 can be considered an intelligent vote. It was the first time there was a class vote and, frankly, it may have been overdue. That Estrada turned out not to have served the interests of the poor does not change the quality of the vote.

The margin of victory of GMA was probably closer to 1%; there are just too many reports of cheating to be ignored, mainly in Mindanao, with Comelec high officials probably interfering with the process. This may have been driven by what the administration thought was necessary for a so-called “clear mandate.”

Having said that, I don’t see any basis for the allegation that there was a massive conspiracy to cheat involving government, Comelec, NAMFREL, media etc. And disenfranchisement was not a premeditated and systematic attempt to reduce opposition votes. It was more the result of incompetence at Comelec Central, at the commissioner level.

As expected, but nonetheless regrettable, the opposition did not really have the machinery to protect their vote. Alleging massive fraud is a poor substitute for hard evidence.

If one were to juxtapose the 2004 elections with past elections, what comes to mind are two elections, with Marcos as a common personality. Before martial law, except for Marcos in 1969, all previous incumbent presidents lost in the quest for another term (Osmena, Quirino, Garcia, Macapagal). And to stay in power, Marcos raided the national treasury in what may be the dirtiest elections in our history. After 1986, Gloria Macapagal-Arroyo is the only incumbent president running for election, by operation of the constitution.

1986 was also the only other time that Comelec tried to centralize the voters' lists and to conduct its own quick count. Both projects failed miserably in their objectives. Massive disenfranchisement did not deter people from guarding the vote and the Comelec quick count was so blatant an attempt at manipulating the results that it caused a walkout of programmers and lost the credibility battle with NAMFREL.

There are lessons to be learned from all the above that should not be lost in planning ahead. But despite all, I believe that we, as a people, did prove something in 2004 – that even when our democracy is not in its best behavior, it works. This is not to condone irregularities and incompetence, but to remind you that there is hope.

III. Going Forward

In looking forward, I shall quote from reports that are familiar to career Comelec officers here today, primarily from Operation MODEX (i.e. '*Modernization and Excellence*', circa 1992), and also from the Comelec report on the results of the 1992 synchronized elections. The Comelec professionals know more about elections than the cut-and-paste observers, foreign or local who don't have the intellectual curiosity or honesty to look into the institutional memory of Comelec. Certainly not those who seem to think that the origins of the Comelec modernization plans started in 1998 or that the Comelec vision can be defined in terms of a three-phase modernization program or simply of automation.

For their information, the Comelec does have a vision, which is timeless.

Elections is often perceived as simply the resolution of legal issues, i.e. who can vote, who are qualified or disqualified from running for public office, the prosecution of election law offenders, etc. But elections is more than problem of law or its enforcement. It is primarily a management problem, as well as a systems, and even behavioral, problem. The successful conduct of any elections must address all these aspects effectively.

First, appoint commissioners that are impartial, competent and honest. There is a strong bureaucracy in the Comelec capable of delivering the most modern elections.

But it IS a bureaucracy and the commissioners influence to a large extent how many of them will behave. How an intelligent appointing power can miss that opportunity for leadership is difficult to comprehend.

The lesson was brought home to me during a seminar early in my years at the Comelec by an election officer in Cagayan Valley. He struggled to get up from his chair, mustering courage to make a statement to his superior, so simple in logic, yet so often overlooked by those who lead, that I would like to repeat it to you in the manner and language it was spoken: “Kami pong maliliit na empleyado ay parang sangang ilog. Kapag madumi ang bukal ay madumi rin kami. Kapag milinis an pinanggagalingan ng tubig ay milinis di kami.”

Second is a flexible legal framework. As far back as 1993, the Comelec already proposed a new election code that consolidated some 15 laws and departed from the framework of the Election Code that is, unfortunately, still in use today, which was formulated under a parliamentary system with a dictator at the helm. Codifying those 15, and additional laws since then, and “cleaning” up obsolete provisions to suit a modernized system is long overdue. More importantly, the purpose of a new Code is to pass legislation to give more meaning to the right of suffrage, level the playing field, widen access to public office, and democratize participation in the affairs of government (sectoral representatives in the local government councils, a more intelligent absentee voting system, an anti-dynasty law, and others enumerated in Operation Modex). The context of all these is, of course, the social justice provisions of the Constitution which seek to equitably diffuse wealth and political power for the common good.

Third, is to refine the permanent system of continuing registration which was envisaged as a long-term cumulative solution to multiple registration with a permanent number that can be used anywhere in the country and now even abroad. When integrated with other systems in government (birth, passport, SSS, GSIS etc.), which was already under discussion some ten years ago, it would, over time and inexpensively, address retail cheating. The key objective is not one man-one registration but one man-one vote. And there are many ways to achieve that. Save your P6 billion on more urgent and productive endeavors. It is distressing to hear new commissioners always suggesting as their first project another general registration to “finally clean up the voters’ lists”.

Fourth, modernize the system through automation with more flexible legislation. But a “stand alone” equipment is important, even for the peace of mind of the candidates and voters, unless there are later developments that completely assure security against hacking. With respect to a quick count, why venture into something that is legally questionable and logistically burdensome when automation will give results from 2 to 7 days anyway at different levels?

Fifth, decentralize and delegate. You may not even have a choice if federalism gains ground. Why the Comelec has brought back “commissioners in-charge” that was

discarded, and successfully at that, in 1992, is hard to understand except in terms of patronage. There is no faster way to demoralize the field officers of the Comelec and the head office departments than to impose this system on them. There are more important tasks for the commissioners than interfering with the career officers who know better what to do.

Sixth, fully operationalize the management information systems, including the financial aspects of electoral campaigns.

Seventh, get the best communication minds to design and implement a public education campaign to improve the quality of citizen involvement, ensure the election of quality leaders and set in motion a system of periodic assessment of their performance. As mentioned earlier, the signs of intelligent voting are already there to tap more constructively. There was a time when the Comelec won the six most prestigious awards in communications in this country. There is no reason why it cannot do better in the future..

In many ways, the Comelec has to make up for the shortcoming of a sometimes mediocre, sometimes captive, media, and thereby raise the quality of election information and discourse to the voter.

Eight, human development programs to develop, train, and motivate Comelec personnel, attract competent professionals into the career service and develop a culture of competence and integrity not only in operations and but in research on vital election matters.

Ninth, get a new building, upgrade equipment and create a working environment that tells employees how they much are valued. The 6 billion you save from irrelevant and wasteful projects is better used for these purposes.

Let me close by saying that I did not mean to offend anyone by my remarks. But this matter of electoral reform and modernization is long overdue and all of us are a little impatient to see it happen. Surveys show that many Filipinos do not trust politicians and do not think that elections is a means to improve their own lives. But they want elections to succeed, are against any unconstitutional grab for power and consider elections as a necessary building block to democracy.

Many of the subjects today have been discussed to death since 1992. I don't think I said anything that many of you do not already know. The same goes for the IFES Report that makes recommendations that have been known to, and advocated by, Comelec professionals for ten years and unimplemented for lack of dedicated leadership.

So I hope this is the last summit. And, because it might be, I came because I wanted to tell familiar names and faces how proud I am of your accomplishments despite the handicaps you have to work with. If there is a tipping point to more meaningful elections, it is in the employees and professionals of the Comelec, including the

loneliest election officer in the most obscure outpost of the country, perhaps even more so. You are still trusted by the people, the surveys say so. That is a heavy burden. But it is also a glorious opportunity. Make the most of it. And the voters will remember you every time they cast their vote in the future. What a legacy that would be.

Good luck and God bless you.



Strengthening Political Parties: the Current Situation and Prospects for REFORMS

Victor Andres C.Manhit



Democracy requires working democratic structure ...

....legislatures that represent the citizenry and oversee the executive; elections in which voters actually choose their leaders... and institutions and leaders that are accountable to the public.

*The existence of programmatic political parties is
critical in achieving a more transparent and
participatory system of government and in
creating a modern STATE.*



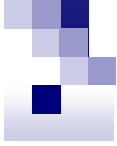
Political Parties

.... nominate candidates; organize political competition; unify portions of the electorate; translate policy preferences to public policy; coordinate governmental activities; and serve as an organized source of opposition in a democratic system.



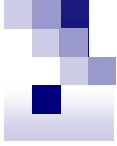
Political Parties

Serve three fundamental purpose: (1) they define and express a group's needs in a way that the public and the political system can understand and respond too (link individuals to the political system); (2) develop common ideas among a significant group in order to exert pressure upon the political system (serve as broker of ideas); and (3) facilitate political socialization.



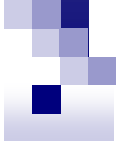
IN EMERGING DEMOCRACIES WORLDWIDE

- Political parties are either too weak; too personalistic, too constrained by oppressive governments or too corrupt and out of touch to earn the respect and support of the general public.



WHAT AILS PHILIPPINE POLITICAL PARTIES ? Post 2004 Elections

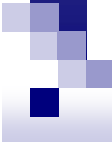
- ✓ Most political parties exist only in paper. No clear party ideology and party program.
- ✓ Political parties are formed through makeshift coalitions that is useful only during elections
- ✓ Personality Oriented and Patronage-Based
- ✓ Prevalence of Political Turncoatism



WHAT AILS PHILIPPINE POLITICS?

Post 2004 Elections

- ✓ No level playing field
- ✓ Electoral politics controlled by oligarchs and various interest groups (who finance electoral campaigns) with vested interest.
- ✓ Money politics is deeply ingrained in the system
- ✓ Prevalence of Fraud in the electoral system



Deterioration of Public Trust and Confidence on Traditional Political Parties

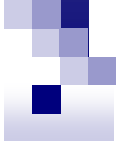
- Many have become hopeless in reforming our country's political party system, and even our brand of politics
- Political and official corruption in electoral politics and government bureaucracy have been perpetuated indirectly in the name of party interest

- 
- ✓ Philippines is the 11th most corrupt among 102 nations (Transparency International, 2002)
 - ✓ A World Bank report estimates that \$48 billion has been lost to official corruption in the past 20 years
 - ✓ Corruption have become so extensive over the past decades



CORRUPTION in the PHILIPPINES: CONSEQUENCE OF BAD POLITICS

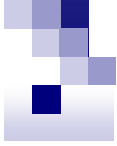
- Vicious cycle of corrupt politics and poor governance prevails.
- Public policies and institutions are held hostage after every election by wealthy and powerful campaign financiers with vested interests, and now even by criminal networks.



The STATE , Political Parties and Civil Society....,

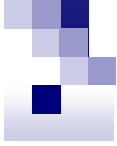
...must work together to deliver on political and democratic reform. It should never be a case of civil society instead of political parties, but rather civil society as a necessary complement to parties.

Where political parties reach out and engage civic groups and cooperate with them on specific issues and reforms, political parties will become stronger institutionally and will be held in higher esteem by citizens.



What needs to be done in the 13th CONGRESS?

- ✓ Reform Political Finance thru the passage of Campaign Finance Reform Law
- ✓ Strengthen Political Parties as Public Institutions thru a Political Party Reform Law
- ✓ Transform political parties to become instruments for social change and good governance
- ✓ Democratize political parties to level the playing field



Political Finance and Party Reform

Legislation: Objectives

1. Provide Equal Opportunity for Citizen Participation
2. Provide Adequate Funding for Party Competition;
3. Create Consistent Rules for all Parties;
4. Relieve Parties of Donor Influence;
5. Alleviate the Burden of Corporate Fundraising; and
6. Level the Playing Field



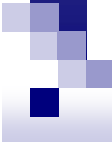
Reforming Campaign Finance

- Creation of State Subsidy Fund to augment the electoral funds and operational expenses of political parties
- Full public disclosure of sources of campaign funds and expenditures and strict auditing of party funds
- Strictly prohibit and criminalize the use of public funds and illegal money in electoral campaigns
- Put a limit on private contributions of individuals and corporate entities



STRENGTHENING the Political Party System

- Creation of State Subsidy Fund to finance party building and program operations of political parties during non-election years
- Democratization of Selection of candidates of political parties (i.e. primary system)
- Mandate political parties to formulate concrete policy agenda and platform consistent with their party philosophy and ideology
- Penalize Political Turncoatism



TRANSFORM POLITICAL PARTIES TO BECOME INSTRUMENTS OF CHANGE

- Political Parties should be an “active political organization”: create avenues of cooperation between and among sectoral, business sector and the rest of civil society
- Be more responsive and dynamic
- Enhance sense of civic responsibility and social conscience of political parties



TRANSFORM POLITICAL PARTIES TO BECOME INSTRUMENTS OF CHANGE

- Political parties should promote the values of participative democracy, civic participation, accountability, transparency and good governance
- Political parties should embody “*public trust*” so they need to be independent of vested interests



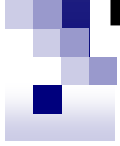
DEMOCRATIZE POLITICAL PARTIES TO LEVEL THE PLAYING FIELD

- Open Opportunities for Smaller parties to participate in national elections thru the Strengthening of the Party-List System
- Make the political parties accountable to the citizens (and not to their wealthy financiers) and transparent in their financial and accounting practices



VISION OF NEW POLITICS

- We can no longer conduct *Politics as Usual*
- It is imperative to have a *New Vision of Politics.*
- We must create a ***POLITICS OF VISION, IDEALS AND IDEAS.***
- We must strive to have a ***POLITICS OF INDEPENDENCE FROM VESTED INTERESTS.***
- We should move towards a ***POLITICS OF DIALOGUE, CONSENSUS AND CRITICAL COLLABORATION***



THANK YOU ...

THE END

The Party-list Reforms Beyond Illusion and Wishful Thinking

Agustin Martin G. Rodriguez, PhD
Associate Professor
Ateneo de Manila University

The party-list system has had three rounds of implementation. Going onto nine years, one can say that we are witness to the development of a new kind of political representation. It is hailed as the system that could institute certain reforms with regard to the dominance of the elite of our system of representation. With some 20% of the seats in the House of Representatives reserved for the representatives of the marginalized and underrepresented, there are more than 50 members of the House of Representatives who will come from other sectors of society, i.e. sectors other than the traditional elite. As it is conceived today, the party-list system will allow for representatives of the marginalized and underrepresented to have a fighting chance to win seats in Congress. They are given this fighting chance firstly by steering the elections away from personalities to platform by instituting a proportional elections system which orients people to voting for parties with programs and not just for personalities. Secondly, the elections are taken away from the realm of local politics where families and traditional power blocks are able to control elections more effectively. Party-list elections are national and this could be a boon or a bane since national campaigns are also more costly. Considering that the party-list system was designed to open seats for the less wealthy groups in society, the national character of the party-list could be prohibitive for the truly marginalized sectors of society. But this problem may be balanced by the third characteristic of the party-list system, i.e. that this system of representation is supposed to make it easier for smaller and less traditional parties to win seats by setting only a 2% threshold to qualify for a seat. This was meant to make the party-list seats accessible to non-traditional parties, but one must consider that this 2% of the party-list vote translates today to more than 250,000 votes.

Today there are 16 parties that occupy 24 seats. That is barely half of the seats reserved for the party-list. However, there seems to be a progressive growth in the number of people voting for the party-list and a growth, albeit limited, of parties winning seats in Congress. Of course this is good. After all, the spirit of the party-list system aims to increase plurality in Congress. However modest the gain, the party-list system is ensuring an increasing plurality in the House. Today the House has representatives from the indigenous peoples, the popular religious group, and parties composed from the so-called progressive left and traditional left. What we have sitting in Congress today are truly alternative representatives. Despite the fears that the traditional parties would try to dominate the party-list system, there are no groups clearly identified with the traditional political elite occupying party-list seats. Rather, we have groups that are part of a new party-list elite of sorts.

It isn't easy to win a seat in the party-list. Two-hundred-fifty thousand votes won on a national level would mean having the capacity to project oneself before the public eye, a stable supporter base that is loyal, and a tradable electoral commodity that can win the support of national and local politicians. This means having been able to build a

working network of voting supporters. Mostly, this is a civil society network that works around certain issues and is not beholden to a political party and local politician. This means also being able to play the electoral horse trading game with local politicians and national political networks. These are certainly not the strong points of truly marginalized groups. However, the institution of the party-list system saw the emergence of large national coalitions of ideological groups or non-ideological, cause-oriented groups form. These so-called civil society groups, which are really national coalitions of NGOs, have been actively organizing the marginalized groups and lobbying for social reforms. Some of these efforts are part of a larger political movement and some are purely efforts at social reform that are not attached to any particular political agenda. These are the groups that have taken on the burden of representing the marginalized and underrepresented in Congress. And they sit in Congress today because there is no other way to win the party-list except through the coalition of interests and resources in large national networks. Otherwise you will not have a large enough electoral base and the politicians won't deal with you. Thus, party-list groups have learned to build large, national coalitions for electoral gain—a phenomenon which on the whole is good for the nation since civil society bickering is not furthering the cause of the people at the margins.

However, given the character of Philippine elections and the party-list elections as well, we must realize that those coming to Congress to represent the marginalized and underrepresented are not themselves marginalized and underrepresented, except perhaps for the women and maybe some who belonged to the labor sector. If one looks at the members of the party-list who have come to Congress, one will see people who are not of the marginalized, although one could argue that their decades of social engagement in their various sectors has given them the mandate and the ability to articulate the concerns of the marginalized. This is, of course, a very valid point for these groups have been the only ones that have worked hard to bring to mainstream political and social discourse the concerns of the margins. However, most often, these articulations are articulated always from a development or political framework which is the agenda of a particular elite group of intellectuals, ideologues or development workers. No doubt, the concerns of the marginalized sectors are finally being articulated in Congress, thanks to the efforts of these party-list groups. But behind their articulation, one can always spot a framework that comes from a civil society or political ideology bias. Thus, instead of electing people who directly represent the concerns of the marginalized and underrepresented, we are really electing groups based on their particular representations of the voices of the marginalized and underrepresented based on their own particular frameworks. If the marginalized are taking the party-list elections seriously, then what we have are representatives who are chosen because they best package the concerns of the margins and present a cohesive framework for solving their problems.

This is not a negative phenomenon in itself. In a representative democracy, groups will really vie for the title of representative and will do this by trying to best package the concerns of the populace. The packaging is done by the party for the people and the people choose the package. In our own brand of the part-list, there of course is the claim that the packaging is influenced by the people themselves since they are consulted often. However, consultation can often end up as education sessions where ideologies or

development frameworks are sold. Therefore, it is perhaps more accurate to say that the agenda of the party-list representatives is really an agenda defined in certain centers of discourse and then later brought to the grassroots so that their constituency can own this agenda.

Although many including the Supreme Court believed that the party-list system was established to promote direct representation for the marginalized, it seems that this is not the way the party-list system will work. As it stands, the party-list system is creating a new system for a civil society elite to engage Congress with their development agenda. This is so because no truly marginalized group can afford to build a network large enough to win a national election. Who represents the marginalized and underrepresented? Large ideological blocks, religious organizations and NGO networks represent the marginalized and underrepresented. This is the new elite that claim to represent the poor. What is the difference between these party-list representatives and the traditional political elite who equally claim to represent the interests of the marginalized? Certainly they do more research. They are clearly more ready with data and studies that can back up their advocacies. They have better consultation mechanisms that involve their constituents even in designing their legislative agenda. And although, like their traditional counterparts, they are also learning to play the horse trading and power play games using their party-list coalition, they are still an alternative kind of politician because they do have development perspectives.

I mention all these points because we have come here today to talk about the amendments to the party-list law. When the campaign for the amendments began with the first term of its implementation, the direction of these amendments leaned toward the continued ban against traditional political parties, the lowering of the threshold in order to allow more seats to be filled, to raise the seat cap to more than three and to clearly define the idea of the marginalized and underrepresented for whom the party-list seats were reserved. These reforms were oriented toward filling the reserved seats, ensuring that traditional party interests do not dominate the party-list system and that only groups with a substantial cause to draw a substantial following gets to win seats in congress. To date, that is still the interest direction that reforms are taking. However, early on, there was a majority but weak voice that worked to make the party-list more open to smaller groups from the truly marginalized. Their advocacy was not taken up in the proposed amendments.

Later, this position was advocated by the Supreme Court in fact when it decided that the party-list system should be opened only to actual members of the marginalized sectors. Despite the desirability of such a scheme, the fact is that the truly marginalized are not organized, not even according to their sectors. And even if they are organized, they are not organized in significant numbers such that they can win a national election. This is because the marginalized have very local and survival concerns that does not make them imagine reforms on a national scale. Thus, even if a party of the truly marginalized comes to fruition, there is still the need for their middle class and upper class brokers who are going to be able to deal with politicians on a national network or regional network scale so that votes will come in. They will need these brokers to be able to design an effective national campaign that will work effectively in the tri-media as

well as on the ground. Thus, we have to understand that it is difficult for the marginalized to actually win seats even if we are able to institute reforms that will make it easier for them, unless of course the amendments will remove the threshold altogether and keep the cap low. But even then they will need the help of brokers from the traditional or non-traditional elite.

It seems therefore, that before we can push for reforms that will bring the marginalized into the game, we will need to reform the dynamics of the margins and the whole electoral system. We have to make sure that the marginalized are organized in ways that are effective in engaging the systems of power. Even if we lower the threshold, it will still be the more organized, non-marginalized civil society groups who will win seats over the organized marginalized. Thus, we can really only do so much with the party-list reforms. I believe those proposals that have made it to the last committee report are perhaps the best we can do for now. We only need to be aware that these proposals are meant to strengthen parties that claim to mediate for the margins. Perhaps the real work for genuine representation for the underrepresented and the marginalized is in the broader political party reform movement. Perhaps the best way is to mainstream their representation not only in the party-list but also in the mainstream parties that are able to win their votes most effectively.

The Challenges for LSR

Legal bases
Salient Features
Issues

The Legal Bases for LSR

- Section 9, Art. X of the 1987 Constitution states that “legislative bodies of local governments shall have sectoral representation as may be prescribed by law.”

Legal Bases for the LSR

- Section 41(c) of R.A. No. 7160 or the LGC, on the other hand, states that “ ...there shall be one (1) sectoral representative from the women, one (1) from the workers, and one (1) from any of the following sectors: the urban poor, indigenous cultural communities, disabled persons, or any other sector as may be determined by the *sanggunian* concerned within ninety (90) days prior to the holding of the next local elections as may be provided for by law.” It also states that COMELEC shall promulgate the rules and regulations to effectively provide for the election of such sectoral representatives.

Legal Bases for the LSR

- In 1995, Congress enacted R.A. No. 7887, which instituted certain electoral reforms. The last par. of Sec. 1 thereof states that the “COMELEC shall promulgate rules and regulations to effectively implement the *provisions of law which may hereafter be enacted providing for the election of sectoral representatives.*”

Salient Features of the Bill

- Election of (3) sectoral representatives each in the Sangguniang Panlalawigan, Sangguniang Bayan and Sangguniang Panlungsod –
 - One (1) from the women sector;
 - one (1) from the workers; and

- one (1) from any of the following sectors:
indigenous cultural communities, differently-abled persons, senior citizens, victims of calamities and disasters, children and urban poor, or any other sector as may be determined by the sanggunian concerned not later than one (1) year prior to the holding of the next local elections *Provided that*, such third sector shall likewise belong to the marginalized sectors of society

Salient features of the Bill

- In cases of provinces, cities and municipalities with more than one district, sectoral representatives shall be elected at large.
- The third sector already determined by the sanggunian shall remain in force unless the sanggunian concerned determines a new sector. In the event that the sanggunian fails to determine the third sector in the first sectoral elections, the third sector shall be contested by any of the other sectors enumerated in this section.

Salient Features of the Bill

- (b) the first election will be on the second Monday of May 2007 and every three years thereafter;
- (c) requirement of registration of sectoral organizations/coalitions to qualify in elections;
- (d) qualifications of sectoral nominees;

Salient Features of the Bill

- (e) forfeiture of seat by any elected sectoral representative who changes his organizational affiliation during his term of office; and
- (f) conduct of voters' education.

The Challenges against the LSR

- Apparent lack of interest by the Senate
- This bill has been passed by the 12th Congress but it continued to be unheard in the Senate.
- There were proponents of this bill in the Senate (Pangilinan, Sotto, De Castro, Legarda, Ejercito) but even after concerted lobby efforts by CSOs, the bill was not scheduled for hearing

Festering issues in the advocacy for LSR

- The Cost of LSR
 - Php 1,643,600,000 for 5,607 positions
- A study done by the Local Governance Policy Forum in 2002 showed that based on 2000 data, LGUs are still very much dependent on the IRA as a main source of their income.
- About 63% of the total income of all LGUs is derived from IRA, taxes, 21.8%, 14.3% non tax revenues and the rest from share in the national wealth, 0.7%

Festering issues

- With the current fiscal crisis, government will be reluctant to pay for the cost of electing LSR
- As it is, the proposed withholding of the IRA is estimated to save the government around Php 40 billion
- However, the IRA cuts as a deficit relief measure should not be an excuse not to have LSRs

Prospects

- Hopes in the 13th Congress
 - The bill has been re-filed by De Guzman,
AKBAYAN
-

Who wins?

- Participatory local governance
 - More people will find their voices heard
 - Adequate representation will result to greater benefits to sectors in their own territories
 - Government is closer to the people and is made to respond immediately to people's needs
 - Promotes broader autonomy
 - Development of new local leaders
-

Who loses?

- Selfish political interests – local traditional, patronage-based politics
 - Incompetent local leaders
-

OAV: 2004 & Beyond

Presented by: Center for Migrant Advocacy
Philippines (CMA-Phils)
To the 2nd National Electoral Reform Summit
02 September 2004
Sulo Hotel, Quezon City

RA9189 OAV Law

- 1987 RP Constitution Sec. 5 Art.2
- 8th-12th Congress
- Signed into law on Feb 13, 2003
- Rationale: To restore the right of suffrage to Filipinos overseas who have been denied it due to physical absence in RP.

OAV Law: Salient Features-1

- **Scope:** All qualified Filipino citizens overseas, 18 yrs old and above; Immigrants and permanent residents must execute an affidavit of intent to return...
- **Coverage:** President, VP, Senators, Party-List

OAV Law: Salient Features-2

- **Registration:** Personal at embassies/consulates; ERB; for seafarers: also at Comelec Manila
- **Voting: Personal** at embassies/consulates & other designated voting centers
- **Voting: By mail** in Japan, Canada, UK

OAV Law: Salient Features-3

- **Counting & Canvass:** On-Site; start is synchronized with RP time of counting; Automated for 5,000 voters and above; manual for less [until SC nullified contract for ACMs so it was manual for all]
- **Political Campaign:** No prohibition from personal campaigning
- **Information Campaign:** Inter-agency; Comelec-accredited NGOs

OAV Turn Out

Registration Applications	364,187 (37% of the 975,000 projected maximum registrants based on conditions of the law)
Sea-based Filipino OAV Registrants	3,161
Registrants Under RA 9225	1,577
Voter Turn Out	65% or 233,092

OAV Registration in Japan



OAV Registration in Europe



OAV Registration in Riyadh



OAV Registration in NY & Boston



OAV Registration in HK



Registration Turn Out by Region

Hong Kong	90,233
Riyadh	64,325
Jeddah	33,217
Singapore	24,009
Abu Dhabi	21,501
Kuwait	15,894
Rome	14,543
Taiwan	11,620
Brunei	9,697
Milan	7,232

OAV Voter Turn Out By Geographic Region

Overall Turn Out	65% (233,092 votes)
Americas	61%
Europe	64%
Middle East and Africa	62%
Asia Pacific	69%

Post with Significant Voter Turn Out

Dubai	84%
Athens	84%
Singapore	77%
Al Khobar	76%
Hong Kong	71%
Kuwait	69%
Saipan	68%
Brunei	67%

OAV Facilities and Personnel-1

- field registration activities in 154 areas covering 44 posts
- 1,013 deputized for OAV registration-related duties

OAV Facilities and Personnel-2

- 138 precincts set up in all 81 embassies and consulates, 3 Phil. Labor Offices and 3 MECO offices incl 21 field voting centers
- 2,795 election officers were deputized for voting (37% from foreign service corps; 54% from Fil. Communities; 9% from other GO agencies in the posts)

Senators with >100,000 votes

Name	Party	OAV Votes
Revilla	K4	122,387
Roxas	K4	116,643
Gordon	K4	114,402
Santiago	K4	121,407
Lim	KNP	126,366
Lapid	K4	100,002
Mercado	K4	108,864
Pimentel	KNP	103,483

Party list with >1,000 votes

Name	Sector	OAV Votes
Bayan Muna	Multisectoral	2,835
Akbayan	Multisectoral	2,155
Buhay	Religious	3,999
CIBAC	Religious	10,294
Gabriela	Women	1,832
Partido ng MGG	Workers	1,037
Elderly	Elderly	1,255
Anak ng Bayan	Youth	1,129

Party list with >1,000 votes

Name	Sector	OAV Votes
Migrante	Migrants	30,651
Gabay ng OFWs	Migrants	16,900
POP	Migrants	5,738
OMMAR	Migrants	4,130
BISA	Migrants	1,470

Problems Encountered in the OAV Implementation

- Few and Far Between Registration and Voting Centers
- Non-User-Friendly Forms
- Missing Names, ID Problems
- Tedious Counting Process
- Special Ballot Reception and Custody Group (SBRCG)
- Insufficient human power and Training
- Lack of Information Dissemination

Major Recommendations

- Option on Personal or Postal Registration & Voting
- Implement ASAP Continuing System of registration; also RA 9225
- No to Affidavit of Intent to Return for Immigrants
- Adaptable Mechanism for Registration and Voting of Seafarers
- Sufficient time & Budget for information & political campaign
- Full Automation of Counting

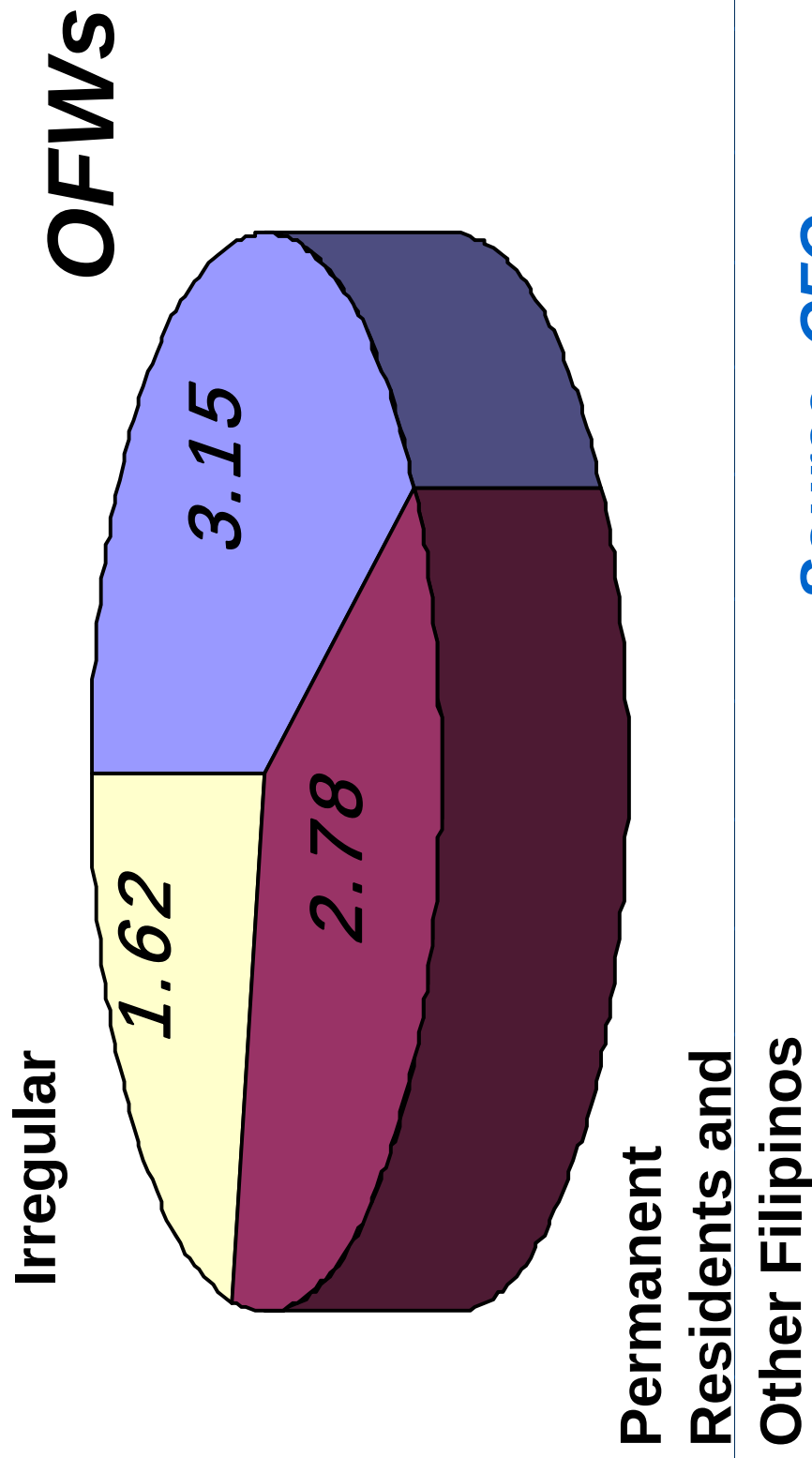
Other Recommendations

- Filling Up Forms
- Voters' IDs
- SBRCG
- CLOAV

Facts on RP Labor Migration

- In 2003, estimated population of Filipinos overseas was **7.76** million in **192** countries and destinations
- RP is the world's biggest sender of workers for overseas employment
- Daily, **2,444** Filipinos leave for various destinations abroad
- Annual departure is about **800,000**

Stock Estimates of Overseas Filipinos, Millions, December 2002



Source: CFO

Feminization of RP Migration

- Women workers constitute more than 50% of deployed workers; 73% in 2002
- They dominate the service (90%), and professional occupations (85%, as entertainers) while 54% are in production
- 86% of deployed nurses are women

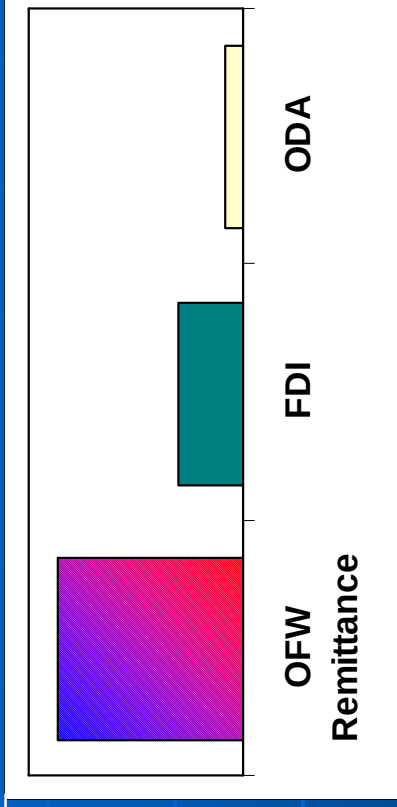
Economic Contribution

- Philippine Government acknowledges “critical role of *OFWs in the country’s economic and social stability*”
- OFWs contributes nearly \$8 B (8% of GDP) in annual remittances (\$7.6 B in 2003 – 10% contraction)
- Additional \$5 B if non-banking channel is considered
- BSP Governor noted that remittances “make up for the shortfall in foreign direct investments, portfolio investments and even exports.”

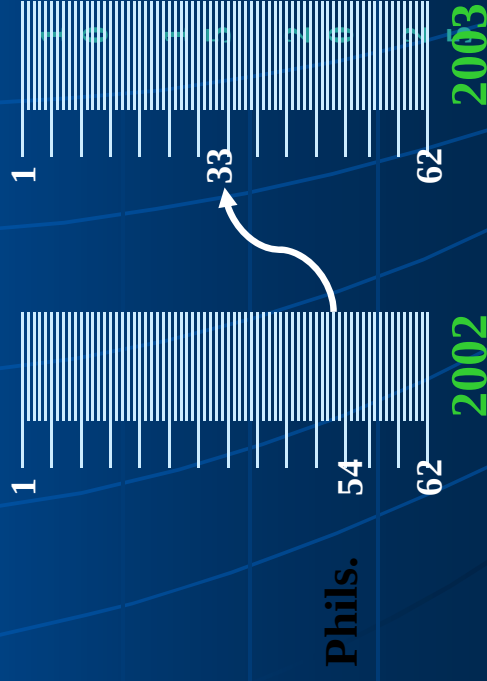
Economic Contribution

Philippines

In 2002, Overseas Filipinos remitted close to US\$ 8B → about 10 times ODA and 3 times Direct Foreign Investment.



Globalization Index



The Philippines ranked fairly high in the Globalization Index and took a 21-Step increment from 2002 to 2003.

Reason: The Philippines topped one of the indicators used in the Index → Remittance and Personal Transfers.

(Foreign Policy Magazine, Washington USA)

SONA 2004 by Pres. Arroyo

- “ ...To create Economic Opportunity at home and ABROAD. I don't want just one or the other. I want both.
- At the end of my term, the question will no longer be whether we can compete. But where else in the world shall we take an indisputable competitive advantage...”

(Confusing) State Policies

- The State does not promote overseas employment as a means to sustain economic growth and achieve national development;
- The deployment of OFWs by local service contractors shall be encouraged; appropriate incentives may be extended to them;
- Comprehensive Deregulation Plan on Recruitment Activities - migration becomes strictly a matter between the worker and the employer

Global Migration (world estimates; MW percentage of total popn, 2000)

World	175 M	Singapore	33.6%
MW	86M	Estonia	26.2%
UAE	73.8%	Saudi	25.8%
Kuwait	57.9%	Latvia	25.3%
Jordan	39.6%	Switz	25.1%
Israel	37.4%		

Transnational Communities of Filipinos

- Migration is a Global Phenomenon
- Filipino out-migration will continue
- The Filipino Diaspora will continue
- Filipinos Overseas are an Integral part of the Filipino Nation

Political Empowerment of Overseas Filipinos: The OAV law must be defended and amended.

RA9189, despite its flaws and limitations, for now, is a positive little step for the democratic participation of overseas Filipinos in the country's political and electoral processes

OAV in Hong Kong



OAV Volunteers & Watchers in HK



OAV in Riyadh, KSA



OAV in Riyadh



OAV in Al Khobar, KSA



OAV in Geneva, Switzerland



OAV in Sweden, Holland



Thank you!

CEPPS
Consortium for Elections and Political Process Strengthening



REPORT ON THE MAY 2004 PHILIPPINE ELECTIONS
Consolidated Executive Summary

I. INTRODUCTION

After nearly two decades of multi-party democracy, the 2004 elections reflect the accomplishments and challenges to democratic development in the Philippines. Filipinos courageously demonstrated their commitment to democracy in the “people power” movement of 1986, when millions of citizens joined in non-violent mass demonstration against the dictatorship of Ferdinand Marcos and the widespread fraud during the historic snap elections of that year. In January 2001, “people power” was resurrected to remove Joseph Estrada, a former motion picture actor, from the presidency. President Gloria Macapagal-Arroyo’s government then came under pressure due to sharp political divisions and local military unrest, illustrated by the coup attempt launched by 300 Filipino soldiers in July 2003. As the stability of the Philippine political system remains uncertain, government, political parties, and civil society now must create an environment where transfers of power take place through the ballot box rather than in the streets, and pursue reforms to stem the public’s growing cynicism regarding the credibility of the election process and the legitimacy of elected institutions and officials.

Representatives of the International Republican Institute (IRI), the National Democratic Institute for International Affairs (NDI), and IFES were present in the Philippines from April 25, 2004 through July 31, 2004 and followed political developments in the country during the pre-election, Election Day, and immediate post-election periods. The three organizations had conducted a pre-election assessment in March to determine the extent to which they could support the integrity of the electoral process before and after the May 10 Philippine presidential and legislative elections. Both the assessment and the subsequent mission were funded by the United States Agency for International Development.

IRI, NDI, and IFES representatives went to the Philippines to express an interest in and evince support for a democratic election process, to assess the electoral conditions and political environment in which the national elections were held, and to offer an accurate and impartial report on the entire election process. This report summarizes the findings made by those in the Philippines during the election period as well as observations offered to the representatives by Filipino political and civil society actors and election administrators. Given the limited scale of the IRI, NDI, and IFES efforts, the three organizations are not in a position to make any overall assessment as to whether the election results reflect the will of the people. This report sets forth the observations and findings of the three organizations and puts forward recommendations regarding possible areas of electoral and political party reform.

This report is offered in the spirit of international cooperation and in recognition of the fact that it is the people of the Philippines who ultimately must determine the credibility of these elections and priorities for future reforms. Stakeholders interested in electoral reform in the Philippines are encouraged to review the detailed findings, conclusions and recommendations in each of the partner reports of the electoral situation in the country.

II. SUMMARY OF OBSERVATIONS

There were positive factors in the electoral process which included the following:

- Civic participation in the electoral process was exemplified by high voter turnout, the presence of more than 700,000 domestic election volunteer monitors fielded nationwide by the National Citizens' Movement for Free Elections (NAMFREL) and the Parish Council for Responsible Voting (PPCRV), and involvement of local media monitoring groups.
- The effort of the Board of Election Inspectors (BEIs) on Election Day and throughout the canvass was commendable. This arduous process was conducted under less than ideal circumstances and this group, comprised primarily of teachers, performed in a professional and commendable manner.
- The Philippines has democratic institutions such as an independent judiciary that addressed challenges to the democratic process that occurred during the election period. The Supreme Court rendered decisions on Committee on Elections (COMELEC) operations and commissioners, as well as to the candidacy of a leading Presidential candidate.
- The Philippine Congress, despite numerous procedural challenges, persisted with the canvas and was able to declare a President. Throughout this period, the Philippine people retained their faith in the system overall and rejected calls by detractors to take to the streets in the name of "people power."
- Multiple political parties presented candidates for office in all levels of government. No one political party dominates the political environment. While parties need to strengthen

their ability to function as political institutions between elections, they are able to raise funds and mobilize support for their chosen candidates.

- Freedom of expression for citizens is generally guaranteed and a wide variety of media -- print, radio, internet and television – freely covered all aspects of the election.

Despite these positive aspects of the elections, the representatives noted significant challenges to the election process:

- The Commission on Elections (COMELEC) did little to improve its credibility with the public in the pre- and post-election period. Recent appointments of Commissioners with little election administration experience were perceived to be political in nature and contributed to a perception that the commission was no longer operating as an independent body. Furthermore, COMELEC's failure to modernize the voting and tabulation process resulted in the reliance on the same antiquated voting system used in the Philippines since the 1930s and a counting process that took several weeks.
- Election officials failed to adequately prepare for and address potential obstacles to broad electoral participation caused by the existence of two voter lists that were released only days before the election in contradiction to existing electoral law.
- An antiquated voting system, system error and improper management of registration databases caused the disenfranchisement of thousands of voters.
- Widespread locally driven vote buying and lack of adequate conditions for secret balloting indicate significant weaknesses in the election process, as many voters are denied the fundamental right to a secret ballot.
- The use of state resources by incumbents at every level of government was widely alleged. While the judicial system addressed these complaints, it seems clear that this is an area in need of reform even if specific laws were not violated.
- The lack of strong political parties that represent the ideological and policy concerns of Filipino citizens is detrimental to the democratic process. This absence of strong parties led to campaigns based on personality rather than substance, reliant on strong dynastic and family organizations to run local campaigns. Without cogent platforms reflective of public concerns, political parties did not adequately fulfill their role in the democratic process.
- Dynastic and family influences on the political system continue to be critical impediments to democratic development in the Philippines. Institutional reform of the campaign financing, anti-dynasty and political party laws are either stalled or not observed.

- The process of adjudicating electoral complaints is exceedingly slow and often results in costly election protests. In the past, some of these protests have remained unresolved until after the following election.
- NAMFREL's Quick Count, slow to produce information on election returns, was hampered by, among other things, the lack of training of data handlers and unclear policies regarding the release of parallel count information from different regions of the country.
- The security situation primarily at the local level did not allow some candidates to freely campaign during the pre-election period. IRI, NDI and IFES representatives also received reports of National People's Army activists imposing "Permission to Campaign" fees on local candidates.
- Due to the prevalence of candidates with backgrounds in the entertainment industry, the media's coverage was blurred between objective political reporting and entertainment news. This was also the first election to feature television advertising for candidates, truly elevating the medium's importance as a political communication tool.

An accurate and complete assessment of any election must take into account all aspects of the election process. These include: 1) conditions set up by the legal framework for elections; 2) the pre-election period before and during the campaign; 3) the voting process; 4) the counting process; 5) the tabulation of results; 6) the investigation and resolution of complaints; 7) conditions surrounding the implementation of results. No election can be viewed in isolation of the political process in which it takes place; the pre-election period, including electoral preparations, the political environment, and the degree of participation by all actors, must therefore be given considerable weight when evaluating the nature of elections.

The Overall Election Environment

There is a widespread commitment on behalf of citizens to vote and participate in the electoral process through civil society, the political parties and election administration. Civil society made extraordinary efforts throughout the country, though there was a slight downturn in volunteerism from previous elections. COMELEC's inefficiency during the election period threatened to diminish the election commission's credibility, a significant indicator of a healthy electoral environment. The lack of well-functioning political parties created a void in Philippine democratic development, one often filled by powerful individuals, entrenched families or famous media figures who may not always reflect the policy needs of the citizens.

An essential characteristic of the Philippine elections is the deeply rooted mistrust that characterizes the relationships between and among virtually all participants in the processes. There is little evidence of faith in the system or in the honest intent of any of its participants. All parties in the process are assumed guilty of actual or planned malfeasance, and there are no accepted or respected processes or evidentiary standards for demonstrating otherwise. The basic integrity and the legitimacy of virtually every elective office is in question. Thus far, this

phenomenon has not undermined the Philippine public's enthusiasm for participation in elections. It is evident, however, that public cynicism is on the rise and that appreciation for the meaning and significance of the franchise is diminishing.

The Role of the State

The misuse of state resources was widely alleged throughout the campaign period, ranging from rampant government spending close to Election Day and the use of state employees to promote the incumbent president's candidacy. The Philippine Constitution does not allow for incumbents to run at the presidential level, but does allow for the current situation in which a Vice President completes the remaining term of a resigning President for a period of less than four years and then runs for president. Despite these extenuating circumstances, the use of state resources during the campaign period is always an issue as an incumbent can use the powers of the state to assist a friendly campaign.

Although COMELEC is a constitutional body with sweeping powers designed to make it independent from other government bodies, questions persist as to its actual independence and neutrality. President Arroyo has appointed five of the current COMELEC commissioners. The pre-election delegation noted the circumstances under which two recent commissioners were appointed. While legal, their appointments may have created a perception of bias given the new commissioners' limited experience in the field of elections. COMELEC also had no budget allocated from state funds for elections in 2004. As a result, COMELEC had to request 4.7 billion Philippine pesos (approximately 85 million US dollars) for elections from the incumbent president's special allowance.

Election Management and Administration

COMELEC suffers from a number of serious institutional deficiencies that limit its capacity to administer quality elections and which necessitate reliance on extensive support from other government bodies and civil society. It has limited professional and technical capacity, a weak and poorly resourced field structure, organizational problems including a Commissioner-in-Charge management style, and an absence of standard operating procedures required to manage such a large organization.

Electoral modernization has been an issue since the 1998 election and COMELEC was required to modernize the voting and canvassing system by 2004. This process was hampered by an illegal bidding process and the purchase of less than optimal equipment. In response, the Supreme Court stopped the automation of the polling, counting, and transmission of results. Despite the problems cited by the Court, it is unlikely that COMELEC would have been able to successfully implement the automation program. Ultimately, millions of pesos were spent by the government, but with no resulting modernization. COMELEC was forced to rely on the antiquated default system used since the 1930s.

In general, voter information and education programs that might have helped to facilitate an orderly and efficient voting process on Election Day were uncoordinated and poorly

implemented. Moreover, the training of polling officials was done through parallel training programs developed by the Department of Education (DepEd), COMELEC, and civil society. Ironically, COMELEC's training was the least effective and most poorly organized of the three.

COMELEC officials expressed concern about lack of coordination between the headquarters in Manila and its regional offices. This led to confusion over activities to be implemented in the field including posting of voters' lists, procurement of Election Day materials, and the debate over the implementation of an Election Day Quick Count. COMELEC field staff expressed dismay with the lack of election administration experience among the commissioners and senior staff of the organization, but was reluctant to complain for fear of being transferred to another post. In response, the COMELEC leadership claimed a lack of necessary financial and human resources.

Election Day was marred by numerous logistical, procedural, and organizational problems. In addition to problems with the voters' list and voters not knowing to which precincts they were assigned, polling stations were poorly organized. Overcrowding, particularly in urban polling stations, combined with a poorly designed ballots, made voting difficult and often compromised secrecy of the ballot. Numerous procedures were not understood or were ignored as a result of inadequate training and weak supervision.

The lack of modernization, complicated ballot design, and unnecessary procedures led to a slow counting process conducted over the course of more than four weeks. While no significant incidents took place during this period, the length of the count gave opposition parties ample opportunity to question the credibility of the process and raise allegations of fraud. The tabulation process, known as canvassing, is also complex. Despite various safeguards, it suffers from perceptions of fraud. Congress is responsible for tabulation of votes for president and vice-president. This leaves excessive room for delay and politicization, as was vividly demonstrated in this election. In addition, the complaints and adjudication process is complicated, extremely slow, and plagued by complaints.

Political Parties

While multiple political parties were able to present candidates for office, raise funds, and mobilize voters, the absence of definable national political parties was among the most evident and consequential factors affecting the character of the 2004 political campaign and elections. The 2004 election, like previous elections since 1986, introduced voters to a score of new parties and multi-party electoral coalitions.

The inevitable result was a campaign that focused almost exclusively on personality and, particularly at the local level, various forms of promised patronage. Though loud and energetic, the campaign ultimately provided little in the way of a programmatic basis for the appeal to voters or the selection of candidates. Voters went to the polls with very little idea of the programs of alternative parties or candidates, how they contrasted, or how their choice of who to vote for might materially impact their lives in the long term. The cumulative result of the actions or inactions by parties, candidates, and the national media essentially deprived Philippine citizens of the opportunity to cast informed and meaningful votes on Election Day. This was an

aspect of ‘disenfranchisement’ that parties and political candidates paid little attention to during their campaigns, preoccupied as they were with attacking each other, attacking COMELEC, and forecasting election fraud.

The absence of well-organized and politically unified parties also had adverse consequences for the election itself. In more developed political party systems, parties are a fully integrated part of the elections process, but this is not the case in the Philippines where parties have a limited role in and a responsibility for safeguarding the integrity of the process. For example, representatives of the dominant majority and opposition parties are not given seats on the canvassing board in their constituency. In addition, there are excessive limitations on party poll watchers at voting precincts and canvassing centers on Election Day.

Vote buying by local politicians and their supporters was alleged to be especially prevalent in many parts of the country. IRI, NDI, and IFES observers did not witness actual instances of vote buying, but spoke with many observers who noted regular vote buying throughout the country. Less clear is whether the receipt of an inducement actually resulted in the desired vote being cast on Election Day. IRI, NDI, and IFES observers also noted reports of National People’s Army activists collecting a “Permit to Campaign” fee from local candidates.

Civil Society

Domestic Election Monitoring Organizations

Civil society, led by the National Citizens Movement for Free Elections (NAMFREL) and the Parish Pastoral Council for Responsible Voting (PPCRV), plays a significant role in the electoral process in the Philippines. Both organizations were instrumental in the pre-election period in working in cooperation with COMELEC at the local level to organize the cleaning of voters’ lists. The organizations also organized Covenants of Hope throughout the country. These codes of conduct, signed by local security forces, candidates, and representatives of the clergy, offered citizens an opportunity to hold candidates accountable during the campaign period. In some places the Covenant was observed, while in others it was ignored. In addition, many local NAMFREL and PPCRV branches ran voter education programs to promote more issue based campaigns by candidates.

Despite the extraordinary efforts of these organizations to mobilize hundreds of thousands of domestic election monitors, both organizations cited challenges in recruiting volunteers in some areas due to the security situation and the ability of political parties to pay would-be volunteers to perform as political party poll watchers.

NAMFREL’s Quick Count, which was supposed to provide early return numbers as a safeguard against manipulation of canvass documents, was slow to produce information on election returns. The organization had decided to employ SMS text messaging technology on Election Day to report returns. Due to a lack of training of data handlers and reported database problems, this methodology did not produce accurate information. For the rest of the week, NAMFREL reverted to reporting election returns manually.

Media

IRI, NDI, and IFES observers noted how, at the national and local levels, candidates used television advertising in their campaigns. With the lifting of the ban on political advertisements (Republic Act No. 9006, February 2001), the use of television advertising for these elections elevated the medium's importance as a political communication tool, particularly for presidential and senatorial candidates. While limits on commercial time are codified in the law, there were several instances of campaigns exceeding the limit without significant oversight. In addition, with the prevalence of candidates with background in the entertainment industry, media coverage was often blurred between objective political reporting and entertainment news.

Security Forces and Election Related Violence

According to reports, more than 100 people died as a result of election related violence during the campaign period and up to Election Day. COMELEC deputized the Philippine National Police (PNP) and Armed Forces of the Philippines (AFP) in several Areas of Immediate Concern (AICs) throughout the country. This unusual power over the security forces can take place 30 days before and after Election Day and can even extend to defending individual candidates. IRI, NDI, and IFES observers witnessed reluctance on the part of PNP to maintain stability amid warring campaigns for fear of retribution against them or their families. Moreover, their work is often complicated by a lack of witnesses to politically motivated violence. In general, violent activity was restricted to the local level, stemming from long standing rivalries. Observers noted more violence in Mindanao than the rest of the country, ranging from pre-election intimidation to killings on Election Day. While the NPA was often mentioned as a security threat during the campaign period, there were few reports of NPA-related violence.

III. OVERVIEW OF KEY RECOMMENDATIONS

The principal goal of the joint IRI, NDI, and IFES long-term election-monitoring program was to facilitate a critical examination of Philippine electoral processes and dialogue on electoral reform, by and among Filipino stakeholders. In the consultations, discussions and working groups conducted during this program, Filipino public officials, political and civic leaders and citizens expressed a genuine desire for a stronger electoral system and credible elections. In recognition of these factors and in the spirit of international cooperation, the CEPPS partners -- NDI, IRI, IFES -- respectfully offer a series of recommendations. It is hoped that these recommendations will contribute to the dialogue among Philippine stakeholders and to the hard and detailed work of reaching consensus on legal, administrative, and institutional reforms that can be implemented prior to the next national election in 2007.

Electoral and Legal Framework

- 1) Consolidate relevant election legislation.** All relevant electoral laws, other than Constitutional provisions, should be consolidated in a new Omnibus Election Code.
- 2) Consider desynchronizing local and national elections.** Increased financing by national campaigns at the local level raised the likelihood of violence during the election

period. Desynchronizing the elections would put less pressure on security forces and political actors as outside pressures would be diminished.

- 3) **Strengthen Rule of Law.** Hold political parties responsible for acts of violence directed at rival parties and prosecute all election-related crimes through a speedier adjudication process.

Electoral Administration

- 1) **Undertake a full management audit of COMELEC and implement recommendations.** The Senate and House of Representatives Committees on Suffrage and Electoral Reform should propose, as one of their earliest actions in the new Congress and in keeping with their oversight responsibilities, a full management audit of COMELEC, to be conducted on an independent basis and to which the Commission should voluntarily comply. Priority issues for the auditors should include examination of: the 'Commissioner in Charge' system of management, professional capabilities, and organizational structure; staffing needs, human resource practices, and training and professional development programs; standardized operating policies and procedures; election budgeting and financing; and internal managerial and administrative firewalls.
- 2) **Improve the nomination process for COMELEC commissioners.** Establish professional standards and eligibility criteria for nominees to COMELEC. Open up the nomination process to allow for greater public scrutiny and input by stakeholders.
- 3) **COMELEC should cleanse the voters' list.** COMELEC should update all names on the voter registry provided that voters are duly notified and given the option to appeal.
- 4) **Proceed with implementation of the three-phase modernization program.** COMELEC should effectively use the time between elections to renew the process of modernization, including voter registration, automation of the count and canvass, and electronic transmission of results. A comprehensive review of the modernization plan is advisable before moving forward. COMELEC should proceed in coordination with the Congress to ensure appropriated funding.
- 5) **Institute professional training programs for BEIs and BOCs.** COMELEC should apply adult education techniques; develop user-friendly training curricula, manuals, and materials that will adequately acquaint staff with new election technologies and procedures, and; plan an effective cascade-training program.
- 6) **Protect secrecy of the vote.** COMELEC should revise polling procedures to ensure the secrecy of the vote, thereby minimizing the effect of vote buying and intimidation of voters.
- 7) **Reform the role of Congress in the canvassing system.** If Congress's role in canvassing presidential election results continues, create a standing set of rules for its responsibilities, specifically the ministerial and non-partisan nature of the canvass. In the event of a review of the current Constitution, consider terminating the practice of canvassing by Congress, instead transferring sole responsibility to the election administration.

- 8) **Establish a more efficient system to address the adjudication of complaints.** Streamline and consolidate the jurisdiction for dispute resolution. At a minimum, COMELEC should be relieved of initial jurisdiction. Local or regional courts could assume greater responsibilities. The establishment of a specific “electoral court” might also be considered. Introduce measures to penalize or discourage frivolous complaints. And, develop a greater range of sanctions to ensure that tribunals apply penalties that are proportional to the offense. Related to this, the significant intermingling of the criminal and electoral law should be re-considered as part of the electoral reform agenda.
- 9) **Ensure the transparency of results reporting, election monitoring, and parallel vote counting activities.** Transparency of the election results must be ensured by publicly posting a copy of the precinct Election Return outside the precinct door and on the Internet.

Political Parties

- 1) **Strengthen political parties.** Without representative political parties, citizens do not have an organized vehicle to have their concerns heard at a national level. An appropriate role for a credible opposition in the legislative branch should be cultivated. Engaging the opposition in the governing process would motivate them to engage in a more responsible and democratic manner.

Political parties should develop meaningful political identities, policy-based platforms, and agendas; internal democratic structures; a reliable core of supporters and leaders; the ability to raise funds to support party activities. Parties and candidates that demonstrated innovative approaches in gaining broad grassroots support should receive encouragement.
- 2) **Strengthen and enforce political party and campaign finance laws.** Political representatives in Congress should renew their efforts to pass legislation governing political parties and campaign financing. Public financing of political parties and electoral campaigns should be considered. To enhance the ethical behavior of political actors, a debate must be initiated and new rules on the financing of parties should be introduced. Several options to consider include: imposing a ceiling spending limit; partially or fully reimbursing the expenses of approved candidates; requiring that all public and private sources of election financing be made public. Anti-dynasty laws should be considered.
- 3) **Re-evaluate the Party List System.** The party list system in its current state does not appear to benefit those marginalized groups originally intended as its beneficiaries. Electoral officials as well as political party leaders should re-evaluate the system, its original intent, and current operation.

Civil Society

- 1) **Increase voter education efforts.** Voter education was conducted by a number of civil society organizations including PPCRV. The focus of these efforts was primarily on general participation in the electoral process. A greater effort must be made to foster democratic values and practices, including the importance of casting a secret ballot and on increasing the ethical behavior of voters and candidates. COMELEC should develop a

clear voter education program and leverage resources by forming strategic partnerships with other state entities, civil society organizations, and local government.

- 2) **Consider and test current and new parallel vote tabulation approaches.** Civil society organizations should seek to test current and new technologies, especially in regard to the Quick Count, before employing them on Election Day. Regardless of whether or not automation is officially introduced into the electoral system, it will be important to support parallel vote tabulation by a third party to ensure electoral credibility in the Philippines. Domestic monitoring groups should also consider of independent vote verification techniques and quick count methodologies based on statistically valid samples of randomly selected and representative polling stations across the country.

IRI, NDI, and IFES hope that the recommendations offered above will contribute to the efforts of those who are working to consolidate, broaden and deepen democracy in the Philippines. The Filipino people have demonstrated a strong desire for advancing a more democratic culture, and it is hoped that, in the future, the country's political leaders will respect this desire by promoting electoral reform and by continuing to adhere to the principles of electoral participation.



CEPPS Philippines Election Observation Program
Strengthening the Electoral Process
IFES Final Report

August 2004

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We would also like to take this opportunity to commend the participants and guests of the working groups and Round Table for their enthusiastic discussion and commitment to electoral reform in the Philippines. In particular, all participants were honored by the presence and words of former President Corazon Aquino.

The IFES team would like to thank all of the people with whom we met, and hopes the report does justice to their varied and thoughtful insights. Representatives of the Consortium on Electoral Reforms (CER) deserve special mention for their generosity and collegiality.

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1. Executive Summary

The Philippine Commission on Elections (COMELEC) is a constitutional body with broad powers designed to make it independent from other government bodies. Statutorily, COMELEC could be one of the most powerful electoral management bodies in the world. COMELEC suffers from a number of serious institutional deficiencies that limit its capacity to administer quality elections. It has limited professional and technical capacity; a weak and poorly resourced field structure; organizational problems including a commissioner-in-charge management approach; and an absence of standard operating procedures required to administer such a large organization. Because of its numerous shortcomings, COMELEC has relied extensively on support of other government bodies and civil society to administer elections.

The 2004 election cycle was particularly flawed. COMELEC's plans and programs for the May 10 elections were disrupted by the late release of funds by Congress and the Supreme Court's decisions to stop the automation of polling, counting, and transmission of results from taking place. Given the problems mentioned above, however, it is uncertain that COMELEC would have had the capacity to successfully implement these programs. Transition to a computerized central voter registry was similarly abandoned only days before the election and election officers reverted to using manual voters' lists and voter records. Voter education efforts were uncoordinated and poorly implemented. Often, voters were not informed of new precinct information instructing them where to vote. The training of polling officials was done through parallel training programs developed by the Department of Education, COMELEC, and civil society. Ironically, COMELEC's training was the least effective of the three and the most poorly organized, relying on broadcast lectures to groups of up to 500 and the distribution of a *General Instructions* document on polling in lieu of a proper training curriculum.

Election Day was marred by numerous logistical, procedural, and organizational problems. Many voters did not know where to vote, precincts and polling stations were poorly organized, and voters' lists were inaccurate. A poorly designed ballot and crowded polling locations in urban areas made voting difficult and did not protect the secrecy of the vote. Numerous procedures were not understood or were ignored due to poor training and weak supervision. The counting process was painfully slow due to complicated ballots and unnecessary procedures. Still, voter turnout was respectable at approximately 74%, based on valid votes cast. Boards of Election Inspectors (BEI) did their best to find creative solutions to problems.

The tabulation process, known as canvassing, is complex. Despite numerous safeguards, it suffers from the perception of fraud. Congress tabulates presidential and vice-presidential votes. This leaves excessive room for delay and politicization, as was vividly demonstrated in this election.

The complaints and adjudication process contains substantial due process safeguards. However, it is complex, extremely slow, and plagued by frivolous complaints.

While Election Day was considered to be relatively peaceful, election-related violence and intimidation still have a negative impact on the overall quality of the electoral process, in particular during the campaign period and especially in relation to local level races.

Alleged cheating and fraud is a common feature of Philippine elections. Some of these allegations are misperceptions of a distrustful public or face saving by losing candidates. At the same time, there is little doubt that some fraud, particularly vote buying and selling, was committed in the 2004 elections and may have influenced some lower level races. To guard against this in the future, electoral reform should be high on the political agenda of the newly elected president and Congress.

Key Recommendations

What appears below is an overview of the 100+ recommendations that appear in this report. It is intended to acquaint readers with the focus and substance of those key recommendations. IFES would advise stakeholders interested in electoral reform in the Philippines to thoroughly review the detailed

findings, conclusions, and recommendations presented in this report to ensure accurate and complete comprehension. It is hoped that these recommendations will contribute to the dialogue among Philippine stakeholders and to the hard and detailed work of reaching consensus on necessary legal, administrative, and institutional reforms prior to the next national election in 2007.

1. Pass draft laws to strengthen political parties, amend the Party List Law, implement sectoral representation at local levels, and ban “permits to campaign” as soon as possible.
2. Consolidate all relevant electoral laws, other than constitutional provisions, in a new Omnibus Election Code.
3. Open the system of presidential appointment of election commissioners to allow for a nomination system and input from other stakeholders.
4. Conduct an independent review of the structure and professional capacity of COMELEC in order to develop a professionalization program and standard operating procedures.
5. Proceed with implementation of the three-phase modernization program, including voter registration, automation of the count, and canvass and electronic transmission of results. A comprehensive review of the modernization plan would be advisable before moving forward¹.
6. Empower COMELEC to remove names from the voter registry provided that voters are duly notified and given the option to appeal.
7. Strengthen rule of law, by holding political parties responsible for acts of violence directed at rival parties and prosecuting all election-related crime through a speedier adjudication process.
8. Revise polling procedures to ensure the secrecy of the vote, thereby minimizing the effectiveness of vote buying and intimidation of voters.
9. Develop a clear official voter education program and leverage resources by forming strategic partnerships between COMELEC and other state entities (Department of Education, Philippine National Police), civil society organizations (NAMFREL and PPCRV), and local government (Barangay captains).
10. Modernize the COMELEC training program for BEIs and Boards of Canvassers (BOC) by applying adult education techniques, developing training manuals and materials, and planning an effective cascade-training program.
11. Ensure transparency of the election results by publicly posting a copy of the precinct election return outside of the precinct door and on the Internet.
12. If Congress is to continue to canvass presidential results, create a standing set of rules for its canvassing responsibilities. The rules should reflect the ministerial and non-partisan nature of the canvass.
13. In the event of a review of the current Constitution, consider terminating the practice of canvassing by Congress. The count and tabulation process should be the sole responsibility of the election administration and should eventually be fully automated.
14. Support parallel vote tabulation by a third party, regardless of whether or not automation is introduced, as it is essential for electoral credibility in the Philippines.
15. Streamline and consolidate the jurisdiction for dispute resolution. At minimum, COMELEC should be relieved of initial (trial) jurisdiction. Local or regional courts could take on a greater share of electoral cases. The idea of a specific “electoral court” could be considered.

16. Introduce measures to penalize or discourage frivolous complainants, including placing on the claimant the burden of demonstrating that there is some cogent evidence to support the claim and that proof of his/her case will materially effect the outcome.
17. Develop a greater range of sanctions to ensure tribunals apply penalties that are proportional to the offence. This could include fines, loss of media access, campaign restrictions, and public apologies.

2. Introduction

Project History

In response to an invitation issued by the president of the Republic of the Philippines, IFES and its CEPPS partners deployed a team of representatives in early March to the Philippines to assess the political situation leading up to the May 10 presidential and legislative elections. Funded by the United States Agency for International Development (USAID), the assessment aimed to determine how the respective organizations could contribute to the 10 May elections.

Subsequently, IFES agreed to participate in another joint CEPPS mission to implement the assessment's short-term recommendations and a program description was submitted.

The goals of the project were:

- To observe the pre-election, election, and post-election periods and provide technical suggestions to COMELEC and other key players.
- To host or participate in a post-election roundtable and briefings with CEPPS partners to evaluate the elections and make recommendations for longer-term election strengthening.
- To support the U.S. Embassy and its observation training event.
- To provide support to CEPPS partners' regarding media monitoring work.

Methodology

An experienced team of experts gathered the information for this report over a period of three months encompassing the pre-election, polling and counting, canvassing, and post-proclamation periods.

Team members conducted well over one hundred interviews with COMELEC officials, civil society organizations, the Department of Education, media representatives, local election experts, security officials, and senior politicians. While much of the work was done in Manila, many interviews and field visits were also conducted in a number of regions. A list of contacts is annexed. (See attached Annex III: IFES Contact List)

Facilitating the working groups and the roundtable event brought together all stakeholders for an informed and constructive discussion of the key changes needed in the Philippine electoral system. It is hoped the production and distribution of this final report, which presents the findings, analysis, conclusions, and recommendations of the program, will further the electoral reform agenda.

Content and Target Audience

This report is not a description of the May 10, 2004 elections. Rather, it is a thematic analysis of selected aspects of the Philippine electoral process. It does not attempt to deal with the many complexities in their entirety, but instead focuses on those areas where problems, real or perceived, are most prevalent.

Sections on political parties, civil society, and the media have not been included in this document, as it is expected these topics will be examined at length in the reports of the other CEPPS partners.

The target audience is any stakeholder who has an interest in electoral reform in the Philippines. The reader is assumed therefore to have a basic knowledge of the Philippines and its political and electoral systems.

The report deals with the existing electoral system. The final section of the report includes suggestions for electoral reform under a scenario where constitutional change becomes a reality. The report's conclusions and recommendations are not intended to be exhaustive, or definitive, but are intended to contribute to the ongoing debate on electoral reform in the Philippines.

3. Legal Framework

The legal framework for elections exists largely (in descending order of authority) in the Constitution, the Omnibus Election Code and subsequent laws, resolutions and rules of procedure of COMELEC.

Constitution

The Constitution was passed in 1987, after the fall of the Marcos regime. It sets forth the electoral framework and enshrines basic principles of freedom of expression, association, suffrage, and secrecy and sanctity of the ballot. It defines structures of government, terms of office, and sets election dates².

The Constitution mandates a strong Commission on Elections (COMELEC), which is independent from other branches of government. COMELEC is composed of seven members, appointed by the president, with the consent of the Congressional Commission on Appointments. Commissioners sit for a term of seven years without possibility of reappointment, and can be removed only through impeachment. COMELEC's mandate is to administer all elections, plebiscites, and referendums, and to inquire into and resolve electoral disputes or controversies. It has very broad executive and judicial authority. Among other things, it can deputize law enforcement agencies and other arms of the government, including the Armed Forces; act as prosecutor in election related criminal cases; and act as a first instance and appellate court in deciding electoral disputes.

As a constitutional body, COMELEC is less accountable to the other branches of government and the public. Nonetheless, there are some checks and balances:

- COMELEC decisions can be overturned by the Supreme Court, but only for jurisdictional excesses and grave breaches of authority.
- Although Congress cannot limit COMELEC's constitutional authority, it can pass laws that direct the overall conduct of elections and thus regulate what COMELEC does in practice.
- Congressional commissions may examine the work of COMELEC, although they cannot directly sanction COMELEC or its members.
- The Audit Commission may exercise financial oversight over all government bodies, including COMELEC.
- Commissioners may be removed by impeachment.

The underlying theory of the constitutional framers seems to have been to create a body able to completely shield the electoral process from political interference. Its authority, if realized, could make COMELEC one of the world's strongest and most independent election commissions.

Basic Laws

The basic election law is the *Omnibus Election Code* enacted December 3, 1985. It has been substantially amended by the 1987 Constitution, and at least seven major laws.

- *The Electoral Reforms Law of 1987* (RA 6646) – 1987
- *Synchronized Elections Law* (RA 7166) – 1992
- *The Party List Law* (RA 7941) - 1995
- “*Mindanao Automation*” (RA 8046) – 1995
- *Voter’s Registration Act of 1996* (RA 8189) – 1996
- *Electoral Modernization Act* (RA 8436) – 1997
- *Fair Election Act* (RA 9006) – 2001
- *Act Providing for Synchronized Barangay and SK Elections* (RA 9164) – 2002
- *Overseas Voting Act* (RA 9189) – 2003

(For more detail, see Annex V: Main Electoral Laws)

COMELEC Resolutions

COMELEC issues “resolutions” to exercise its administrative functions and implement the election laws. Resolutions are not just administrative edicts; they have the same force as laws made in Congress³. Breach of a COMELEC resolution can carry criminal sanctions, with a minimum penalty of one year in jail.

COMELEC’s practice is to issue resolutions on an *ad hoc* basis; a completely new set of resolutions is issued for each election. In principle, election laws and COMELEC resolutions are widely available. They are extensively debated in the media and other public fora, and amendments must be published in newspapers of general circulation before they become effective. Laws and resolutions are in English, a language understood by the majority (but not all) Filipinos. In practice, however, the plethora of laws, lack of consolidation, and an *ad hoc* approach to COMELEC resolutions is confusing, even for election practitioners, giving rise to an extraordinarily high number of electoral lawyers in the Philippines.

Not all COMELEC resolutions are issued in a timely fashion. For example, Resolution no. 7213, the main resolution on electoral contributions and expenditures, was passed on 31 May 2004, three weeks after the elections were held.

Pending or Proposed Laws

The Omnibus Election Code and subsequent laws provide a comprehensive framework that is largely in line with international standards. Nonetheless, there are serious problems and gaps in certain areas, which should be addressed as part of an electoral reform agenda for the newly convened 13th Congress.

*Law to Strengthen the Political Party System**

Most reformers consider this to be the most essential pending law. The intent is to encourage the development of parties based on platforms and programs, rather than on individuals and influence. Its most salient provisions include:

* Draft considered by 12th Congress.

- Regulation of conduct of political parties, including selection of leaders by party congress.
- Minimum funding by the state to duly registered national parties.
- Regulation of campaign financing and spending, including restricting individual campaign contributions.
- Banning so called “turncoatism” (the rampant practice of switching political affiliation, which weakens party structures, confuses voters, and undermines the concept of a viable opposition).

*Amendments to the Party List Law**

The Constitution requires that up to 20% of the members of the House of Representatives be “elected through a party-list system of registered national, regional, and sectoral parties and organizations”. The Supreme Court has determined that the current Party List Law is flawed in two major ways: The existing 2% threshold is prohibitive such that congressional seats remain vacant; and the law does not clearly define eligibility criteria to run under the party-list system.

The proposed amendments would clarify eligibility, and lower the threshold from 2.0 to 1.8 %. The law would increase the maximum number of seats per party from three to six.

*Implementing Law On Local Sectoral Representation**

This law is designed to ensure greater representation of marginalized or underrepresented groups at the local level, by initiating mandatory set aside seats for sectoral representation in local legislatures.

*Law Banning “Permits to Campaign”**

In some areas, particularly those under lesser control of the central authorities, it has become practice for local strongmen or armed groups to ask money from candidates for the right to campaign in the area. The draft law would specifically outlaw this practice.

Political Dynasties

The Constitution bans “political dynasties,” i.e., monopolies of political power by a limited number of families. Although the Constitution has been in force since 1987, members of Congress, many of whom come from long lines of political families, have failed to enact the laws necessary to implement the ban.

Other

The 2002 National Electoral Reform Summit, which brought together stakeholders from COMELEC, government, and NGOs, recommended passage of a law to broaden the knowledge of citizens and eligible voters of the electoral process, and a law mandating structural reforms in COMELEC.

Recommendations

Passage of Priority Laws

- Draft laws to strengthen political parties, amend the Party List Law, implement sectoral representation at local levels, and ban “permits to campaign” should be passed as soon as

* Draft considered by 12th Congress.

possible. It is well past time that Congress met its constitutional obligation to ban political dynasties, despite the obvious difficulty of the political debate.

- The Consortium on Electoral Reforms (CER) is planning a summit in September 2004 to follow up on the successful 2002 Electoral Reform Summit. Lawmakers, administrators, and activists should take advantage of this and similar opportunities to help define the electoral reform agenda for the new Congress.

Consolidation of Electoral Laws

- All relevant electoral laws, other than constitutional provisions, should be consolidated in a new Omnibus Election Code. If this is not politically possible, then at the least an official, user-friendly compilation of current laws and COMELEC resolutions should be produced and widely disseminated. COMELEC or the government should develop user-friendly and accessible public information packages on important elements of the electoral system.

Greater Uniformity and Consistency in COMELEC Resolutions

- It is imperative that the administrative and procedural framework laid down in COMELEC resolutions be flexible and responsive to changing circumstances. However, the current practice of re-doing the framework each election cycle creates uncertainty, and hinders efficiency and transparency. COMELEC resolutions should be a standing body of law, updated and amended as circumstances require. Resolutions should be passed well before elections.
- Congress should reconsider whether it is proper or desirable that an electoral body, even one with such broad constitutionally mandated powers, should have authority to issue *de facto* criminal laws.

4. COMELEC

The quality and credibility of the Filipino election process depends on a number of factors, one of the most important being COMELEC's performance. Numerous stakeholders across Filipino society and even staff of COMELEC itself were highly critical of the performance of COMELEC in the May 10 elections. While the performance of an election commission can and should be measured objectively, the subjective perceptions are equally as important when it comes to acceptance of election results. When examining how COMELEC could perform better as an institution, it is necessary to look at both improving the actual operational capacity of the organization as well as addressing factors contributing to its poor public perception.

COMELEC's Operational Capacity

COMELEC's chief responsibility is to deliver an effective electoral operation. The May 10, 2004 election was widely and justifiably criticized for its technical flaws. The principal cause was the failure to implement the three phases of modernization, namely: 1) full implementation of the biometric capturing system / re-establishing a functional voters' list; 2) automation of count and canvass; and 3) implementation of the VSAT results transmission system / COMELEC quick count. Serious flaws in the voters' list potentially disenfranchised numerous voters, and the absence of an automated count and canvass meant a repeat of the controversial and convoluted manual counting process.

These technical flaws are symptoms of a wider problem, namely, COMELEC has not evolved to meet emerging needs and is entrenched in an organizationally antiquated state. The drive to modernize COMELEC has been recognized, but has narrowly focused on implementation of some discrete technologies. The push for "modernization" has overlooked the need to modernize management and operations as well.

Management Structure

COMELEC staff members acknowledge the management structure at the top of the organization is seriously flawed. Originally, the Commission was designed to be the "board" of the organization providing policy direction through its resolutions. The implementation of these policies and the daily running of the operation were to be done by civil servants headed by the executive director. This approach, which is technically sound, has been eroded by the evolution of the Commissioner in Charge (CIC) system. Commissioners have divided all areas of responsibility among them. These responsibilities could include a specific subject, such as ballot printing, a headquarters, department, or even the field operations of a region. As a result, different regions have fallen under different commissioners with little coordination on operational issues. COMELEC effectively has seven department directors with each commissioner taking operational control over his/her area and managing them directly. The executive director position has lost authority and central control over the operation. The commissioners have widened their influence, expanded their staff, and increased spheres of control and power. (See Annex IV: Organizational Structure of COMELEC)

The CIC system has proven to be inefficient and ineffective. Operational management duties belong with the executive director and his/her staff, not the Commission. If commissioners were further removed from management responsibilities, they would be better able to focus on providing sorely needed oversight and policy guidance.

With commissioners being replaced periodically and long term civil servants having lost managerial control, COMELEC has little continuity in its handling of the organization. The fundamental problems in top management manifest themselves throughout the organization. As a result, COMELEC is limited when it comes to planning, coordinating, and implementing its activities in an effective manner.

Staffing

COMELEC has 2,000 permanent headquarters staff and 3,000 permanent field staff in more than 1,600 municipal, provincial, and regional election offices, placing it among the largest election management bodies in the world. Despite this large body of professional election administrators, COMELEC routinely has difficulty organizing basic activities such as training of polling officials, printing of ballots, updating of the voters' list, and the dissemination of voter education materials.

Recruitment appears to be based on civil service qualifications without defined job descriptions. Standard operating procedures do not exist and there is no staff development program in COMELEC. The director of personnel said there was no time for professional development training although he agreed, "many staff would benefit from office management training." Staff training is conducted when necessary and not as a matter of policy. The lack of clear job responsibilities and poor management is evident to anyone visiting COMELEC offices, which are either quite busy with tasks of questionable priority, or completely idle.

The need to professionalize COMELEC staff was consistently cited by stakeholders, COMELEC staff, and commissioners as a priority for improving the administration of elections in the Philippines. Professional development programs for COMELEC staff could be developed as a part of a broader reform package that addresses the overall structure, operation, and funding of COMELEC. Specific areas to be targeted for reform could include staffing (recruitment, training, and performance evaluations), organizational structure, and operations.

Field Structure

For the 2004 elections it was generally observed that COMELEC field staff played an important role in rescuing a poorly conceived and implemented operation by COMELEC headquarters, especially concerning the voters' list. Successes were achieved, despite the fact that COMELEC field offices are critically under-resourced and in need of improved administrative capacity and infrastructure.

Another capacity problem is the absence of reliable communication inside headquarters and with the field in general. There are visibly few computers in the organization and no on-line capacity. E-mail is rarely available and few field offices have facsimile capability. Supplies are often so scarce that offices sometimes cease to function. For example, an absence of ink and paper resulted in no voters' lists printed and displayed in many areas. In the absence of support from headquarters, field offices resorted to seeking support from the elected officials, an obvious and serious conflict of interest. One field station visited had become dependent on a car and printer made available by the incumbent mayor.

There is a weak relationship between the field election offices and both provincial offices and the headquarters of COMELEC. Election officers do not have confidence in the ability of provincial and headquarters staff to support them; instead they fear they will be reprimanded for asking for assistance. Conversely, election officers do not have the opportunity to give input into planning and program development. Election operational processes can only be strengthened when field personnel are integrated into the planning process. Team building between the differing areas within COMELEC is non-existent, though it would greatly improve the relationship between field and HQ. Creating opportunities through which election officers can share experiences and provide mutual support would improve communication and strengthen professional capacities.

Budget

COMELEC had no budget allocated from state funds for elections in 2004, as the general rule for disbursements in a given year is based on activities the previous year (there were no elections in 2003). COMELEC therefore had to request 4.7 billion Philippine pesos for elections from the incumbent president to be released from her special allowance. It is not an optimal situation to be "dependent" on a sitting president or competing candidate for an election budget. At the time of the election only a fraction of the budget had been released. The late release of funds had a debilitating effect on COMELEC's operations. The dependency on the current government negatively impacted the public's perception of their impartiality.

COMELEC's Credibility

Impartiality

To be effective, an election administration must be politically neutral, both in practice and in perception. Participants in the electoral process question COMELEC's impartiality. While it is difficult to evaluate the real nature of this alleged bias, negative perceptions are nearly as damaging to its credibility as proven bias.

When the impartiality of COMELEC is questioned, the focus is mostly on the commissioners themselves, who are believed to hold political allegiances, particularly to the presidency. It has been alleged that the presidential appointment of commissioners is actively used by the incumbent to influence the electoral process⁴. President Arroyo appointed five of the current seven commissioners. This includes the current COMELEC chairman, who was previously a politician and allegedly intends to run for office again. Accused by some of being a politician and not an impartial administrator, the chairman is widely considered to be uninterested in management of COMELEC and is continually under attack from other stakeholders and the media. In a recent public survey, the chairman received a very low approval rating, while COMELEC as an organization fared better.

There is also a perception among election stakeholders that incumbent commissioners have used their station for personal and political positioning by using the electoral appeals mechanism for political leverage.

With two impending retirements, the possibility of the Committee on Appointments rejecting the two recent commissioner reappointments and the possibility of Chairman Abalos resigning, the president has a unique opportunity to replace 5 out of 7 members of the Commission by 2005. It is difficult to see the credibility of the COMELEC improving without a drastic change in its current composition.

It is both advisable and possible to lessen the politicization of the Commission by initiating a procedure for nomination of commissioners. There are many options within the current constitutional framework. One suggestion, modeled on the judicial appointment system, would see the president select from a short list of qualified and broadly acceptable candidates. Candidate lists would be developed in consultations with civil society and other stakeholders, including perhaps through public hearings.

Public Relations

COMELEC's ability to perform not only depends on its internal capacity; it also depends on the ability and willingness of all electoral actors to support COMELEC to implement its mandate. COMELEC must also be willing to cooperate with other election stakeholders and share information in order to facilitate their activities. Civil society actors have been critical of COMELEC's lack of transparency and poor management decisions. In the past, civil society organizations were included in COMELEC decision-making processes. With the current Commission, there is less willingness to work with civil society and less openness with the media. This lack of transparency negatively impacts COMELEC's public image.

COMELEC has poor relations with the media. The media is highly critical of COMELEC and the organization is constantly coming across as being on the defensive. The problem goes as far as senior staff writing critical articles about COMELEC in the newspapers. There seems to be neither plan nor budget for any coordinated effort to improve public relations. In addition, the COMELEC spokesperson duties are assigned to the director of the Education and Information Department (EID). Voter education and public information are both full-time positions; each gets short-changed when combined in one position.

The inter-agency coordination seen between COMELEC and other election stakeholders at the regional, provincial, municipal, and city levels sets a good example for COMELEC headquarters in how developing relations with partner organizations, including the media, can facilitate a smooth functioning of election activities throughout the election period.

Recommendations

- Recognize that strengthening COMELEC begins with a comprehensive "modernization", not only by introducing new "hardware" but also by truly reforming the organization itself.
- Establish an electoral reform committee.
- Conduct a comprehensive audit of COMELEC management and operations with the aim of bringing professionalism to the Commission.
- Establish a commission and initiate a new procedure for nomination of candidates as COMELEC commissioners. Consider nominating candidates with a management background.
- Eliminate the CIC structure and restore management powers to the office of the executive director, including participation in *en banc* sessions. Involving the executive director and/or relevant senior staff in *en banc* sessions of the Commission to provide technical advice would help ensure that policy is effectively translated into practice.
- Consider an amendment to the Constitution to restructure COMELEC by separating management/policy oversight powers from quasi-judiciary functions into two institutions. Removing judicial responsibilities from COMELEC would increase their credibility, reduce political pressure, and allow them to focus on the administration of elections.
- Conduct a detailed and systematic assessment of COMELEC's training and professional development needs within the context of a broader structural review. This needs assessment should include a review of job descriptions and staffing tables both within COMELEC HQ and in

the regional and provincial offices. An external agency experienced in elections management should be considered for this task.

- Address deficiencies in staff capacities by designing and immediately implementing an ongoing professional development program for COMELEC rank and file, especially field personnel. There should be a special focus on election law for election officers.
- Support the Personnel Department, the Alliance of COMELEC Employees in Service, Inc., and the Education and Information Department in order to build their capacity to design relevant training programs.
- Strengthen the Education and Information Department (EID) of COMELEC as a priority. Consider separating the duties of the voter education section of this department from the public information responsibilities.
- Hire a professional public relations expert to design a long-term media and public relations strategy.
- Clarify and streamline departmental functions, consolidating some department functions to reduce overlap and allow more effective use of limited resources.
- Design and implement standard operating procedures manuals for all COMELEC departments, including field structures.
- Set up interview panels of senior staff using standard job descriptions written by the Personnel Department as standard procedure for all future recruitment. The hiring process would thus be more transparent and would ensure a close match between the qualifications of applicants and the requirements of the job.
- Institute regular performance evaluations for all staff, including senior managers and directors, and assign professional development training consistent with the needs of their particular job description.⁵
- Reduce the size of COMELEC staff at headquarters.
- Conduct internal (COMELEC) post-election reviews and evaluations at both HQ and field office level and synthesize this feedback in order to continually improve procedures for future elections.⁶
- Introduce basic organizational management tools such as staffing tables, organizational diagrams, job descriptions, and effective performance review processes as standard operating procedures within COMELEC.
- Introduce new office technology in order to improve communication with field offices.
- Include field personnel in project planning activities.
- Develop and implement voter education programs, especially vis-à-vis the modernization program, as an immediate priority of COMELEC and partner stakeholders.
- Revise the Omnibus Election Code to include specific minimum standard training requirements for all election officials, including election officers. Election officials at all levels must be provided with professional development training in management, logistics, planning, information dissemination, targeting information needs, presentation skills, and working with the media. This will be critical in all of the upcoming elections, especially if modernization continues.

5. Pre-election Issues

Automation of the Count and Canvass

On December 22, 1997, Congress enacted Republic Act No. 8436 authorizing COMELEC to use an automated election system for the process of voting, counting votes, and canvassing results of the national and local elections. After failed previous attempts to implement automation, COMELEC was ready to push through with automated processes in the last elections. However, the Supreme Court upheld a petition challenging COMELEC's award of the contract for the purchase of counting machines and equipment to a private consortium that allegedly did not participate in the public bidding. The Court castigated COMELEC for grave abuse of discretion and nullified the contract for purchase of machines supposed to be used in the recently held elections. Since the South Korean vendor has already rejected the request to buy back the counting machines, COMELEC appears to be stuck with the current technology they have acquired, which although not the best, is adequate for their needs.

The last minute failure of the automated count and canvassing program had an enormous impact on planning for Election Day. It affected the implementation of activities ranging from voter education to Board of Election Inspectors (BEI) training and preparation of voters' lists to printing and delivery of sensitive materials. While the Supreme Court ruled this was unavoidable due to technical reasons, it is hoped these issues can be clarified early enough to facilitate planning for the next election cycle.

Assuming these legal issues can be resolved, it is hoped the modernization program can move forward. As there have been numerous questions raised regarding the design of the various programs and their implementation, it would be advisable to first conduct a comprehensive review of the program to ensure it can be successfully carried without further waste of time and resources.

The focus on automation as the solution to all problems has deflected attention from other problems such as management deficiencies in COMELEC and the lack of voter education. Regardless of the voting method used, ballot design and ballot marking are technical issues and have educational ramifications for the public and other election stakeholders. For the public, automation will require a comprehensive voter education program, which was not a strong point of COMELEC this past election (see the chapter on Voter Education). For election stakeholders, an automated system will require internal training and familiarization with the new technology, including COMELEC employees, civil society organizations, BEI and Board of Canvassers (BOC) members, political party observers, and the media. This effort will require a new approach by COMELEC to providing educational and information services, while other organizations will need to be more vigilant to ensure they are updated on the new system and what their role will be in ensuring it is successfully implemented, be it training, monitoring, or reporting.

Recommendations

- COMELEC should proceed with the implementation of automation of the count and canvass using existing resources as soon as possible.
- COMELEC should develop new voting procedures, materials, and training programs based on the technical requirements of an automated voting process.
- COMELEC should develop an extensive voter education program to inform voters of anticipated changes to voting procedures and registration requirements.

Electronic Transmission of Results

The Supreme Court ruled that COMELEC could not proceed with electronic transmission of results due to a technicality (COMELEC had not notified the parties). It is believed that the real reason for blocking the project was enormous resistance to allowing COMELEC to have advance results for the presidential and vice presidential contests. In any event, it is likely that the Supreme Court came to COMELEC's rescue by

canceling Phases 2 and 3 because COMELEC was not prepared to implement either. COMELEC must now begin the implementation of these technologies in preparation for the next election cycle.

The last minute ruling against the implementation of this system, coming only days before the polls opened, resulted in chaos at all levels of COMELEC. As part of the preparation for implementing the electronic transmission of results, training on Very Small Aperture Terminal (VSAT) equipment was conducted for election officers just one week prior to Election Day. This poor planning resulted in election officers being taken away from their field offices during the most critical time of the election period. In the end, it was a misuse of time and resources, as the electronic transmission of results project was scrapped.

Recommendations

- COMELEC should proceed with implementation of the electronic transmission results project using existing resources as soon as possible.
- COMELEC should develop new training materials and programs based on the technical requirements of an electronic transmission of results program. Training programs should be planned well in advance of the implementation period.
- COMELEC should develop an extensive voter education program to inform voters about the purpose of the electronic transmission of results program.

Voter Registration

Until recently, voter registers were compiled manually at the city and municipal level. While the voters' list became computerized at this local level, it was still decentralized. In August 2003, COMELEC started implementation of Phase I of the automation process, referred to as the Voters Validation System (VVS). Under VVS, the validation process was based on the collection of biometric data, the production of a centralized voters' list, and the issuance of identification cards. To add to this complex program, COMELEC also decided to renumber the precincts⁷.

Both the validation and precinct re-organization programs were poorly designed and implemented. COMELEC did not compile a complete, functional, and centralized voters' list. The gathering and merging of numerous sets of data and changes failed. COMELEC was only able to validate a fraction of the actual electorate through the new system, while the remaining voters stayed in the old decentralized system. This resulted in the failure to centrally produce a voters' list in time for the claims and appeals period, thereby foregoing this fundamental legal requirement. The absence of a claims and appeals period not only denied voters the right to challenge names on the list, it also meant that voters in most regions of the country did not know where to vote.

The goal behind validation and centralization of the voter registry was to identify duplicate entries. This failed for three reasons: 1) only a fraction of the electorate was included; 2) it wasn't mandatory for people to validate their information; and 3) the system did not have the capacity to process all the voters or check duplicates. In addition, COMELEC did not even have the legal authority to remove duplicates when found. Under the current system, the onus for these administrative changes lies with the voter and, as a result, COMELEC field staff cannot easily remove double registrants or deceased voters. COMELEC must have the authority to remove voters from the list. To prevent disenfranchisement, voters should have the right to appeal these changes to the voters' list. In order to be sustainable, it is important that the appeal process is simple and swift.

COMELEC headquarters was expected to produce and distribute voters' lists for each and every precinct in the country. Shortly before the elections, it became clear that this would not happen. The voters' lists that were produced were so flawed that they were completely unusable to control voters on Election Day. Recognizing this, COMELEC asked the election officers to salvage the situation by reverting to their decentralized lists and records. These records had become outdated, as they did not include the many new voters who registered or changed their address under the new validation system.

The deeply flawed voters' list, with missing names, incorrect precinct allocations, etc. resulted in numerous voters being disenfranchised on Election Day. In many polling locations throughout the country, there was confusion among voters in finding their proper precinct. Many of the voters could not find their names on the lists for administrative reasons (changed precincts, the poor distribution of voter information sheets, the absence of a display period, etc.). Others had been removed from the voters' list because they had not voted in the two previous elections. While it is recognized that some voters had been genuinely disenfranchised,⁸ in some cases the responsibility does fall back on voters who have not voted in the past two elections or had not registered their move with the local Election Office⁹.

Fixing the voter registry in the Philippines is essential for the conduct of future elections. It does, however, seem there are two fundamentally different approaches that need to be evaluated: 1) implement the modernized Phase I registration methodology, including the issuance of mandatory Voter ID cards (requiring a monumental investment of time and resources); or 2) revert back to the decentralized voter registration system without biometric data capturing. We believe, that for a meaningful evolution of the Philippine election system to take place, the first option is the answer. We also recognize that COMELEC at present lacks the capacity to implement this solution and that the significant resources needed might not be made available.

Recommendations

- COMELEC should proceed with the modernization of the voter registry, including the production of mandatory voter ID cards, upon a careful review of all aspects of the program.
- COMELEC should have the authority to remove names from the voter registry provided that voters are duly notified and provided with the option to appeal in person at their local election office.
- COMELEC should develop new training materials and programs based on the technical requirements of this voter registration program.
- COMELEC should develop an extensive voter education program to inform voters of their responsibilities under this voter registration system.

Voter Education

COMELEC did not implement an effective voter education campaign. Civil society organizations such as PPCRV tried to step in to inform voters on how to register and how to vote, but their efforts were often frustrated by the lack of guidance or materials from COMELEC. Barangay captains also played an important role in providing voter information to the public regarding their precinct. Other voter education efforts by civil society actors focused on general messages of participation in the political process.

Not only is COMELEC bound by law to perform voter education activities, it will benefit from making sure that voters know exactly how to cast their vote and what will happen to their vote. COMELEC needs to regain the confidence of the public; one important tool could be a simple, sustained, and strong voter education program.

During field visits it was difficult to find evidence of a voter education or voter information program in action. In some areas, the election officer was able to distribute practice ballots or "Voter Information Sheets," which allowed voters to readily identify the precinct to which they had been assigned for voting. Candidate forums were organized with some success, but in some areas election officers funded these events partly from their own resources due to the absence of COMELEC funding. Prior to the actual election process and during the voter registration update, some election officers were unable to publicize the necessity for voters to check their names on the voters' list as a means of ensuring that their registration was correct and thereby ascertaining the correct precinct at which to vote on Election Day. This was again due mainly to the lack of COMELEC funding.

COMELEC voter education planning was *ad hoc* and often activities were started and left unimplemented. Materials were developed very late or not at all and even when developed on time, little was done to effectively disseminate the voter education materials. For example a *Calendar of Activities*, a *Primer on the Electoral System*, and *Educational System FAQs* were produced but not distributed. Poor design and limited distribution rendered most of these materials useless. Mass media (newspapers, radio, and television) were only used for “panel interviews” and no public service announcements (PSA) were produced¹⁰. The Omnibus Election Code Resolution No. 6667 clearly states that the Education and Information Department of COMELEC shall publish the *General Instructions* in two daily newspapers on or before March 22, 2004, but this too was not done due to the lack of organizational capacity of COMELEC.

Election officers and senior COMELEC staff did attempt some voter education through open forums at the Barangay level, which were effective in some cases. Typical voter questions focused on ID requirements on Election Day. The director of the Education and Information Department of COMELEC herself attended some of these Barangay meetings or gave addresses at schools and colleges in the weeks prior to the election; this had little impact nationally and was not an effective use of her time.

COMELEC's inability to inform voters will be made even more apparent should there be any major changes to the electoral system, such as the introduction of electronic voting machines.

Many stakeholders have emphasized the importance of ongoing, broad-based voter education to increase voters' knowledge and understanding of the election process. Voter education can also address the lack of public confidence in the electoral system and increase accountability of election administrators and elected officials. For this reason, many teachers, COMELEC officials, Philippine National Police (PNP) officials, and representatives from civil society have strongly urged that civics be introduced in school curricula.

Recommendations

Voter education efforts need to begin well in advance of elections and different stakeholders have an important role to play in informing and educating voters. The following are suggested approaches for conducting voter education in the Philippines:

- COMELEC should conduct a **voter information** campaign to inform voters of basic information enabling qualified citizens to vote, including the date, time, and place of voting; the type of election; identification necessary to establish eligibility, registration requirements, and mechanisms for voting. COMELEC should plan and budget for a combination of printed materials and radio and television PSAs to be disseminated and broadcast through a variety of sources.
- The Department of Education (DepEd) should introduce **civic education** to the elementary and secondary curricula to address broader concepts underpinning a democratic society such as the respective roles and responsibilities of citizens, government, political and special interests, the mass media, and the business and non-profit sectors as well as the significance of periodic and competitive elections. Curriculum would emphasize not only citizen awareness but also citizen participation in all aspects of democratic society. Age appropriate materials and activities could easily be developed by teachers up to and including helping students to organize their own school elections at the secondary level.¹¹
- Civil society organizations such as NAMFREL and PPCRV should conduct **voter education** to motivate and prepare voters to participate fully in elections. Messages should focus on more complex concepts related to voting and the electoral process such as the link between basic human rights and voting rights; the role, responsibilities, and rights of voters; the relationship between elections and democracy and the conditions necessary for democratic elections; secrecy of the ballot; why each vote is important and its impact on public accountability; and how votes translate into seats. Voter education requires more lead time for implementation than voter

information and, ideally, should be undertaken on an on-going basis. Barangay captains could play a role as a partner for assisting with local dissemination of informative materials.

- COMELEC should leverage resources by seeking alliances with organizations experienced in developing voter education programs. In this way, COMELEC can reduce its share of the financial burden to conduct effective voter education. COMELEC should consider forming strategic partnerships with other state entities (DepEd, PNP), civil society organizations (NAMFREL and PPCRV), and local government (Barangay captains).¹²
- COMELEC should decouple the “education” and “information” functions and create two separate departments for each task: a voter education department and a public spokesperson’s office.
- The “media monitoring” carried out by the Department of Education and Information should be contracted out to a professional firm. Having untrained COMELEC staff spot check television news programs amid their many other tasks is a weak attempt at controlling use of broadcast media for campaign purposes.
- There are many elements of society involved in an effective voter education campaign. Results of a recent regional roundtable in southern Luzon indicate that there is the potential to coordinate efforts to better inform voters for future elections. Such coordination efforts should be facilitated and supported by civil society groups willing to take the lead in such issues.¹³

Voter education initiatives will only become more critical as COMELEC moves to implement its automation program before the next election cycle.

Training of BEIs and BOCs

The scale of projects designed to train and meet the professional development needs of electoral staff in the Philippines is enormous. Over 216,000 electoral precincts required an excess of 600,000 Boards of Election Inspectors to be trained, of which 475,000 were teachers. Thousands of Boards of Canvassers, which included school superintendents and principals, also had to be trained. COMELEC itself has a permanent staff of almost 5,000, including 1,615 election officers.

The initial planning and resourcing for this program began in early 2003, but was severely disrupted by two external factors: 1) the decisions of the Supreme Court in January 2004 to cancel a contract for the purchase of 1,700 vote counting machines and to block the use of VSAT technology to transmit precinct results to COMELEC HQ; and 2) the lack of sufficient budgeted resources for the training program. These challenges were exacerbated by the lack of operational capacity of COMELEC to organize and conduct training in an effective manner.

These structural and financial limitations prompted other groups such as DepEd, PPCRV, and NAMFREL to develop their own training programs to compensate for COMELEC’s weaknesses. These initiatives, although admirable, led to duplication and waste of state and private resources, conflicting training programs, and further weakening of COMELEC’s authority as the electoral management body of the Philippines.

The Department of Education, as mandated by the Omnibus Election Code, was required by COMELEC to enlist all physically able teachers, principals, and superintendents to fulfill their duties as BEIs and BOCs. This arrangement has existed in previous elections and it is generally taken for granted by COMELEC that it will continue in future elections, despite assertions by senior DepEd officials that they plan to lobby Congress to release teachers from their legal obligations as BEIs.

DepEd recognized the limited capacity of COMELEC to develop curricula and train BEIs and decided, for the first time, to directly train their teachers in COMELEC procedures. This training was not required of DepEd, but was done in order to “support its constituents in performing their duties well and in protecting them from any form of intimidation and harassment.”¹⁴ Past experience had shown that teachers would

be subject to intimidation, lawsuits, and even violence while fulfilling their BEI and BOC duties.¹⁵ What was conceived as supplemental training to better prepare the teachers became the *de facto* training program for BEIs, as COMELEC's own training program was delayed and badly under-resourced.

DepEd, with its superior organizational capacity, effectively took over many of COMELEC's operational responsibilities related to training BEIs. DepEd trained almost 3,000 school superintendents, principals, and vice-principals as trainers; recruited and trained 475,000 teachers as BEIs; provided legal services to protect BEIs from unjust legal prosecution; conducted voter education; issued COMELEC updates directly to BEIs; paid *per diems* to BEIs prior to the election; established an Election Task Force staffed with 178 DepEd HQ staff and 4,400 regional and local staff to provide technical support to teachers' concerns prior to, during, and after Election Day; and printed its own procedures manual. Meanwhile, the Election and Information Department of COMELEC continued to develop its own training program with no consultation or attempt to coordinate efforts with the DepEd.¹⁶ The result was two completely separate but overlapping training programs with different messages and means of delivery. This dual training wasted state resources, created confusion among teachers, and resulted in many basic procedures not being followed on Election Day.

Department of Education BEI Training Program

DepEd used a cascade-training program, in which a two-day train-the-trainers (ToT) program was conducted over six weeks in February/March by the Development Academy of the Philippines (DAP). In total, just seventeen (17) ToT sessions were conducted: one for each region, without regard to class size. As a result, ToT sessions included 100 to 300 participants each and a total of 3,000 school superintendents, principals, and vice-principals were trained as trainers. These trainers then "echoed" a modified version of the DAP training to 475,000 teachers during the month of April.

The ToT curriculum consisted of almost a full day of "capacity building," which included over 400 Power Point slides on the political, economic, legal, and moral background to conducting elections in the Philippines. The remainder of the ToT consisted of a general overview of procedures. Since the *General Instructions* were not completed by COMELEC until April, all of the DAP procedures training for DepEd trainers was conducted based on the *General Instructions* issued for the 1998 elections. Many parts of this portion of the training were skipped over with trainers receiving subsequent updates in piecemeal fashion. As a result, many of the DepEd trainers were confused about the procedures and this greatly impacted the quality of echo training of BEIs.

COMELEC BEI Training Program

COMELEC's training program was also a crude form of cascade training based on the *General Instructions* (GIs). Five senior trainers from COMELEC, each paired with a senior COMELEC official,¹⁷ trained 1,615 election officers over a three-week period from the last week of March until mid-April.¹⁸ The "training" for the most part consisted of COMELEC trainers and senior staff reading the still incomplete GIs or displaying them by a Power Point presentation of 175 slides. This training was then echoed to 600,000 BEIs in one week at the end of April. With the election officers busy with other preparations, "training" was often done in single cohorts of up to 500 BEIs per municipality. There was no standardized approach to training of BEIs, however, and some EOs¹⁹ scheduled follow-up meetings to discuss procedural updates.

Often, teachers were not receptive to the training as they "were confident that they already knew all procedures" having previously received better training from DepEd. The worst trained BEIs were the 125,000 non-teacher BEIs (many working as BEIs for the first time) who received only COMELEC training and not the DepEd training.

Results of Training of BEIs

The BEI training programs of both COMELEC and DepEd were quite inadequate. Poor results were guaranteed by the fact that COMELEC and DepEd did not share resources or information and developed

their programs independently. Poor training meant that most new BEIs learned about their duties from “experienced” BEI members who passed on the benefits of their previous election experience, some of which was contrary to the Omnibus Election Code. As a result, numerous procedural errors were documented on Election Day.

Neither COMELEC nor DepEd produced a functional manual. Instead, they printed two versions of the same legal document. While DepEd tried to introduce participatory methods, these were undermined by the very large numbers of participants in their training sessions. There was no evaluation conducted of the training by participants nor was there any input or feedback between COMELEC and DepEd on their respective materials and programs during or after the training.

Despite the lack of adequate training materials, Election Day proceeded more smoothly than expected, as the teachers were able to improvise local solutions to compensate for procedures that were inadequate or poorly understood. It is unlikely, however, that such an uncoordinated and ineffective approach to training could effectively communicate any significant changes to the electoral system, such as computerization of polling or significant changes to the counting and canvassing procedures. The problem is even more pressing in light of DepEd’s determination to amend the Omnibus Election Code to release teachers from their legal obligations as default BEIs and BOCs.

Use of Teachers as BEIs and BOCs

While recognizing that teachers have been instrumental to the successful organization of elections in the Philippines, it is illogical and unfair that their participation is mandatory. Participating in elections is a civic privilege and right and should not be enforced by law. With proper training, any educated and responsible adult could work as an election official. One way to encourage participation as an electoral official would be to ensure that there are no criminal consequences for making mistakes on the job.

Conclusion

While sub-par for the purposes of a manual election process, the ineffectiveness of the current approach to training will become even more apparent when automated voting is implemented. These changes would be far better communicated through simplified, modern training materials and smaller groups trained by experienced and prepared trainers.

Recommendations

- COMELEC should take the lead in developing curriculum and training of BEIs. It is untenable that two government bodies conduct parallel training programs on procedural matters.
- DepEd’s legal obligation to second teachers as BEIs should be phased out. Experienced teachers should be encouraged to continue to work as BEIs on a voluntary basis.
- Curriculum and program development should be the primary task of adult educators and not COMELEC commissioners, senior staff, or lawyers.
- Curriculum development and improvement should be an on-going process, with the content of materials finalized at least 2 months prior to the election.
- The basic elements required of the training program provided to BEIs should include:
 - o Training manual written by educators for all participants;
 - o Checklist in placemat format provided to each BEI outlining their respective duties and procedures, such as issuing of ballots;

- o Presenters' guide for trainers with modules on all aspects of the training including participatory activities and role-plays;
 - o Training kit for trainers consisting of actual examples or accurate low-cost mock-ups of all Election Day materials, including ballots, ballot boxes, and election returns; and
 - o Extensive hands-on practice with any machines or IT equipment that will be used.
- Greater emphasis should be given to role-plays, reacting to scenarios, completing paperwork, servicing voters, and respecting basic concepts like the secrecy of the vote and universal suffrage.
 - Sufficient numbers of trainers should be recruited and trained so that training of BEIs is done within a period of three weeks in the month prior to elections in groups not exceeding 35. This requires better-organized cascade training and more trainers at regional and municipal levels.
 - Trainers should be able to train up to 10 groups of BEIs, rather than just training one group, as was done for these elections. Repeated training of the same curriculum would greatly improve the quality of the presentation and be more cost-effective.
 - COMELEC needs to develop a standard operating procedure to evaluate all training sessions conducted. The necessary mechanisms to process participant evaluations and direct feedback to further improve materials and programs will also need to be developed.
 - BEIs and BOCs should be tested upon the completion of their training to measure the effectiveness of the training, gather feedback on the trainer and the training program, and assess knowledge levels of the participant.
 - BOCs should have a separate training program with specific training manuals, material samples, and programs developed by COMELEC. Training should consist of discussions of procedures, practical exercises, role-plays, and practice forms to fill out. This training will look much different if the automation of canvassing is implemented in the next election.

6. Election Day Issues

Preparation

When visiting election offices during the election preparation period it was readily apparent that the premises from which the election was managed were manifestly inadequate for the task at hand. EOs experienced a shortage of election forms and equipment prior to Election Day. In the absence of the timely release of COMELEC funds, EOs used their own limited funds for official election activities in an attempt to ensure that election activities were at least partially completed prior to set deadlines. There are currently no standard procedures used to prepare precincts for polling.

Delivery of Non-sensitive and Sensitive Materials

COMELEC's delay in finalizing the precinct list seriously affected much of the preparation for Election Day as the recruitment of BEIs, procurement, production and distribution of materials, and other logistical concerns depended on this information.

The handover of sensitive materials to election officials the day prior to and the morning of Election Day was inconsistent. In some areas, the process was well organized and election officials were processed quickly and smoothly in an organized manner. In others, chaos and lack of security was observed, with long queues of frustrated election officials waiting to pick-up their materials, resulting in delayed opening

of their precincts. In some cases, polling was delayed until the following day due to non-delivery of materials.

The role of the City Treasury Office in the storage, distribution, and collection of sensitive materials is a critical one at both the beginning and end of polling and counting activities. When properly coordinated with the election officer, and provided there was oversight by a COMELEC official, this process did appear to be efficient. There were cases, however, when the City Treasury and local COMELEC offices did not enjoy good cooperation. In these cases, the election officer and the success of Election Day were at the mercy of a local government official. Even when operating smoothly, it remains inappropriate that the office of an elected official, who is running for re-election, handles sensitive election materials without any oversight whatsoever from the COMELEC office.

Polling Station Management²⁰

Voter Information on Precinct Assignments

Prior to Election Day, there had been much discussion on the state of the voters' list. Mass confusion was expected on Election Day as voters either would be unable to find the precinct to which they were assigned or would find that their names were missing from the voters' list altogether. Although poorly designed and ineffectively distributed, Voter Information Sheets (VIS) played a critical role in polling station management by providing information on the voter's precinct and the list of candidates running for each office. This facilitated the direction of voters to the correct precinct and a quicker flow of voters, while shortening the amount of time spent completing the ballot. In areas where VIS were distributed, voters experienced fewer problems trying to locate their precinct. Where not distributed, there was a marked increase in the incidents of voters not being able to cast their ballots due to confusion over where to go.

Layout of Polling Station

Some measures were taken to try to avoid problems in the flow of voters upon arrival to the polling station. In many areas, PPCRV set up tables with voters' lists in a centrally located area of a polling station, serving several precincts. Blackboards or large notice boards featuring the layout of the polling station and identifying individual precincts were also used to help voters find their precincts.

Even so, the layout of polling stations in urban areas where several precincts were set up in the same room was unmanageable; in one case there were 17 precincts in a single room. It was extremely difficult to direct people to the correct place. PPCRV played a crucial role by helping to direct people to their proper precinct, but this was more effective in polling stations where each precinct was contained in its own room. After voting, voters were allowed to loiter in and around the precinct for too long. Overall, the secrecy of the vote was compromised due to poor management of the flow of voters and design of the polling station itself.

Accessibility for Voters with Disabilities

Most of the polling stations were located in public schools and other public buildings that were not equipped with handicap-access ramps. Observers did not report seeing any voters in wheelchairs attempting to access a polling station. There do not seem to be any specific requirements for physical access under the law.

Polling Procedures

Preparing the Precinct

While BEI members were diligent in arriving one hour ahead of opening time, their use of this preparation time could have been more productive. With the amount of experience held by most BEI chairpersons, a

careful examination of their precinct set-up and other procedures may have resulted in some improvements to the layout before opening.

There were insufficient copies of the COMELEC *General Instructions* in use. This document, although not a structured and detailed procedural manual, outlined the polling process and should have been available to all election staff.

Controlling Queue and Flow

In rural areas, overcrowding of precincts was less of an issue than in urban precincts. In urban precincts, the lack of queue control and poor set-up led to chaos. In this atmosphere, it became quite easy to lose control over other aspects of the polling procedure, such as proper checking of ID, ensuring secrecy of the vote, and following the additional checking measures and security mechanisms in such a way as to make them effective.

Checking Voter Identification and Use of Voters' List

Due to the failure of Phase I of the automation program, multiple voter registers were in use on Election Day. Election officers printed out locally produced voters' lists, while relying on hard copy voter registration files as a back up. In effect, if voters could not find their name on the printed voters' list, but there was a hard copy of their registration document on file, they were allowed to vote. While a bit unorthodox, this creative solution saved the elections in terms of franchising voters.

Issuing the Ballot Paper

In some precincts polling staff removed the staples from the book of ballots to enable easy distribution of ballots. The staff did not subsequently remove the top serial number from each ballot paper prior to giving the ballot paper to a voter. The same serial number is recorded against the voter's name as a record of voting. By not removing the top serial number it is very easy to ascertain how each voter voted, thus putting the secrecy of the vote in jeopardy.

Polling staff were observed cutting off both top and bottom ballot paper serial numbers prior to voters voting. This erased the checking mechanism as to the number of ballots in the ballot box, and also did away with the security measure that was supposed to ensure that the voter was voting with the ballot paper he or she was issued.

Ballot Design and Marking the Ballot

The ballot design was problematic, as it required the voter to handwrite the names of 30 candidates onto the ballot paper. If the current time-consuming voting is replaced by an electronic count of ballots, COMELEC will then be able to supply fully printed ballots to voters on which to mark their choices, greatly improving the flow of voters through the precinct.

Secrecy of the Vote

In many precincts secrecy of the vote was lacking. This was caused either by the incorrect use of the secrecy folder supplied to precincts to ensure that voters could vote in secrecy and/or the uncontrolled entry of persons into the precinct. If used again, the security folders should be thumb tacked upright onto the desk and not just placed flat on the desk; alternatively a simple cardboard tabletop voting screen can be used. As part of developing a comprehensive procedures manual for polling, the proper set-up and flow control of voters into and out of the precinct must be pre-planned in detail. Voters waiting to vote should be queued at the entrance to the precinct and only allowed in when it is their turn to vote. Tables and chairs currently used in the voting process must be positioned so that those waiting to vote are not able to observe the ballot paper of those already voting. This control would greatly improve the secrecy of the ballot.

Assisted Voting

The Omnibus Election Code states that an illiterate person or one physically unable to mark the ballot by himself may be assisted in the preparation of his ballot by a relative by affinity and consanguinity within the fourth civil degree. If he has none, then any person of his confidence who belongs to the same household may assist. In their absence, any member of the Board of Election Inspectors may assist.

Illiterate voters and those with poor eyesight had even less opportunity to cast a secret ballot than their unassisted counterparts. The process of providing assistance to these voters meant that the helper needed to ask the voter to tell them what names to fill in on the ballot. There was no space designated in the precinct that provided the amount of privacy that would have been necessary for this process to take place in secrecy. Some voters did bring a copy of a sample ballot into the precinct with them; in these cases the helper could simply fill in the voter's ballot by copying the names off of the sample. The same secrecy issues faced by regular voters still applied. In fact, some voters who had helpers filling out their ballot for them tended to wander around the precinct area talking to other voters while they were in the process of voting.

Inking

The finger inking procedure used to ensure that voters vote only once on Election Day should be reviewed. Currently a small drop of ink is placed on the voters' nail, while a cloth is immediately provided for voters to wipe away any 'excess' ink. This process led to a difficulty in identifying whether some fingers had been inked or not. This was especially important in larger cities where polling staff was unfamiliar with the voters voting in their precinct. Sufficient ink of adequate quality should be applied on voters' fingers so that it is obvious at first glance that the voter has already voted. Voters should be instructed to wait 60 seconds or until the ink has sufficiently dried before taking their ballot.

Thumb Printing

The materials provided for this procedure were less than optimal. A piece of loose carbon-like paper was put on the desk for the voter to press his or her thumb onto before placing it on the voters' list, and then later the ballot receipt. The process was awkward, slow and, in the end was largely a symbolic exercise since it did not allow thumb printing of high enough quality to be identified later if necessary.

Depositing Ballot into Ballot Box

This procedure requires the BEI to handle the ballot twice after it has been marked, once to tear off the bottom receipt and again to deposit the ballot into the ballot box. Ideally the voters would cast their ballots into the ballot box themselves.

Counting

The current manual processes are painfully slow. During vote counting, an average of 20 votes were counted per hour, with each precinct counting approximately 200 ballots. This was an exhausting process for the staff and made them more susceptible to election fraud. Within some precincts, poll watchers assisted polling staff with counting by unfolding ballots and completing tally sheets. Although not objected to by other poll watchers at the time, this assistance should be refused so as to ensure the integrity of the election. It should also be noted that as the hours wore on, fewer poll watchers had the energy or interest to closely watch the ongoing count thus making election fraud more possible. If one assumes that automation of the counting process will proceed, these manual count issues will become mostly irrelevant. New challenges will emerge as election officials and the voting public become familiar with the new system.

Performance of BEIs and BOCs

The performance of BEIs and BOCs was inconsistent due to a poor training program, and their late recruitment also negatively impacted the quality of training they were able to receive. (See section: Training of BEIs and BOCs)

Performance of Watchers

PPCRV, while providing a great service in assisting voters to find their precincts, did not play an active role in observing polling activities. Neither domestic nor party observers, sitting apart from the BEI staff, provided sufficient oversight of the BEI's functions, though obvious mistakes occurred.

NAMFREL provided domestic observers to follow the counting and canvassing process. The sheer numbers of NAMFREL observers was quite impressive. The dropout rate increased, however, as the canvassing wore on from days to weeks.

Party watchers served in their capacity during the counting process, but did not carry out any other observer functions, such as monitoring the BEI's knowledge of procedures during the counting. Their sole interest was in gathering the data and reporting back to their headquarters. Thus, political party watchers cannot be relied upon to carry out diverse observation functions without an intensive effort at education and training.

Return of Sensitive Materials

As with the uncontrolled entry of voters into precincts during polling, the return of sensitive election material to election offices from precincts following the completion of the count was chaotic. EOs did not have a documented process for the check-in of election material. An uncontrolled check-in process presents opportunities for election fraud. The role of the City Treasury Office in the storage and handover of sensitive materials, without oversight by the election officer or representative from the local COMELEC office, raised some questions regarding the security of documents and integrity of the vote.

Inter-agency Coordination

Had it not been for local solutions applied by local election stakeholders, the 2004 Philippine Elections would have been highly problematic. The role of the election officers, the city treasurer, Barangay captains and local civil society actors was critical in averting situations whereby voters could not find their precincts or names on the voters' list. In many communities, alliances were formed among the election stakeholders in order to prevent violence. These included media, the PNP and the Armed Forces of the Philippines (AFP), as well as the other actors listed above.

Evaluation

Election officers are placed under heavy pressure on Election Day both by the systems used by COMELEC and by a lack of support, sufficiently documented procedures, or a structured training program. COMELEC did not conduct a thorough debriefing following the completion of the election process, missing an opportunity to identify failures and recognize best practices. Some senior field staff did independently organize their own debriefings, but this is a project that COMELEC needs to implement on a systematic and nationwide basis.

Conclusions

The procedures related to Election Day, counting, and canvassing were less than optimal. Inefficient procedures extended polling and counting well beyond 24 hours. This affected the ability of officials and observers to carry out their duties and to be vigilant against fraud. COMELEC would benefit from a close examination of these voting procedures in the likelihood that automation plans move forward, in order to avoid making similar mistakes in future elections. Special care needs to be taken in regard to the procedures and implementation of safeguards. If they are ineffective, they will lose their usefulness and undermine the credibility of the entire process.

Recommendations

- Detailed but user-friendly procedural manuals are needed during all phases of polling and counting. (See section: Training of BEIs and BOCs).
- Voters must have an opportunity to check that they are on the voters' list prior to the election. This could be done by ensuring that Voter Information Sheets are distributed uniformly and by prominently displaying alphabetical listings of voters outside their designated precinct.
- Transparency of the election results must be ensured by public display of one copy of the election return outside the precinct door and on the Internet to make the results of voting immediately available to local residents, candidates, and the media. This would provide an additional means of checking the validity of reported results.
- Election officials must be given a realistic amount of travel and preparation time to arrange the difficult logistics involved in transporting materials.
- The current process for counting votes, after polling closes at 15:00 hours on Election Day, should be replaced before the next election. The replacement of this process goes hand in hand with the replacement of the vote canvassing process that follows vote counting.
- COMELEC should continue to move to an electronic count of ballots, and amalgamation of precinct totals, so that the above issues are no longer relevant. Thus, results of the election would be declared within days of the close of polling. This can only assist with stability within the country during this time of volatility and uncertainty.
- Extensive voter education of the public and other stakeholders involved in the election process must be undertaken prior to the introduction of an electronic counting system so that confidence in the system is established prior to its use at election time.
- A system should be implemented which allows precinct election staff returning with sensitive material to be served in the order in which they arrived at the check-in center, while all others wait in a designated area until it is their turn. A numbering system could be used for this process.
- Observers, both domestic and party, need to be better trained by their respective organizations to observe procedural duties of BEIs and BOCs in order to properly serve as a check against mistakes committed by election staff.

7. Post-election Issues

Canvassing

There are significant electoral safeguards built into the current canvassing process. It is heavily observed by substantial numbers of party, candidate, and NGO "watchers". As many as seven official copies of each Certificate of Canvass (CoC) are produced, and widely distributed. There is a parallel tabulation, historically conducted by NAMFREL. Further safeguards would be unlikely to add value.

Despite these safeguards, the process suffers from a perception of vulnerability to fraud.

Recommendations

- The process is administratively complex, and suffers from a perception of vulnerability to fraud. Automation, which would help cure these problems, should therefore be implemented as a priority.

- In the event that the process is not automated -
 - o It could be streamlined, and simplified. Votes for national level races, for example, need not be canvassed at the municipal level.
 - o Training should be improved.
 - o The administration must develop capacity to manage the count and tabulation, without having to mandate the participation of teachers and others.
 - o Rules limiting the presence of security personnel at the canvass should be more evenly enforced.

The Congressional Canvass

Congress, sitting jointly, is mandated by the Constitution to canvass the votes for president and vice-president. In 2004, it took over three weeks to tabulate approximately 180 certificates of canvass. The discussion was highly politicized, rancorous, and partisan.

Throughout the canvass, discussions focused on two points:

- The minority accused the majority of covering up massive fraud by refusing to allow the canvassing committee to “pierce the veil” of the CoCs and scrutinize precinct and municipal level returns.
- The minority accused the majority of using the “tyranny of the majority” to “railroad” the canvass.

According to Philippine law, a canvassing body is generally restricted to examining the documents in front of it. Unless there is evidence of tampering, the CoCs should be taken as valid. The minority argument, as far as it was consistent, was not that CoCs were manifestly flawed. Instead, they sought to look behind CoCs as a general procedure to “root out the truth.” The minority was thus not on solid legal ground. In fact, accession to their demand might have risked a reprimand from the Supreme Court.

Formally, it cannot be denied that the opposition had the opportunity to make their case. They were allotted 1/3 of the seats on the joint canvassing committee, despite having less than 1/5 of the total joint congressional seats; the debates in the committee were so lengthy and protracted that they frustrated the entire country. A canvass that could have taken hours took more than three weeks. However, the right to be heard is not purely about form. In the end, the canvass was so highly politicized that neither side appeared to be listening to the other.

Recommendations

- Congress must pay much greater attention to the ministerial nature of their canvassing duties. Although elected representatives cannot be expected to act completely without political color, the highly partisan discussions that characterized this electoral cycle risked betraying the public trust. Neither was the country well served by the needlessly protracted length of the canvass.
- Congress should create a standing set of rules for its canvassing responsibilities. The rules should reflect the ministerial and non-partisan nature of the canvass. The rules should be passed well before the next election cycle. This will help ensure a less partisan approach, and will leave sufficient time for any court challenges.
- In the event that aspects of the congressional canvass are again delegated to a committee, membership should be broadened to include representatives elected under the party list system.

- In the event of a review of the current Constitution, consideration should be given to terminating the practice of canvassing by Congress. The count and tabulation process should be the sole responsibility of the election administration and should, for reasons noted above, eventually be fully automated. Congress could retain the right of proclamation.

Preliminary Election Results

The failure of Phase 3 of the modernization program resulted in a lack of a reliable and fast way to conduct an internal audit of the vote count. With the breakdown of the NAMFREL parallel vote count²¹ and the slow, manual canvassing process, a COMELEC internal quick count could have played a significant role in providing transparency and building trust among the public during the weeks of uncertainty and allegations after the elections. COMELEC should be supported in future efforts to fully implement this program, regardless of the existence of third party parallel vote tabulation programs.

Both COMELEC and NAMFREL have a responsibility to build capacity for transparency in the counting process and releasing of results. Philippines should adopt international practice and allow for preliminary results to be released by COMELEC, provided that it does not replace third party validation. By acting as a check on COMELEC, third party validation increases transparency and confidence in the results by both candidates and voters. It is increased transparency, and not automation, that will restore credibility to the election results.

Full implementation of automation would provide the opportunity to transfer precinct level results to COMELEC for data entry through the canvassing chain. Even without direct transmission, results could still be transferred effectively as CDs to the COMELEC HQ. Precinct results could then be made public on the COMELEC website, thus ensuring a full and public disclosure of precinct level results. Automation without third party validation or posting of precinct level results would create a system that is less transparent and more susceptible to organized fraud.

Recommendations

- Increase transparency in the release of preliminary results in both COMELEC's and NAMFREL's processes.
- Support parallel vote tabulation by a third party, regardless of whether or not automation is introduced, as it is essential for electoral credibility in Philippines.
- NAMFREL should review and strengthen its methodology in order to provide more effective parallel vote tabulation for future elections.
- COMELEC must increase transparency by publicly releasing preliminary results down to the precinct level as soon as they are transmitted.

Complaints, Adjudication, and Sanctions

There are three broad categories of so called "election cases": Pre-proclamation complaints, which deal largely with complaints during canvassing; election contests, which deal with challenges to the proclaimed result; and election offenses, which are violations of the Omnibus Election Code, subsequent laws, and COMELEC resolutions. In the Philippines, election offenses are at the same time criminal offenses.

Pre-proclamation Cases

Pre-proclamation cases arise, as the name suggests, prior to proclamation during the "canvass", or count and tabulation phases. All complaints are under COMELEC jurisdiction. Most cases are decided summarily by BEIs and canvassing boards. Once proclamation takes place, all outstanding cases or appeals are automatically dismissed. The complainant's recourse is to file an election protest. Pre-

proclamation cases cannot be filed concerning the canvassing, at any level, of returns for House, Senate, VP, and presidential races.²²

There is logic behind the efforts to limit the scope of pre-proclamation protests. There is clear public interest in ensuring the count and tabulation is expeditious and non-litigious. Claims of fraud are best heard in front of tribunals, not canvassing bodies.

Election Contests

Election contests are cases brought after proclamation. There are two types: election protests, which challenge the results, and “*quo warranto*” cases, which challenge the winner’s eligibility or qualifications to take up office.

The process is complex and multi-layered. Disputes concerning Barangay and municipal offices are heard by municipal²³ and regional²⁴ trial courts. Appeals may be brought to COMELEC. Disputes concerning regional, provincial, and city offices are heard by COMELEC. Disputes concerning elections for the House of Representatives and the Senate are heard by special tribunals set up for this purpose: The House of Representatives Election Tribunal (HRET) and the Senate Electoral Tribunal (SET). The Supreme Court, sitting *en banc*, hears disputes concerning the presidential or vice presidential races. Decisions made by COMELEC or the House and Senate Election Tribunals may be appealed to the Supreme Court, but only on *certiorari*.²⁵ The Supreme Court’s decision concerning presidential or vice-presidential races is final.

Case resolution is notoriously slow. A recent case is illustrative. On 11 June 2004, Noel Carino was sworn in as a congressman, following conclusion of his protest of 2001 election results. His term in office, not including any duties related to canvassing, was less than one day. Although accurate data was difficult to obtain from COMELEC, it seems it was unable to resolve one-third²⁶ of its 2001 election protests before holding subsequent elections in 2004.

There are many factors that contribute to delays:

- There is great mistrust in the electoral system, which leads to excessive litigation. There is insufficient value placed on political competition, and too much value on winning at all costs. Many complaints are insincere and are intended to save face, or as a campaigning tactic for the next elections.
- There are very high numbers of complaints; for example, in both the 1998 and 2001 elections, protests were filed for more than 20% of the total seats in the House of Representatives. Complaints and adjudication bodies are overwhelmed by heavy caseloads.
- Procedures are generally oriented more toward protecting due process than bringing finality to an election cycle.
- There are few if any mechanisms to prevent the filing of frivolous claims. For example, a complainant does not have to adduce evidence of malfeasance to initiate a claim; nor does s/he have to show that the alleged problems materially affected the outcome.
- A recount of the ballots, the most tedious and time consuming of the procedures, does not require prior evidence that the claim is meritorious.²⁷
- Legislative deadlines are often ignored.
- Parties often deliberately delay proceedings, by such tactics as rescheduling hearings or filing numerous motions. Sometimes the delaying party is the incumbent, but just as often it is a challenger who is not so much contesting the outcome as “campaigning” for the next elections.

- COMELEC is burdened with original and appellate jurisdiction. This means it must conduct full trials in addition to ruling on important points of law and disposing of appeals. This is costly and time consuming.
- The Philippine court system is already overburdened and under-resourced, particularly in some rural areas. Courts are not directed to prioritize elections cases.

Election Offenses

Election offense cases deal with violations of the electoral laws and COMELEC resolutions. There are hundreds of offenses, covering all aspects of the process. More obscure examples include holding a cockfight on Election Day, illegally releasing prisoners immediately before and after the election, deliberate blurring of fingerprints during registration, and failure to clear the canvassing table of unnecessary writing paraphernalia.

Every election offense is at the same time a criminal offense. Penalties are strict; any person found guilty will be imprisoned for not less than one year and not more than six years. Probation is prohibited. Any offender, regardless of the nature of the offense, is disqualified from holding public office, and deprived of the right to vote. Parties are subject to mandatory fines of between 100,000 and 500,000 pesos.

The intertwining of criminal and electoral laws can create complicated issues of procedure and jurisdiction that delay case resolution or create confusion among election participants.

Enforcement Issues

There is a general perception that electoral laws are not enforced and that violators go unpunished. It is extremely difficult to test this hypothesis, as accurate baseline data is not readily available. It seems likely that very many violations are not prosecuted. Some argue that this creates an atmosphere of impunity. Others, including representatives of teachers and other mandatory participants, argue that the law is too strict and exposes honest mistakes to criminal sanctions.

There is no doubt that fines and penalties are harsh as compared to other jurisdictions. There are obvious questions as to whether such penalties are proportionate, and whether in certain circumstances they may inhibit, rather than encourage, prosecution. For example, many would be reluctant to send a poll worker to jail for failing to post the voters' list in the correct location, or to disqualify a senator for wrongly placing a poster.

Recommendations

General

- COMELEC, the courts, and election tribunals should keep accurate centralized records concerning election cases, and ensure that they are publicly accessible, preferably on the Internet. At a minimum, details should include the number of cases filed, pending, and resolved, as well as publication of all decisions. This will increase public confidence and accountability, and allow lawmakers and administrators to assess the system based on fact, rather than anecdotes. The HRET "Accomplishment Report 1998-2001" and a recent report of the SET are commendable in this regard.
- Measures should be taken to ensure that all adjudicative bodies, especially those with initial trial jurisdiction, will prioritize election cases, and have sufficient resources to do so. Legal provisions mandating courts to undertake a preferential disposition of election cases should be more strictly enforced.

- Automation of the results and tabulation phases will drastically reduce the number of protests. Consideration should be given, particularly in the context of automation, to completely doing away with pre-proclamation protests.
- Ways should be examined to streamline and consolidate jurisdiction for dispute resolution. At minimum, COMELEC should be relieved of initial (trial) jurisdiction. Local or regional courts could take on a greater share of electoral cases. The idea of a specific “electoral court” could be considered. The HRET and SET should be comprised of independent commissioners appointed for a fixed term. Some of these proposals would require constitutional change.
- Civic education programs should emphasize the importance in a democracy of fair political competition and acceptance of election results.

Election Protests

The manifest failure of the Philippine system to resolve election protests in a timely fashion undermines its credibility. It also allows ample scope for attacks on its impartiality and effectiveness, based on the premise that “justice delayed is justice denied”. This serious problem must be addressed with resolve in the context of the electoral reform agenda. Some suggestions for discussion include:

- Overall streamlining to ensure more summary proceedings and less stringent procedural rules.
- Measures to penalize or discourage frivolous complainants, including placing on the claimant the burden of demonstrating that there is some cogent evidence to support his claim and that proof of his/her case will materially effect the outcome; and greater use of penalties or costs against complainants and lawyers who delay unnecessarily or bring frivolous cases.
- Stricter adherence to deadlines.

Election Offenses

- A greater range of sanctions should be developed to ensure tribunals apply penalties that are proportional to the offense. This could include fines, loss of media access, campaign restrictions, and public apologies.
- De-link, as far as possible, electoral and criminal law. Electoral offenses should carry electoral penalties, and be decided summarily according to non-criminal standards of proof. Criminal acts may occur in the context of elections, but should be dealt with exclusively by the criminal justice system. COMELEC should limit its direct involvement in criminal prosecutions and rely more heavily on the Department of Justice.
- Although the law may grant the president partial or full immunity from criminal process, immunity from application of the electoral law should not be allowed in any circumstances. Any precedent to this effect, even if theoretical, must be specifically amended or overruled.

Election-related Violence

The security situation in the Philippines is a complex one, comprising so-called “terrorist” organizations²⁸, a long-standing communist insurgency, private armies,²⁹ and deep-rooted local clan conflicts. The communist insurgency group known as the New People’s Army (NPA) operates throughout the Philippines and was especially active during the election period. The NPA requires “permits to campaign,” or PTCs, for candidates who wish to campaign in their areas of operation. Refusals to pay for these documents have resulted in violent retributions. In addition, there is concern in some quarters that portions of the military would choose to intervene in the electoral process, as in 2003 when they mounted an attempted coup.

Conducting an election in such an environment holds many challenges for the security forces, COMELEC officials, political parties and candidates, civil society organizations, and the media.

COMELEC's Role

The Constitution explicitly empowers COMELEC to “deputize with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful and credible elections.” In order to maintain security, COMELEC worked closely with the PNP and AFP to identify “hotspots.”³⁰ Criteria for a hotspot include the presence of the NPA, intense political rivalry, and a history of violence. In these areas, COMELEC has the power to take control over the police and military and in extreme cases implement “martial law”-style supervision.

There is some concern about COMELEC’s ability to effectively carry out the extensive security responsibilities with which it is charged. At the same time, COMELEC has been accused of abusing its authority to place areas under COMELEC control, or conversely to lift COMELEC control at the last minute, in order to allow cheating to occur³¹. This general mistrust of COMELEC contributes to local tensions, thus creating an atmosphere that is more conducive to election-related intimidation and violence. Observers refer to both incompetence and fear on the part of the election officer as a contributing factor in cases where insecurity exists at the local level.

Violence-related Issues

Electoral violence and intimidation can influence the perception of the fairness of elections. While election violence can be quantifiable in terms of the number of election-related deaths or incidents, the effects of less tangible means of coercion, intimidation, and harassment can be more difficult to measure.

In comparison to the 2001 elections, there were fewer overall instances of election-related violence. There were, however, more casualties in 2004, including a higher number of candidates. More hotspots were declared this year than in 2001, with more areas coming under COMELEC control than in the past. One possible conclusion could be that acts of election-related violence have become more targeted and less random.

Differences in national, regional, and local conditions must also be taken into consideration when discussing election-related violence in the Philippines.³² Much of the violence that took place during this year’s election period occurred in relation to local level races. The PNP has announced publicly that it is in favor of desynchronizing local and national elections, arguing that they would be able to provide better protection for all the candidates running for office and their supporters.

The pre-election period saw much more violence than Election Day and the post-election period. Election Day was considered to be relatively calm and peaceful and cited as a major success by both the PNP and COMELEC. In some precincts, however, it is regularly alleged that actual polling does not take place at all, while local leaders simply fill out ballots on behalf of the area’s residents. The security situation in other precincts prevented polling from taking place, both on Election Day and on later dates when delayed elections were rescheduled. At the same time, it is generally acknowledged that election-related intimidation occurs in isolated Barangays, where Barangay captains exercise control over the population³³.

In some areas, election stakeholders worked together in order to mitigate election-related violence. In Albay Province for example, COMELEC, NAMFREL, PPCRV, PNP, DepEd, local government, and the media established an inter-agency coordination group. Regular meetings throughout the pre-election period built trust and confidence among the various agencies. On Election Day, these organizations were able to effectively assist each other in ensuring a problem-free implementation of the elections. In areas where the PNP did not have coverage, representatives of civil society or the media were able to communicate potential problems, giving the PNP more time to react in order to avoid a violent incident.

Similar coordination occurred in Taguig municipality in the NCR, where - just prior to Election Day - issues were raised concerning the impartiality of the election officer vis-à-vis selection of BEI and BOC members. DepEd worked in coordination with COMELEC, the PNP, and other agencies in order to fix this problem, preventing an explosive situation on Election Day. This type of inter-agency coordination has proven to be a simple, yet effective means of mitigating violence during the election period and should be held up as a best practice for other areas still struggling with election-related security issues.³⁴

Recommendations

- Commission an independent review of the roles of the COMELEC, PNP, and AFP in providing security for election-related activities to ensure transparency and build confidence in these organizations.
- Hold political parties responsible for acts of violence directed at rival parties and candidates.
- Aggressively prosecute all electoral-related crime through a speedier adjudication process.
- Support the passage of the Anti-Dynasty Law.
- Support local interagency task forces that work to ensure violence-free implementation of election activities in their area.
- Civil society should support alternative dispute resolution mechanisms to prevent violence.
- Civil society should design voter education programs to raise awareness about the value of each individual vote to decrease instances of vote buying and other forms of coercion.
- COMELEC should revise polling procedures in order to better ensure the secrecy of the vote, thereby minimizing the effectiveness of vote buying and intimidation on voter choice.

Cheating: Perception and Reality

The Philippine elections are marred by allegations of cheating and fraud. This fundamentally undermines not only the credibility of election administration, but also the legitimacy of the elected institutions of the state. This report has touched upon alleged cheating throughout. This section will specifically focus on the phenomenon, recognizing that cheating, or the perception of it, has taken on a life of its own and is a grave threat to Philippine democracy.

The electoral laws and subsequent COMELEC resolutions contain a plethora of safeguards against cheating. In fact, Philippine elections are among the most closely guarded in the world. Despite this, cheating does take place. The challenge is to accurately assess the real scope of the problem, by sorting out actual malfeasance from rumor and allegation.

The first challenge is definitional. The terms “fraud” and “cheating” are incorrectly used to describe anything from honest mistakes to deliberate fraud. The terms are liberally applied to election irregularities, election fraud, and election offenses. It is therefore useful to examine specific categories in greater detail, and safeguards employed against them.

Categories of Alleged Fraud and Safeguards

Misuse of Public Funds

It is accepted electoral practice that candidates cannot use state resources to further their electoral ambitions. A number of challenges were brought to COMELEC in 2004 alleging that incumbent

President Arroyo used state resources for her campaign.³⁵ (See attached Annex VI: Misuse of State Resources and Abuse of Office on the Part of the President)

General safeguards, aimed at uncovering violations after the fact, include campaign finance rules, spending limits, and mandatory audits. In the Philippines, the Ombudsman is entrusted with prosecution of anti-graft laws. This type of fraud is difficult to guard against. Effective campaign finance laws are not in place, and the legal lines between acts of governance and acts designed solely to win votes are blurry. *The system's vulnerability to fraud of this type is assessed to be high. The threat of non-localized occurrence is also assessed as high.*

Incomplete Reporting of Campaign Finances

It is generally acknowledged that parties and candidates do not submit complete information with their campaign finance reports. Even if the information was accurately reported, there is no efficient mechanism for making it transparent to the public. A campaign finance expert should more closely scrutinize this topic in order to recommend more effective means of controlling financial contributions and expenditures of political parties and candidates during the election period in the Philippines. *The system's vulnerability to fraud of this type is assessed to be high. The threat of non-localized occurrence is also assessed as high.*

Vote Buying

Vote buying is alleged to be widespread, and can take many forms. Votes can be purchased either directly from individuals or from entire groups, by offering cash and/or other direct incentives. An interesting variant is "reverse-vote-buying" where politicians pay voters, known to be supporters of their opponents, for not voting. In some cases, this is alleged to include inking the voter's finger the evening prior to Election Day to prevent legal voting. Some allege that paying of "watchers" can be a sophisticated form of vote buying.

No technical safeguard can be put in place to prevent vote buying. Current Philippine law criminalizes any kind of financial compensation in exchange for a vote. It is more difficult to detect and stop in economically depressed areas. *The system's vulnerability to fraud of this type is assessed to be high. The threat of non-localized occurrence is assessed as high.*

Voters' List Inflation

Allegations persist that voters' lists are artificially inflated by double registration and registration of non-existent or deceased voters. There are even allegations of entire ghost precincts. List inflation allows the casting of votes by ineligible or multiple voters that impersonate those whose names have been added.

Technical safeguards include:

- Inking of voters to prevent multiple voting.
- Display and distribution of the voters' list prior to elections for complaints and challenges.³⁶
- The newly introduced validation system where biometric data is captured to identify double registrants and the distribution of Voter ID cards to ease identification when polling.³⁷
- The presence of a COMELEC civil servant who knows the community and, if trustworthy, should be able to identify major discrepancies.

Multiple-registration is not in itself a fatal error. Virtually every voters' list in the world has multiple and deceased registrants. The issue is whether this is exploited to conduct multiple voting. Therefore if measures to prevent multiple voting (e.g. inking, thumb printing, watchers) are enforced, the threat posed by multiple registration is limited. *The system's vulnerability to multiple registration is assessed to be*

high. The threat of double voting as a result of multiple registration is assessed to be moderate. The probability of non-localized occurrence is assessed as low.

Stuffing of Ballot Boxes with Extra or Manipulated Ballots

Safeguards include:

- Controlled distribution of ballots.
- Security ballot with features difficult to counterfeit.
- Reconciliation of the number of ballots, prior to the start of the vote count, with the voters' list.
- Comprehensive observation of polling by watchers.

With such an array of safeguards, actual ballot stuffing would be easy to detect. It would likely require collusion among the electoral bodies, participants, and political party/NGO watchers. This could occur in certain rural areas, or areas where clan mentality is strong, but is highly unlikely on a wide scale. *The system's vulnerability to ballot stuffing is assessed to be low. The probability of non-localized occurrence is assessed as low.*

"Dag-dag Bawas"

IFES heard allegations that "shaving and padding" of the results takes place at all levels of count and tabulation from the precinct through the municipal, provincial, and national canvasses.

Safeguards include:

- Controls in the selection of BEIs and BOCs.
- Presence of party and civil society "watchers" at all levels.
- Stringent execution requirements for Certificates of Canvass.
- Widely disseminated copies of CoCs and returns.
- Reasonably effective dispute resolution mechanisms.
- Parallel tabulation.

Thus at every level counting and tabulation happens in a transparent manner observed closely by watchers from civil society and political entities; at every level copies of result and tabulation documentation are shared with parties and civil society providing an audit trail for the key stakeholders. Changes or alterations on the SOVs or CoCs should be easily detected by comparing with other official copies. Unofficial results that can be compared with official tallies are widely known, at least to participants, very quickly after the election. A parallel vote tabulation acts as an "audit" on the official results.

Note that COMELEC's main strategy against this (real or alleged) phenomenon is automated counting and canvassing which would prevent human intervention and still leave a comprehensive written audit trail behind. The Supreme Court barred automation from implementation in 2004 due to tendering irregularities. *The system's vulnerability to dag-dag bawas is assessed to be low. The probability of non-localized occurrence is assessed as low.*

Replacement of the Formal Results and Canvass Documentation by Counterfeit Material

This allegation refers to results forms switched somewhere in the chain of custody and replaced by counterfeit forms.

Safeguards include:

- See “dag-dag bawas” above; in particular, validity can be verified by comparison with other official copies and records of watchers.
- Controlled distribution of, and some security features in, the Certificate of Canvass.

COMELEC's main strategy against this (real or alleged) problem is electronic results transmission. Precinct results would be sent directly to COMELEC immediately after counting, enabling COMELEC to identify any irregularities or fraud in tabulated Certificates of Canvass. The Supreme Court barred automation from implementation in 2004 due to tendering irregularities. *The system's vulnerability to fraudulent replacement of results and canvass documentation is assessed to be low. The probability of non-localized occurrence is assessed as low.*

Collusion

Following the 2004 elections, the opposition accused the incumbent of organizing massive orchestrated fraud in all phases, including during balloting, the count, tabulation, and canvassing. It is clear from the above analysis that such large-scale fraud would require widespread collusion, including of COMELEC, NAMFREL, and even the watchers. If one assesses such orchestrated collusion as unlikely, then one must also conclude that many of the post election fraud claims were also unlikely.

Past Elections

One of the few objective measures in adjudicating fraud is the success rate of cases brought to electoral tribunals. The question is how many elections were overturned after the ballots were recounted? In the HRET, 50 protests were filed in 1998, and 43 in 2001. In the majority of the cases, although by no means all, the claimant protested the result on the basis of cheating and fraud. Only two proclamations were overturned.

Real vs. Perceived Fraud

Regardless of the actual level, the perception of fraud is unacceptably high. Some reasons include:

- Candidates and supporters use any means available to pursue victory or, even if they lose a race, the perception of victory. Some will even plant the seeds during the campaign in order to protest the result should it go against them. “Losing face” and admitting defeat is, in most cases, not considered a viable option.
- The value of a loyal and constructive opposition is not ingrained in the political culture.
- These allegations are readily communicated, without much critical journalism, by the media leaving the impression that the electoral system is incapable of producing a credible process and result.
- There is lack of transparency in the electoral process and absence of an effective third party validation of results.

COMELEC is the institution responsible for delivering credible elections, and thus bears the brunt of accusations. COMELEC is clearly disadvantaged by the “I-was-cheated” phenomenon. However,

COMELEC is not without responsibility for the difficulties it has maintaining a trustworthy image in the public. The reasons for this are discussed in Chapter 4.

It is impossible to measure the degree of actual fraud in the 2004 elections. It is our belief that fraud, particularly vote buying and selling, was indeed committed and may have influenced some lower level races (such as mayoral races) where the contest was fierce and the number of votes needed to swing the result was limited and isolated.

The cheating phenomenon has become a devastating hindrance for elections in the Philippines. The credibility of an election depends on the public's trust in the process. If voters believe and are constantly told everyone "cheats" they will doubt the integrity of the event. The Philippine example proves the thesis that perception of fraud can damage an electoral process as much as actual fraud.

Recommendations

- One efficient way to prevent fraud is minimizing human intervention in the process with the use of automated counting and tabulation. All three modernization projects initiated by COMELEC were meant to provide such safeguards. Validation and capturing of bio data for the voter registry should prevent double registration. Automated counting and tabulation should have addressed fraud in the counting and canvassing process. Last but not least, electronic transmission of the result directly from the count should give COMELEC a better basis to audit canvassing.

Constitutional Amendment

There is considerable discussion about changing the Constitution³⁸ in the forthcoming congressional term. The president is on record as supporting such an initiative. Constitutional change would provide the opportunity to introduce a number of broad electoral reforms. These might include:

- De-synchronize elections. Holding the national level elections at a time different from provincial and local elections would decrease the burden on the election administration and reduce violence. It would, however, mean increased expenses for an already hard-pressed national budget.
- Do away with the requirement that Congress canvass presidential and vice presidential votes. Count and tabulation should be the responsibility of the election administration.
- Rationalize and simplify the duties and responsibilities of COMELEC. Election administration should be its primary task. Judicial functions should be devolved to the judicial branch and executive functions that are not central to election administration should be devolved to the executive branch. Consideration should be given to creation of a Special Electoral Tribunal.
- Reform the appointment process for COMELEC commissioners to ensure there is broader consultation on - and closer scrutiny of - prospective candidates. The process should be aimed at maximizing competence and integrity while minimizing the perception or reality of political bias.
- Restructure the composition of the HRET and SET. Having members of Congress judge their political opponents and allies exposes the process to real or perceived bias. Members of the two bodies should be judges or other qualified experts. They must either be full time appointees or at least be able to devote sufficient time to ensure cases are resolved expeditiously. Consideration could be given to merging the tribunals, possibly with a Special Electoral Tribunal.
- Ensure that any initiative to change the Constitution is transparent and above suspicion. It should maximize national consensus on substance and public trust in the process. Therefore, it may not be desirable for Congress alone to propose amendments. A constitutional convention, which

would maximize consultation among all stakeholders, is preferable, up to and including a public plebiscite.

- Provide COMELEC with sufficient resources in a timely fashion to ensure an open, transparent and efficiently managed vote in the event of a public plebiscite.

Of course, reformers must be judicious, especially concerning COMELEC. The intent of the framers of the current Constitution was to completely shield the electoral process from political interference. In doing so, they may have inadvertently placed an unmanageable burden on COMELEC, and placed it beyond reasonable oversight. A constitutional review is an opportunity to correct imbalances. There is a thin line, however, between accountability and control. Care must be taken to ensure reforms are not at the cost of independence and impartiality. There is no “right” answer. Rather the Philippines must find the balance that best fits its needs at this moment in its history.

8. Summary Conclusion

The 2004 Philippine elections were characterized by serious administrative shortcomings brought about by failed automation plans, fiscal restraints, and poor management by the Election Commission. It was also characterized by significant violence and allegations of wide scale fraud. As in past elections, losing candidates refused to accept defeat gracefully, and the complex adjudication system will again be overburdened by complaints. At the same time, the process and the overwhelming majority of its participants showed resiliency and a commitment to democracy. There was substantial voter interest and turnout, significant mobilization of civil society and the public, and dedicated efforts by election officials in the field to deliver the franchise to a high turnout of voters.

The assessment must be placed in proper context. An ethnically and linguistically diverse archipelago, with economic challenges and a recent history of street revolution is not an easy place to deliver an election that meets the highest international standards. Nonetheless, the lesson of this poll is clear. Electoral reform is a necessary condition for further democratic development in the Philippines.

Annex I: List of Acronyms

AFP	Armed Forces of the Philippines
ARMM	Autonomous Region of Muslim Mindanao
AS	Abu Sayaff
BEI	Board of Election Inspectors
BOC	Board of Canvassers
CA	Court of Appeals
CEPPS	Consortium for Elections and Political Process Strengthening
CER	Consortium for Electoral Reform
CIC	Commissioner-in-Charge
COMELEC	Philippine Commission on Elections
CSER	Committee on Suffrage and Electoral Reforms
DepEd	Department of Education
EDP	Electronic Data Processing
EO	Election Officer
FPJ	Fernando Poe, Jr.
GI	COMELEC's <i>General Instructions</i>
GMA	Gloria Macapagal Arroyo
HOR	House of Representatives
HRET	House of Representatives Electoral Tribunal
IPER	Institute for Political and Electoral Reform
IRI	International Republican Institute
JI	Jemaah Islamiyah
K4	Koalisyon ng Katapatan at Karanasan sa Kinabukasan (Coalition of Faithfulness, Fidelity, Loyalty and Experience for the Future)
KBP	Philippine Broadcasters Association
KNP	Koalisyon ng Nagkakaisang Pilipino (Coalition of Uniting Filipinos)

Lakas CMD	Lakas (Strength/Power) Christian-Muslim Democrats
MILF	Moro Islamic Liberation Front
NAMFREL	National Citizens' Movement for Free Elections
NBC	National Board of Canvassers
NCR	National Capital Region
NDI	National Democratic Institute
NGO	Non-Governmental Organization
NPA	National People's Army
PES	Provincial Election Supervisor
PET	Presidential Electoral Tribunal
PIA	Philippine Information Agency
PLIS	Philippines Laws Information System
PNP	Philippine National Police
PPCRV	Parish Pastoral Center for Responsible Voting
RED	Regional Election Director
SC	Supreme Court
SET	Senate Electoral Tribunal
SWS	Social Weather Station
ToT	Training of Trainers
USAID	United States Agency for International Development
VSAT	Very Small Aperture Terminal
VVS	Voter Validation System

Annex II: Biographies

Peter Erben is a Senior Advisor at the IFES. Since the mid-nineties he has worked as an international consultant specializing in the management of complex electoral processes, primarily within emerging and transitional democracies. Mr. Erben has been engaged as the Senior Advisor on the electoral process in the Philippines and the Palestinian Territories. He was recently the Chief Electoral Officer in charge of the Kosovo election administration and has also participated in the management of elections in Bosnia and Herzegovina. Mr. Erben has worked in senior roles on electoral missions to a number of countries including East Timor, Afghanistan, Pakistan and Nepal.

Beverly Hagerdon Thakur is a consultant with a versatile background in election administration, civil society development, and project management. Ms. Hagerdon Thakur spent six years working in Bosnia and Herzegovina, first as an election expert with the Organization for Security and Cooperation in Europe (OSCE) and later as Chief of Party for IFES. Her main achievement was the establishment of the Association of Election Officials in Bosnia and Herzegovina (AEOBiH), a self-sustainable NGO working to promote democratic elections while raising the level of professionalism of election administrators. Most recently, she was involved in developing and implementing the IFES poll-worker training program for the 2003 elections in Azerbaijan. Ms. Hagerdon Thakur holds a Master of Arts degree from the Elliott School of International Affairs at the George Washington University, and a Bachelor of Arts degree in Government from Dartmouth College.

Craig Jenness is a Canadian lawyer with extensive international experience in preventative diplomacy, elections management, and human rights. His appointments include Director of Human Rights, OSCE Mission to Bosnia and Herzegovina (BiH); Deputy Head of the OSCE Mission in Kosovo; and Head of the OSCE Mission to Skopje. His elections experience includes appointments as deputy chairman of the BiH and Kosovo Election Commissions, and head of the BiH National Election Results Implementation Committee. He recently headed the OSCE/ODIHR Election Observation Mission to Georgia.

Ian Smith is a Canadian elections consultant specializing in reviewing and developing training and capacity building programs for electoral management bodies of post-conflict and transitional democracies. Mr. Smith holds degrees in International Development, Refugee Studies and Education. Prior to the Philippines, Mr. Smith was employed as an election expert to the OSCE Mission to Georgia. He was recently the Head of Training and Capacity Building for the OSCE Mission in Kosovo and has worked in support of the management of the first post-conflict elections organized in East Timor, Mozambique, and Bosnia and Herzegovina.

Annex III: List of IFES Contacts

ORGANIZATION/ AFFILIATION	NAME	POSITION
PHILIPPINE COMMISSION ON ELECTIONS (COMELEC)	Resurreccion Borra	Commissioner
	Manuel A. Barcelona, Jr.	Commissioner
	Rufino S.B. Javier	Commissioner
	Mehol K. Sadain	Commissioner
	Florentino A. Tuason Jr.	Commissioner
	Mehol Sadain	Commissioner
	Virgilio Garcellano	Commissioner
	Mamasapunod M. Aguam	Executive Director
	Pio Jose S. Joson	Deputy Executive Director for Operations
	Atty. Esmeralda Ladra	Director for NCR
	Atty. Jonalyn Sebastian	Pasay City Dist. 1 Election Officer
	Armado Mallorca	Pasay City Dist. 2 Election Officer
	Dr. Rosalinda Tongco	Pasay City School Superintendent
	Atty. Malou Ugalino	Makati City Dist. 1 Election Officer (EO)
	Dulce Cruz	Acting Makati City Treasurer
	Tata Morales	Makati City Treasury Liaison Officer
	Atty. Urbano Arlando	Palawan Provincial Director
		Puerto Princesa City COMELEC staff
	Editha Trinidad	Election Officer of Calapan, Oriental Mindoro
	Juanito O. Icaro	Regional Director for Region IV
	Ronald Renitz V. Ilas	Batangas Provincial Election Supervisor
	Ricky Juan B. Reyes	Election Officer of Lipa City, Batangas

PHILIPPINE COMMISSION ON ELECTIONS (COMELEC) (CONTD.)	Walter B. Bautista	Election Officer, Municipality of Bauan
	Juan B. Aguila Jr.	Election Officer, Batangas City
	Gloria G. Ramos	Executive Assistant IV, COMELEC Ibaan, Batangas
	Atty. Zacarias C. Zaragoza, Jr.	Regional Director for Region V
	Ma. Sonia Fernandez-Mabelin	Acting Provincial Election Supervisor, Province of Albay
		Provincial Election Supervisor, Province of Masbate
		Election Officer, Legazpi City
	Ms. Luallah Elisa Pama	Chair, Alliance of Concerned Employees of COMELEC
ELECTION MONITORING GROUPS	Jose Concepcion Jr.	NAMFREL National Chair
	Guillermo Luz	NAMFREL Executive Secretary
	Wilfredo L. Bleza	NAMFREL Regional Coordinator for Southern Luzon
	Teresa "Tess" Cantillo-Briam	NAMFREL Provincial Chair, Palawan
	Cynthia Castaneda	NAMFREL Volunteer (Partner in CPA firm), Palawan
	Caryl Montales	NAMFREL Coordinator for Oriental Mindoro
	Fr. Jose Victor (Jovic) Lobrigo	Co-Chair, NAMFREL Albay
	Fr. J. Rodem Ramos	NAMFREL Batangas Provincial Co-Chair & PPCRV Provincial Coordinator
	Danilo V. Marquez	Batangas Provincial Coordinator , Parish Pastoral Council for Responsible Voting (PPCRV)
	Antonio delos Reyes	Director, Coalition for Honest, Orderly & Peaceful Elections (H.O.P.E.)
	Roberto Verzola	Statistician, Coalition for H.O.P.E.
ADVOCACY GROUPS/NGOS	Luie Tito F. Guia	Executive Committee Member, Consortium for Electoral Reforms (CER)

	Ramon Casiple	Chair, CER / Executive Director, Institute for Political and Electoral Reforms (IPER)
	Rebecca L. Malay	Director, Advocacy & Development Cooperation Office, Philippine Rural Reconstruction Movement (PRRM)
	Rev. Fr. Savino L. Bernardi, cs	Executive Secretary, Episcopal Commission for the Pastoral Care of Migrants & Itinerant People (ECPCMP)
OTHER PHILIPPINE GOVERNMENT AGENCIES	Chito Gascon	Department of Education (DepEd) Undersecretary for Legal Affairs & Head, DepEd Election Task Force
	Lambert Ramirez	DepEd Consultant of the Undersecretary for Legal Affairs
	Menita L. Magsino	Member, Board of Election Inspectors
	Dr. Florencia Domingo	Schools Superintendent, Mandaluyong City Division, Department of Education
	Alma Divina	Education Supervisor, Mandaluyong City Division, Department of Education
	Rita Riddle	Administrative Officer, Mandaluyong City Division, Department of Education
	SFA Delia Albert	Secretary, Department of Foreign Affairs (DFA)
	Catherine Paredes Maceda	DFA Vice-Chair, Overseas Absentee Voting (OAV) Secretariat
	Julia C. Heidemann	DFA Spokesperson
	Amb. Norberto R. Basilio	DFA Asst. Sec. of Foreign Affairs for Middle East and Africa
	Pat Rodolfo	DFA OAV Secretariat
	Ferdinand B. Cui Jr.	Presidential Management Staff Director (PMS), Macro economy & Political Affairs Office
	Ms. Magdalena "Dedeng" Mendoza	Director of Center for Governance, Development Academy of the Philippines
	Ms. Bing Pasaporte	Project Manager, Election Training of Center for Governance, Development Academy of the Philippines

OTHER PHILIPPINE GOVERNMENT AGENCIES (CONTD.)	Atty. Ritchie R. Regala	Legal Officer, Local Governance & Computer Security, Legal Department, Department of the Interior and Local Government (DILG), Region V
US GOVERNMENT	Lt. Col. Greg Sawyer	Army Attaché
	Andrew Mclearn	Political Officer
	Steven D. Edminster	USAID Economic Dev. & Governance, Governance Officer
	William E. Lucas	Political Counselor
	Paul C. O'Friel	First Secretary
	Ruth Urry	Media Officer
	Dr. Emmanuel Buendia	UNDP Portfolio Manager for Governance (Electoral Reforms)
	Dr. Steven Rood	Asia Foundation Representative / (Chief of Party)
PHILIPPINE CONGRESS	Sen. Edgardo J. Angara	Chair, Senate Committee on Suffrage & Electoral Reform / KNP Chair
	Cong. Jesli Lapus	Chair, House Committee on Suffrage & Electoral Reforms
	Debbie Garcia	Committee Secretary, Committee on Suffrage and Electoral Reforms, House of Representatives
	Carla Guia	Staff, House of Representatives Electoral Tribunal (HRET)
PHILIPPINE JUDICIARY	J. Jose Vitug	Chair, House Electoral Tribunal, Associate Justice of the Supreme Court
	CA J. Teresita Flores	CA Justice / former Election Commissioner

POLITICAL PARTIES/ CANDIDATES	Mike Romero	KNP Official
	Edward Hagedorn	Mayor, Puerto Princesa City
	Cecil Bayron	Vice Mayor, Puerto Princesa City
	Rebecca Labit	Councilor, Puerto Princesa City
		Councilor, Puerto Princesa City
		Provincial Administrator for Palawan
	Atty. Agustin Rocamora	City Administrator, Puerto Princesa City
	Adam Armada	Campaign Staff, Palawan gubernatorial candidate Cong. Sandoval
	Atty. Carlo Gomez	Campaign Manager, Palawan Vice-governor Dave Ponce de Leon
	Maj. Dionido (Ret.)	Campaign Manager, Palawan Vice-governor Dave Ponce de Leon
	Erin Mara Villa	Candidate for Mayor, San Teodoro, Oriental Mindoro
		Newly-elected vice-governor of Albay Province
	Ma. Lourdes A. Arcenas	Kagabya ni Glo, Davao City (Helping Hand of Gloria women's organization)
	Raul Montealto	Secretary General, Association of Barangay Councils (ABC), Lipa City
	Danilo D.G. Tobias	District IV Campaign Manager, LAKAS-CMD Batangas
	Bong Dipasupil	Executive Assistant of gubernatorial candidate Apacible, Koalisyon ng Nagkakaisang Pilipino (KNP) Batangas

PHILIPPINE NATIONAL POLICE	Chief Supt. Joel R. Goltiao	Director, PNP Public Information Office, PNP / Spokesperson
	P/S Supt. Rodolfo Y. Magtibay	Provincial Director, PNP Batangas
	P/Supt. Cedrick G. Train	Deputy Provincial Director, PNP Batangas / Chief, Operations and Plans Branch / Commander, Task Force Sta. Clara / Chief, Provincial Special Reaction Unit / Chief, Port Security Office
	Arnold Albis	P/Supt., PNP Albay Provincial PNP Office / Inter-Agency Task Force for Elections
		Deputy, Puerto Princesa City PNP
	Col. Voltaire Calzaro	Provincial Coordinator, Oriental Mindoro
MEDIA	Rouel Caralipio	Station Manager, DYPR - AM (Palawan Broadcasting Corp.)
		Publisher, The Island Sentinal Calapan, Oriental Mindoro
	Jonald Rayos	President, Batangas Press Club

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Annex V: Main Electoral Laws

The Omnibus Election Code (BP 881) – 1985 is the basic law on elections. It has been amended by the 1987 Constitution and the following laws:

The Electoral Reforms Law of 1987 (RA 6646) – 1987. This law was passed to govern the first elections under the 1987 Constitution. *Inter alia* it introduces reforms in canvassing, candidate eligibility, disqualification, election propaganda including common poster areas, watchers, election offenses including vote buying and vote selling.

Synchronized Elections Law (RA 7166) – 1992. This law synchronized the holding of national and local elections. Every three (3) years, elections are held for all seats in the House of Representatives, half of the twenty-four Senate seats, and all other levels of government except Barangays. The president and vice president are elected every 6 years, in accordance with the Constitution.

The Party List Law (RA 7941) - 1995. This law creates the legal framework for the 20% Proportional Representation Party List system mandated by Constitution. It sets a two percent (2%) threshold for each seat, and limits the number of available seats for each party, organization or coalition to three.

“Mindanao Automation” (RA 8046) – 1995. This law created the framework for the automation of elections in the Autonomous Region of Muslim Mindanao.

Voter’s Registration Act of 1996 (RA 8189) – 1996. This law provides for a general registration of voters, adopts a system of continuing registration, and establishes a permanent list of voters per precinct.

Electoral Modernization Act (RA 8436) – 1997. This law authorizes the use of automated systems in the May 11, 1998 national and local elections. It has not been implemented.

Fair Election Act (RA 9006) – 2001. This law was passed after the removal from office of President Joseph Estrada in 2001. It deals extensively with media conduct and access, and the use of public information by parties and candidates.

Act Providing for Synchronized Barangay and SK Elections (RA 9164) – 2002. This law foresees synchronization of Barangay elections with other municipal and local elections. It has not been implemented.

Overseas Voting Act (RA 9189) – 2003. This law was passed to implement the constitutional duty to ensure the rights of Filipinos living abroad to vote.

Annex VI: Misuse of State Resources and Abuse of Office of the President

The General Law

Although the campaign finance laws are admittedly wanting, there are a significant number of laws that outlaw misuse of state resources and abuse of office.

The Constitution

- provides that public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives. (Art XI s.1)
- creates an office of the Ombudsman that has sweeping powers to investigate and prosecute public officials who misappropriate public funds and/or abuse their office.

The Penal Code states that:

- ...any public officer, who by reason of the duties of his office is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially is guilty of the crime of misappropriation, or malversion. (Art. 217).

Other relevant acts include the Anti-Graft and Corrupt Practices Law (R.A. 3019), and the Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. 6713)

The Electoral Code

Misuse of state resources and abuse of office are also election offenses. The Omnibus Election Code provides:

Sec. 261. Prohibited Acts. - The following shall be guilty of an election offense:

- Use of public funds, money deposited in trust, equipment, facilities owned or controlled by the government for an election campaign. Any person who uses under any guise whatsoever, directly or indirectly;
- Public funds or money deposited with, or held in trust by, public financing institutions or by government offices, banks, or agencies;
- Any printing press, radio, or television station or audio-visual equipment operated by the government or by its divisions, sub-divisions, agencies or instrumentalities, including government-owned or controlled corporations, or by the Armed Forces of the Philippines; or
- Any equipment, vehicle, facility, apparatus, or paraphernalia owned by the government or by its political subdivisions, agencies including government-owned or controlled corporations, or by the Armed Forces of the Philippines for any election campaign or for any partisan political activity.

Breach of this and related provisions is grounds for disqualification of a candidate. Like all election offenses, it is also a crime, which carries a sentence of 1-6 years upon conviction.

Cases Alleging Misuse of State Resources

Prior to these elections, opponents filed a number of petitions to disqualify incumbent President Arroyo. Some alleged that she used resources from her office to bolster her candidacy.

- *Santiago vs. Arroyo* concerned the national roads program, commonly known as “Our street; our responsibility” program. The petitioner argued that the program, with pictures of the president on billboards and on street workers T-shirts, was electioneering and a misuse of state funds.
- *Gatmaytan and Co v. Arroyo* alleged that a presidential message ordered to be read at high school graduations was primarily designed to solicit votes and was thus an abuse of authority. It argues that only students who might be of voting age were targeted, and that the president had not sent an address in non-election years. The president claimed she was only responding to the numerous requests for personal addresses and appearances. She argued that the message was to be read at graduation or incorporated into yearbooks. She claimed similar messages were sent to primary schools.
- *Baybay III vs. Arroyo* questioned an executive order extending medical access, the program with the much commented-upon health cards bearing the president's photograph. The petitioner argued that the program was purely for the purposes of furthering Mrs. Arroyo's electoral aspirations. Ms. Arroyo responded that it was a long part of her administration's social security platform.

These cases were all dismissed by COMELEC in her favor, applying identical or similar reasoning:

A distinction must be drawn between acts of governance, which might incidentally benefit the chances for re-election, and campaigning, which is done intentionally or principally for the purpose of soliciting votes.

Not every act of beneficence from a candidate may be considered campaigning. The term campaigning should not be made to apply to every act which may influence a person to vote for a candidate...the Commission is convinced that only those acts which are primarily designed to solicit votes will be covered by the definition.

COMELEC held that, although the acts may well have enhanced the image of the president, the programs were part of the president's responsibility to govern. There was no proof that they were conducted for the purpose of soliciting votes.

Violation of the election laws is a crime, carrying a penalty of 1-6 years. Therefore before being found “guilty”, there would have to be a full hearing, with sufficient due process safeguards.

The Constitution expressly grants the president immunity from criminal process. She can only be removed by impeachment as stipulated in the Constitution. Therefore she cannot be found guilty of an election offense and, by implication, cannot be disqualified due to alleged commission of such an offense.

Analysis

“Not every act of beneficence from a candidate may be considered campaigning”.

It is good law, and good sense, to distinguish between acts of governance, which incidentally enhance popularity, and acts designed solely to win votes. Otherwise, a country could not be governed before an election. Of course, politics being what it is, the lines will often be blurred. All incumbents benefit from, and take advantage of, last minute spending. The question is when it crosses the line into patronage or misuse of resources.

The Filipino law and practice seems to be more flexible than other jurisdictions, with billboards and smiling faces of politicians accompanying virtually every public works project. Congressmen allegedly have specific “pork-barrel” funds. The president’s photo even adorns rapid transit tickets. Given the paucity of well-enforced laws on campaign financing, and the concern that access to office is more difficult for the less wealthy, this flexibility may not be ideal.

Presidential Immunity

COMELEC’s conclusion is, in essence, that the president’s immunity from criminal prosecution makes her immune from application of the electoral law, or at least its enforcement against her. This is obviously a dangerous conclusion. It would give an incumbent president carte blanche to campaign as he or she sees fit, regardless of the rules that others must adhere to.

COMELEC would no doubt have been aware of this. They may have felt constrained by Supreme Court rulings on immunity, and comforted by the uniqueness of this case, as the presidents are not normally afforded a second term.

Although this circumstance of Mrs. Arroyo may be an anomaly, the decision sets a worrying precedent. There are other officials who enjoy at least partial immunity from criminal prosecution while in office, who are eligible for re-election. They should not have the impression that they could campaign without fear of penalty for violation of electoral laws.

It can be cogently argued that COMELEC went too far in its ruling. Electoral penalties can be applied for electoral offenses without ruling on criminal liability. The Supreme Court, in considering another disqualification case for vote buying, said exactly that:

- Vote buying has its criminal and electoral elements. Its criminal aspect to determine the guilt or innocence of the accused cannot be subject of a summary hearing. However, its electoral aspect to ascertain whether the offender should be disqualified from office can be determined in an administrative proceeding that is summary in character.

Based on this decision, a candidate that violates the election law could invoke his or her immunity to protect against criminal sanctions, but could NOT invoke immunity from process and sanctions that are purely electoral in nature.

This case demonstrates a larger problem: the uneasy coexistence of Philippine electoral and criminal law.

Recommendations

- Congress should consider more stringent provisions about how incumbents may “advertise their beneficence”. Although such signage probably cannot be completely forbidden, it would not be unusual to moderate the personalization of it. A sign saying “paid by the office of the governor” would seem to affect a level electoral playing field less than a huge smiling photo of the incumbent.
- Although the law may grant partial or full immunity from criminal process, immunity from application of the electoral law should not be allowed in any circumstances. Any precedent to this effect, even if theoretical, must be specifically amended or overruled.
- The significant intermingling of the criminal and electoral law should be re-considered as part of the electoral reform agenda.

Annex VII: Social Context

Social characteristics can be found at the root of many of the challenges facing the Philippine electoral process. Oftentimes, such descriptions are based on stereotyping and as such lack the appropriate level of nuance. The main problematic characteristics shared with us can be described according to the following categories:

- The patron-client relationship

This phenomenon is locally referred to as "utang na loob". Repayment of debts to a benefactor overrides most other principles including legal considerations and, in some cases, moral values. Consequently, people tend to be very conscious of authority, especially in relation to the senior members of the local family/dynasty and to their patrons in general. This strong loyalty seldom extends to central institutions, such as the government, which are often seen by people as being the cause of a multitude of problems in their lives, as opposed to their solution.

- Losing face

Social status is closely linked to being seen as a success and therefore failure, or "losing face", is a traumatic event to be avoided at any cost. Some actors are willing to employ extreme measures, including the use of violent means to remove competition. If eventually defeated, the loser goes into denial as a default mode. The typical example given is that politicians never lose an election; rather they always claim to have been cheated. This position dictates that the losing politician will challenge the result by every avenue available, including the court system.

- Poverty and self-enrichment

In the Philippines a small social group owns a significant share of the country's resources, while the majority of the population is left with very limited means. The actions of the poor are often driven by their immediate needs of survival. As a result of their dire situation they have limited respect for a government unable to resolve their problems. For many, selling their vote is more logical than participating in a democratic process. The significant disparity in economic status fuels the search for positions, such as public office, from which one has access to significant resources.

- Financial and political corruption

The pursuit of social advantage and self-enrichment has resulted in a serious corruption problem that is recognized throughout society. Political as well as financial corruption has become a dominant factor in many decision-making processes. Striving for elected office is therefore not always a genuine intent to "perform public duty" and "serve the people", but often to obtain a position in order to personally gain undue means and influence. On the flip side, losing an election has serious consequences beyond a simple loss of influence, since serious retaliation by winners against losers is commonplace.

These social underpinnings are inter-linked in a way that contributes to an environment where electoral actors often behave in whatever manner will benefit their self-interest without any regard for whether their actions will have a damaging impact on the credibility of the electoral process. These social characteristics are an important part of the context in which the electoral process unfolds and must be understood in order to address the widely recognized shortcomings of Filipino democracy.

These social factors are not only affecting the electoral process, but the functioning of society at large. Stakeholders recognize that these problems must be addressed, while acknowledging that it could take generations to change course. One important tool that could help achieve a turnaround is public education. In the broadest sense, this would include revising the school curriculum to address issues of values and mores. Supplementing positive intervention with negative intervention is also needed through the strengthening of existing laws and their implementation.

Endnotes

¹ One of CER's recommendations regarding the implementation of electoral modernization is to get the help of the international community. There is a sentiment that there is no need to reinvent the wheel, as other countries already have successful automation and modernization in place. They are particularly interested in Brazil and India, where a large area and population did not become a problem in the implementation.

² This applies to all levels of government except Barangays, which are regulated under local government law.

³ *Untalan vs. COMELEC*, 15 SCRA 465.

⁴ Joseph Estrada appointed four of the seven commissioners during his presidency. COMELEC staff and other stakeholders often mention how these four ran the institution during that period. Only two of these appointees remain today.

⁵ There is a new union of election officials that is aiming to lobby for better conditions for its members, including the right to regularly upgrade their skills.

⁶ The Region V election director brings together his election officers for an internal evaluation in the post-election period. This appears to be an isolated initiative not coordinated through the central COMELEC system.

⁷ Precinct renumbering under the VVS is not to be confused with the Precinct Mapping project of the discredited Commissioner Tancangco that was started in 1999 and suspended in 2000 by Chairman Benipayo. The election officers who finished their precinct mapping used this system for the 2001 elections, but the majority who did not reverted to the old system. This project was eventually scrapped and for the 2004 elections the old system was used.

⁸ Disenfranchised voter estimates range from 1-2 million voters, however it is unclear whether these figures distinguish between voters who were genuinely disenfranchised vs. voters who simply did not take responsibility for re-registering after becoming de-activated or moving.

⁹ The national voter turnout, based on valid votes counted, is placed at 74% of approximately 43.5 million registered voters.

¹⁰ DepEd did produce a short PSA on voting procedures meant to inform the teachers and assist them in their roles as BEIs. The spot was aired on government television 10 days prior to the election and would have been a useful tool for informing voters had it been aired more extensively on commercial television channels.

¹¹ Some observers have met individual teachers who have taken the initiative to hold mock elections in school as a civic education exercise.

¹² There has already been a national summit on voter education co-convened by CER, the two Congress committees on electoral reforms, COMELEC, Department of Education and the Commission on Higher Education in May 2003. This decided on a core content of a standard or basic citizen-voter education module and on a resolution to undertake citizen-voter education for the next 5-10 years. As a follow-up, CER sponsored four regional citizen-voter education conferences and one civil society-media consultative conference in the last half of 2003. CER has undertaken two national trainings of trainers in the first part of 2004 and is scheduled to do similar trainings in the regions in the last half of 2004. 2005 will see the

nationwide implementation of the voter education program, possibly to include the formal educational system.

¹³ Unfortunately, political parties are notorious for not being interested and/or capable in assisting with such voter education initiatives.

¹⁴ Statement from Undersecretary of the Department of Education and Chair of the DepEd Elections Task Force.

¹⁵ There are legal cases against teachers still pending from the 1998 elections. Teachers charged with an election offense are unable to work or earn a living until the charges are cleared.

¹⁶ There are legal cases against teachers still pending from the 1998 elections. Teachers charged with an election offense are unable to work or earn a living until the charges are cleared.

¹⁷ This was a poor use of their time during the busy election period.

¹⁸ Some BEI trainings were still being implemented in early May.

¹⁹ The election officer in Legaspi, for example.

²⁰ Polling station refers to a cluster of precincts. Oftentimes the polling station would be located in an elementary school with precincts set up in each classroom. Other times, the polling station would be one large room where several precincts would share the same space.

²¹ There is a misconception in Philippine society about what a quick count is. The definition of a “quick count” needs to be made explicit, vis-à-vis similar terms such as “Parallel Vote Count”, which is in fact what the NAMFREL exercise is.

²² However the canvassing body may correct “manifest errors” that are brought to its attention in the course of the canvassing.

²³ Also known as trial courts of limited jurisdiction.

²⁴ Also known as trial courts of general jurisdiction.

²⁵ Meaning lack or excess of jurisdiction and/or grave abuse of discretion.

²⁶ 22 out of 65.

²⁷ Miguel vs. COMELEC, Supreme Court, 2000. Note however that in the HRET a claimant must show after initial revision of 25% of the ballots, chosen from precincts selected by the claimant, that his/her case has a chance of succeeding.

²⁸ The Philippines has a number of internal security threats that affect the conduct of the elections. The Abu Sayyaf group, a Muslim separatist group in the south, engages in kidnappings and murders of innocent civilians and foreigners. In addition, the Moro Islamic Liberation Front (MILF) has conducted terrorist activities from its camps in the Autonomous Region of Muslim Mindanao (ARMM). Although a ceasefire has been negotiated and a peace process is ongoing, acts of violence continue.

²⁹ There are 114 private armies identified in the Philippines, with 78 of these being in the ARMM.

³⁰ There were over 600 hotspots identified during the 2004 election period.

³¹ Governor Grace Padaca made this accusation during the Electoral Violence Working Group held by the CEPPS program, while other election stakeholders cited their own examples.

³² Regions V (Masbate Province), IX, II and the ARMM were considered to be the most problematic regions in the Philippines in terms of incidents of election-related violence reported to the PNP. NCR was the least problematic.

³³ The same circumstances exist in isolated areas where AFP battalion commanders have the capability of exerting influence over the population.

³⁴ CER organized a Compact for Peaceful Elections among national parties and presidential candidates in February 2004. This was a successful event attended by the major coalitions/parties and presidential candidates or their official representatives. The Compact was extended to some local areas of electoral conflicts later. It also organized an international observer mission, which centered their monitoring on electoral violence.

³⁵ See Annex on “Misuse of State Resources and Abuse of Office on the Part of the President”.

³⁶ This key measure failed in 2004, as the lists were not ready in time. See Section 5 for more information.

³⁷ This key measure had only limited implementation and was therefore not effective in 2004. See Section 5.3 for more information.

³⁸ The Constitution can be amended -

- By a vote of $\frac{3}{4}$ of members of Congress;
- By constitutional convention, called by $\frac{2}{3}$ of members of Congress;
- By public initiative according to a formula set out in the Constitution.

In each case the amendment(s) must be ratified by majority vote in a public plebiscite. The plebiscite is under COMELEC authority. Constitutional amendment(s) cannot take place more than once every five years.



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2004 PHILIPPINE NATIONAL ELECTIONS

IRI REPORT

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Introduction

With Consortium for Elections and Political Process Strengthening (CEPPS) partners the National Democratic Institute (NDI) and IFES, the International Republican Institute (IRI) supported the integrity of the electoral process by contributing to an international presence before, during, and after the May 10 Philippine presidential and legislative elections. This effort was based on the findings of an earlier pre-election assessment conducted by the CEPPS partners. The US Agency for International Development (USAID) funded both efforts.

The assessment team concluded that a large scale international observer delegation would not be appropriate to the circumstances because such a delegation could not adequately address the issues that were of greatest concern regarding the integrity of the electoral process nor would it be able to raise public confidence in the elections. The assessment team did, however, recommend an international presence in the Philippines during the election period, which could contribute significantly to support the integrity of the electoral process. In addition, the assessment team identified activities to help strengthen the electoral process.

Under the subsequent USAID grant to observe the elections, IRI undertook activities to assist in strengthening the electoral process, specifically:

- Field a team of two international experts to observe and document pre- and post-election activities in the Philippines.
- Field a small team of international technical election experts to observe the voting and counting on Election Day and ballot canvassing in the post-election period.
- Conduct a series of working groups and a roundtable at which Philippine stakeholders could identify lessons learned and actions that could bring about political and election reform.

In late April, IRI established an ongoing in-country presence to conduct election monitoring activities. IRI's team of two international election experts provided continuous monitoring of the pre-election period. One team member, John Anelli, was based in Manila and the other, Foster Tucker, traveled widely about the central area of the Philippines to observe election-related activities. IRI's team met with political party members, election-related civil society organizations, and government officials of the Philippines and other countries.

The IRI long term observers worked with Philippine monitoring groups to share information about the electoral process, candidates, campaign activities and any significant problems or trends. The IRI team made an effort to serve as a resource to them by providing technical assistance on efforts to promote a fair and non-violent electoral process. The IRI team coordinated its efforts with domestic election monitoring organizations to ensure that it added value to the overall election monitoring effort and was not duplicative. At the request of the US Embassy, members of the IRI team participated in training its election observers (approximately 70) so that they were better prepared to monitor activities on Election Day.

Just prior to Election Day, IRI sent four additional US and Asia-based election experts to monitor the voting and canvassing. They were: Abd Malek bin Hussin, Malaysians for Free Elections (MAFREL); Carole Hillard, former Lt. Governor of South Dakota; Mick Mines, State Senator in Nebraska; Eric Morrissey, IRI Resident Program Officer for China. With the long term observers and 3 local staff, IRI observers divided into 3 teams to monitor activities with an

emphasis on the counting of ballots and canvassing of the vote. The teams covered metro-Manila, Iloilo city, and Cebu city.

It is acknowledged that the limited numbers of IRI, NDI, and IFES observers were not able to comprehensively monitor the election process in all regions of the country. However, on Election Day IRI, NDI, and IFES observers visited numerous voting centers in northern and southern Luzon, in the Visayas region, in several western provinces, and in Mindanao. They also remained in close contact with representatives of major domestic monitoring organizations to compare and substantiate their findings.

Within the limited scope of the observers, it was concluded that Election Day appeared to be a qualified success. This was due to the experience and dedication of the estimated one million Philippine citizens directly involved in organizing and implementing the voting and ballot counting process and to the patience and determination of the voters themselves. IRI observers also believe that the large number of domestic poll watchers present on Election Day was a positive check against the possibility of significant or widespread electoral cheating at the precinct level.

There were, however, reports of numerous irregularities in the implementation of voting procedures and the tallying of precinct ballots on Election Day. The combination of problems with the voter registry, procedural irregularity, crowded voting centers, complicated ballots and a tedious manual vote tallying process made the system vulnerable to error or individual acts of intentional wrongdoing. However, observers did not conclude that problems were of an extent or nature as to compromise the essential integrity of the process. IRI observers did not find evidence of an overall pattern of mistakes or deliberate violations which would have significantly benefited one candidate or political party over another, although the possibility of such did seem more serious in the local races.

Following the election and initial counting of ballots, IRI long-term observers and local staff members continued to monitor activities. One IRI team traveled to Cebu and Iloilo where they conducted numerous meetings to follow-up on information gathered during their previous election monitoring work in the two cities. The team organized meetings in both locations with teachers that had been polling station staff members during the election, and with other political and community activists for the purpose of organizing their participation in the CEPPS post-election working groups and roundtable.

In mid-July, a roundtable was held following the formal announcement of results at which Philippine stakeholders identified lessons learned and items they could work to implement in the interest of achieving political and election reform. In preparation for the roundtable, one-day regional roundtables were held in different locations at which Philippine stakeholders expressed their views on subjects such as complaints and adjudication, COMELEC's performance, media, civil society, and political parties and candidates. Findings and recommendations from these regional roundtables and subject specific working groups in Manila were presented at the final roundtable.

This report is the culmination of findings and recommendations of the IRI observers themselves and the Philippine stakeholders who participated in the post-election working groups and roundtable. IRI recognizes that the report does not provide a comprehensive view of the electoral environment in the Philippines, but it is representative of what was found in the areas IRI visited. Overall, IRI judges the project as successful in contributing to the integrity of the electoral process. The CEPPS partners met the objective of facilitating the monitoring of the election and in large part the CEPPS effort was a complement to the Philippine political processes and civil society in place. The Philippines has democratic institutions such as a free press, an independent judiciary, and strong civil society monitoring groups that were capable of dealing with challenges to the democratic process that occurred during the election period. The Supreme Court ably managed challenges posed to COMELEC's operations and commissioners, as well as to the candidacy of a leading Presidential candidate. The Philippine Congress, despite numerous procedural challenges, persisted with the canvas and was able to declare a President. Throughout this period, the Philippine people retained their faith in their institutions and rejected some calls to take to the streets in the name of "people power."

IRI observers found a genuine desire for credible elections on the part of public officials, political and civic leaders and Philippine citizens generally. However, important challenges still lie ahead. In recognition of these factors and in the spirit of international cooperation, IRI offers recommendations that will contribute to the dialogue among Philippine stakeholders and to the hard and detailed work of reaching consensus on legal, administrative and institutional reforms.

Recommendation 1: Build public and institutional confidence in the election process.

Instilling integrity in the nation's electoral processes is critical to the future of Philippine democracy and must be consciously and conspicuously adopted as a fundamental goal of a broad based electoral reform effort

Recommendation 2: Full management audit of COMELEC and implementation of results.

The Senate and House of Representatives Committees on Suffrage and Electoral reform should propose, as one of their earliest actions in the new Congress and in keeping with their oversight responsibilities, a full management audit of COMELEC, to which the Commission should voluntarily comply. Priority issues for the auditors should include examination of: the 'Commissioner in Charge' managerial structure; adequate staff and financial resources; managerial and administrative firewalls within COMELEC; criteria for professional candidates for the COMELEC Commission.

Recommendation 3: Modernization of the electoral system.

Modernization of the electoral system must once again be deemed a national priority. A new and more automated voting and canvassing system, as well as an updated and reliable voter registry, must be in place prior to the next national elections in 2007. Modernization should focus on six key areas:

1. The national voter registry must be updated and consolidated.
2. Ballots must be re-designed and the vote counting and canvassing processes must be automated.
3. Automation should proceed in tandem with plans to substantially reduce the number of

voting precincts and canvassing centers prior to the next national election, and to make election service by public and private school teachers voluntary rather than mandatory.

4. Procedures to insure truly “quick” and accurate public reporting of both partial and final election results must be designed into a new and automated ballot counting and canvassing system.
5. A comprehensive voter education program must be designed well in advance of the 2007 elections.
6. A comprehensive training program must be designed and implemented for election workers.

Recommendation 4: Reform the adjudication of complaints process.

Additional measures are necessary to create stronger barriers against baseless or frivolous complaints and challenges, as well as to deter violations of election law.

Recommendation 5: Strengthen and reform political party and campaign finance laws.

Both chambers of the Philippine Congress should once again take up for consideration and passage legislation consistent with the “Political Party Act of 2003,” which passed the House of Representatives on 3rd Reading in 2003. Particularly important elements of the legislation that should be reviewed in light of the most recent election campaign include: provisions pertaining to the promotion of more transparent and democratic processes for the selection of party officers and candidates; provisions to ensure a more transparent and broad based party finance system that includes publicly financed incentives for grass roots organization and program development activities; and, provisions that would create sanctions to discourage and penalize political party switching. Previously enacted legislation intended to curb the creation and continuance of so called “political dynasties” must be implemented and enforced.

Recommendation 6: Establish fair guidelines for party agents and poll watchers.

The Omnibus Election Code should allow for a representative of the dominant majority and opposition parties in respective constituencies to sit as fourth and fifth members of Canvassing Boards. Consideration should also be given to establishing new guidelines on the allowable number of poll watchers that political parties and candidates can accredit.

Recommendation 7: Reform the electoral system to provide better political competition.

Serious consideration must be given to the ways and means of consolidating the field of political parties. Though it is impossible to speculate on what would constitute an optimal number of parties, the Philippine system is now grossly fragmented and overpopulated.

Recommendation 8: Voter education efforts should be expanded and include civil society.

NAMFREL and PPCRV should be invited to be part of a Voter Registration and Education Program Design Team, to also include representatives of COMELEC, the Department of Education, and Philippine Public Radio and Television.

Recommendation 9: COMELEC should not depend on civil society organizations to provide transparency.

Currently COMELEC provides civil society organizations such as NAMFREL with copies of

each precinct's Election Return, which permits them to share electoral results with the public. COMELEC should institute additional methods of building transparency into the system of compiling electoral results. This is a critical responsibility they bear as a legally constituted electoral body.

PRE-ELECTION ENVIRONMENT

The general atmosphere in the months preceding the Philippine national elections was one of apprehension. Incidents of politically motivated violence claimed nearly 150 lives. Vote buying and harassment were widespread. There were failures and disruptions in administrative preparations for the elections that called into question the integrity of voter registration lists and fanned speculation about the inevitability of massive disenfranchisement, registration list padding, and eventual manipulation of the vote count during the canvassing process. Superficial and inflammatory political campaigns contributed further to undermining the public's confidence in the integrity of the approaching elections, and heightened apprehension regarding the likelihood of political instability and social conflict following Election Day.

National political leaders, judicial bodies, election administrators, and opposition candidates and parties did little to alleviate public concerns by either deterring election related crime or taking concrete and coordinated measures to restore public confidence in the voting system. The efforts of major non-government organizations, though for the most part constructive and commendable, were limited and could not compensate for these broader failures.

Moreover, there was little sense among citizens of whether, or how, the election was going to make a measurable difference in their lives. Substantive debate on the serious social and economic problems that afflict the majority of Filipino citizens was for the most part absent during the campaign. Instead, voters witnessed a steady barrage of personal attacks, allegations of planned electoral fraud, and populist promises. Political parties, their candidates and the national media contributed equally to this failure.

-- The Security Environment

All recent Philippine election cycles have been marred by a significant number of violent incidents. In many parts of the Philippines, however, and especially in Mindanao, where a disproportionate percentage of reported incidents of election related violence take place, it is difficult to clearly identify the specific cause of much of the violence that is categorized as "politically motivated" or "election related." Violence emanates from multiple and cross cutting sources. It has roots in ethnic and religious conflicts, in the Philippine Army's war against Muslim separatists and communist insurgents, and in criminal enterprises involving smuggling and illegal drug trade. The Abu Sayyaf Group and the Moro Islamic Liberation Front (MILF) are Islamic separatist organizations based in Mindanao. Both have engaged in terrorism to forward their objectives. The New People's Army, a large and well armed communist insurgency, is present and active in many parts of the country and engages in regular and bloody skirmishes with both the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP). In this context, elections might be seen as only another arena in which these conflicts are reflected and periodically played out.

Whatever the sources and motivations for the violence, however, it clearly had a negative impact on the environment in which the recent political campaigns and elections took place. It is impossible to avoid the conclusion that violence or the threat of violence was an impediment to truly open participation and fair competition. This was particularly true for many races for local and regional offices in particularly troubled parts of the country, such as in regions five and nine where more than 25 percent of all recorded incidents of election related violence occurred. Acts of violence and intimidation, and the heavy police and military presence around centers of election related activity, were a constant reminder to citizens and candidates alike that theirs was not an entirely open and safe electoral process. The prevalence of illegal firearms, which candidates were in some cases themselves accused of distributing to supporters, were a potent symbol and reminder of the danger and volatility associated with the campaign and elections.

Pursuant to provisions of the Constitution of the Republic of the Philippines, the police are deputized by the national Commission on Elections (COMELEC) and function under its authority for 30 days prior to and after Election Day. Based upon data collected by the police through its network of nearly 100 Election Monitoring Centers during the period December 15, 2003 to June 9, 2004, the recent election cycle appears to have been no less marred by incidents of violence and intimidation than elections of the recent past. In fact, though the overall number of reported incidents of election related violence declined marginally from 2001, there were dramatic increases in the overall number of fatalities and in the number of candidates for office that were killed.

The recorded number of incidents of politically motivated violence, loosely defined as criminal acts committed against candidates and/or their supporters in the course of campaign related activities, dropped marginally from the level of three years earlier - 249 versus 269. The number of fatalities, however, rose by more than 30 percent from 111 to 148. Eighteen of these fatalities, and 80 of the 261 reported injuries, occurred in one particularly bloody incident in Mindanao. The number of candidates for office that were killed during the period, moreover, nearly doubled from 21 in 2001 to 41 in 2004.

The police identified over 600 "hotspots" throughout the country where it considered the risk of election related violence to be high. As the election neared, 133 localities – a near doubling of the number in 2001 - were deemed particularly vulnerable to violence and placed under the direct administrative control of COMELEC, which exercised authority through designated Regional Special Task Forces. The Task Forces are composed of the local heads of the police, the military and the Regional Prosecutor's office, among others. In these designated areas, COMELEC, through the Task Forces, was authorized to control all administrative activities and transactions of the local government and to supervise and direct the deployment of local police and military units during the period of the election and canvassing.

Unfortunately, there is little data available that allows an assessment of the relative effectiveness of these steps in deterring election-related violence. Observers did, however, hear credible arguments that the intervention of COMELEC into the vote canvassing process at the local level was often engineered as a means of facilitating, rather than deterring fraud. Those who made these allegations cited instances in which peaceful campaigns and elections were followed by violence engineered by losing candidates. Their alleged aims being to have COMELEC move

the canvassing process to a new venue where returns could be more easily falsified. Observers heard from candidates involved in situations such as these that they exerted all efforts to avoid having a COMELEC take control of the canvassing out of the local jurisdiction, and to insure that the canvassing be conducted and completed in the locality where supporters and politically loyal poll watchers could be present.

The vast majority of reported violent incidents were committed against individuals or groups involved in campaigns for local office, where intense and personal political battles between competing political dynasties, or between ruling dynasties and political challengers, easily erupt into violence.

Violence was frequently organized and carried out by private militias associated with political families or local political party branches. It took the form of shootings, assault, kidnapping or harassment. It is estimated that 114 such private militias exist in the Philippines, 78 of which operate in the Autonomous Region of Muslim Mindanao. Candidates for local office were reported to have campaigned with armed bodyguards. In some cases this was for protection, while in other cases it seems to have been intended to intimidate voters and political opponents. Observers received numerous and credible reports that militias associated with political clans or insurgent groups were demanding that opposition candidates pay “permit to campaign fees” in the areas where they had influence. The police reported receiving three official reports of extortion activities carried out by the communist insurgents associated with the New People’s Army (PNA), which is particularly active in the mountain regions of northern Luzon and in the Bicol region. This information was consistent with reports from observers in northern Luzon. The PNA’s extortion activities appear to have been well organized. Party leaders in Bohol province received an official “invitation” from the local PNA branch to pay a campaign fee, and received a receipt and a code name that were to be used for identification purposes when they were campaigning in the region.

In Mindanao, security forces themselves appear to have become actively and illegally involved in the political process. Credible sources told observers of local military Brigade Commanders in Mindanao who backed particular candidates because of their support for efforts to suppress Muslim separatists and/or because of their willingness to tolerate a lucrative narcotics trade from which corrupted local elements of the military have profited.

Inadequate Deterrent to Election Related Violence -- The Philippine police reported making over 2,600 arrests of individuals that allegedly violated provisions of the election-period ban on the possession of firearms. Their record, however, is not impressive with respect to the identification and prosecution of those who directly instigated and/or perpetrated the violence that they classified as election related, or engaged in other forms of politically motivated intimidation. A partial explanation for their poor performance may be that they have insufficient manpower, training and material resources. Over 55,000 candidates competed in the 2004 election campaign and over 34 million voters went to the polls. Voting and vote tabulation took place in more than 216,000 individual precincts. The police’s total manpower level, in contrast, stands at less than 115,000. Moreover, police members that have been with the force for less than two years have little actual weapons handling training, are unlikely to have received any formal training, or have been provided with a government issued weapon.

Local police units may have been particularly passive and ineffective in their response to internecine violence involving militias or clans associated with local political families. In one area where CEPPS observers were present, a local police official stated his preference for just “letting them kill each other.” As of July 21, police spokesmen were unable to cite even a single successful prosecution in connection with any of the 249 incidents of politically motivated violence that they officially recorded, though they did claim that many of the incidents were under active investigation. The fact that the police were able to provide data relating to only a handful of successful investigations that followed the 2001 election does not inspire confidence that perpetrators will be apprehended and punished.

Unless and until COMELEC, the police, and those in government with ultimate responsibility to insure that they are provided with sufficient resources to do their job, give higher priority to finding and punishing those responsible for committing election related crime, it will continue to mar Philippine elections.

Harassment and Intimidation of Precinct Workers -- Harassment and intimidation of polling station workers, though less easily identified and measured than crimes of violence, nonetheless emerged as a serious and widespread problem. In fact, it may have been the single most serious security related problem specifically associated with the election process.

Philippine law makes election service compulsory for virtually all public school teachers. Each of the three Board of Election Inspectors (BEIs) assigned to individual precincts are required to be teachers and non-teachers may only be appointed to serve when teachers are not available. Only teachers that are related to candidates for elective office, and those physically unable to serve, are exempt. In the recent election cycle, the entire population of public school teachers – approximately 500,000 - plus nearly 200,000 private school teachers were called upon for three days of service. They were reimbursed approximately \$20 per day.

Philippine teachers are undeniably the backbone of the nation’s current electoral system. They also hold what little trust the general public still has in the system. Unfortunately, they have become a principal target of corrupt or disgruntled politicians and their supporters. COMELEC officials in Cebu Province, for example, reported that politicians had inappropriately attempted to interfere in the selection of BEIs at particular precincts. Officials within the department of Education with whom observers spoke expressed serious concern that the hiring of teachers has become highly politicized in many parts of the country, and that the overall quality of educators was declining as a result. This concern was echoed and confirmed in conversations with local election administrators and BEIs in the Visayas region. Many of the teachers that observers interviewed said that they would prefer to no longer be part of the election process.

By far the most commonly reported form of intimidation and harassment aimed at BEIs is the threat of post-election lawsuits brought by candidates and campaigns unhappy with the election results. In the past, lawsuits of this nature have usually alleged fraud based upon simple arithmetic errors or because a BEI member failed to properly validate a precinct tally sheet. Considering that most BEIs are completing Election Returns at the end of a 20 hour workday that is physically uncomfortable and emotionally stressful, it is almost inevitable that problems such as these will occur. Though it has only been in rare instances that criminal intent has ultimately

been proven, accused teachers have nonetheless had to sacrifice the time and bear the cost of defending themselves against charges of deliberate fraud.

The threat of post-election legal action has reportedly been used to pressure BEIs into committing fraud on Election Day or to support the complaints brought by losing candidates against their rivals following elections. In some locations where observers were present, problems of this nature were deemed so serious that BEIs were relieved of responsibility for tabulating ballots at the precinct level. Tabulation was instead conducted at either municipal canvassing centers, local Parish halls, or, in the case of several provinces in Mindanao, on Army bases. In the latter case, observers were not allowed to monitor the ballot counting. It was credibly argued by some that the ultimate aim of intimidation, in many instances, is in fact to have the ballot count moved out of the precinct and into a less transparent environment, where fraud can be more easily accomplished.

Indicative of how serious and widespread the problem has become, the Department of Education announced shortly before the election that it had established a Teachers' Defense Network to provide legal counsel to BEIs against whom election related lawsuits are filed. In a tentative show of support for the initiative COMELEC set aside, but has not yet allocated, five million pesos (\$90,000) to support the Network. COMELEC has yet to decide whether to grant the department of Education's request that the Defense Network be allowed to review complaints against teachers before they are filed with COMELEC's deputized prosecutors within the Department of Justice in order to determine whether or not the complaint constitutes harassment. On a positive note, the number of complaints against BEIs following the election appears to have been relatively modest. As of June 20, leaders of the Teachers Defense Network reported having received fewer than 10 complaints. This may indicate that the effort of teachers and the Department of Education to raise awareness of the problem, and to put mechanisms in place to protect election workers from abusive lawsuits, had a positive effect.

-- Election Administration

The Philippine Constitution vests primary responsibility for the conduct of elections in COMELEC, itself a Constitutional entity. COMELEC is authorized to administer elections, adjudicate electoral complaints, and assume control over national police and military units for the purpose of insuring a secure and orderly balloting and ballot tabulation process. COMELEC's failure to establish the administrative and procedural framework and conditions for an orderly, transparent and credible election was therefore not for want of sufficient legal authority or institutional prerogative. In fact, the expansive scope of COMELEC's constitutionally mandated responsibilities, and its position beyond the reach of effective oversight, may be important contributing factors in its overall ineffectiveness.

In the four months leading up to the elections, COMELEC suffered several legal rebuffs by the Supreme Court, as well as a steady stream of criticisms from politicians, candidates and the media. Virtually every aspect of the Commission's work, from compilation of voter registration lists to the printing of ballots and the procurement and testing of indelible ink, came under attack. The Commission was also the target of allegations of planned electoral fraud. Though much of the criticism was unfair and politically opportunistic, COMELEC made itself a tempting target.

By the time Election Day arrived, the credibility of the COMELEC had been thoroughly undermined. This had serious consequences during the campaign. Many candidates and parties seized opportunistically on the prospects for disenfranchisement and electoral fraud as a means of avoiding more substantive political debate. This also provided a means of preparing the ground for possible post election legal challenges should their candidacies fail. The public's faith in the reliability and integrity of its voting and ballot canvassing system, as well as its appreciation of the political process, was eroded as a result.

COMELEC's managerial and administrative failures also had a direct and negative impact on the capacity of local election administrators and precinct workers to assure an orderly and procedurally consistent balloting process. Complexities associated with incomplete voter registration lists, reorganized voting precincts, and late delivery of materials necessary for manual balloting and canvassing, for example, created obstacles for election workers and voters alike. Though these obstacles did not prove insurmountable, they nonetheless undermined procedural regularity and efficiency, increased opportunities for fraud, and created an enabling environment for those that would later prolong and seek to de-legitimize the canvassing process by means of legal challenges and objections.

COMELEC's Management and Organization -- The management structure at the very top of the Commission is seriously flawed and largely dysfunctional. COMELEC's original design envisioned that a Chairman and six Commissioners would function as a Board of Directors. As such their job would have been to oversee policy matters. Instead, the Commissioners have maintained an undersized and marginalized staff of civil servants, and assumed operational responsibilities over geographic and functional areas. This has created, to some extent, a focus on expanding and strengthening their personal portfolios. The fact that two commissioners, who were appointed approximately three months prior to Election Day, had not had their appointments confirmed effectively undermined their capacity to function as independent and politically neutral. Although the COMELEC has an Executive Director who is supposed to function as a COO, he has been for the most part marginalized.

An inspection of COMELEC's headquarters in Manila does not present the picture of a well-organized and managed operation. COMELEC offices were scattered over multiple floors and buildings, and are often in open proximity to the workspace and activities of other agencies of government. The overall lack of proper space, furniture, and equipment called into question the ability of staff to actually perform their duties in a timely, accurate, and professional manner. Observers saw great disparities between departments in terms of space, working conditions, staffing levels, and computerization.

There was a lack of appropriate management systems. Paper files and boxed documents were piled everywhere. Hundreds of files were piled in one hallway, tied into bundles and some damaged and dirty. When asked about their status, COMELC staff said that they might be applications for exemptions to the election period gun ban or voter registration forms. There appeared to be little cooperation between sections that had excess workers with those where workers were overburdened.

Failed Election Modernization Program -- COMELEC's mishandling of a three-phase election modernization and computerization program was its most fundamental and damaging administrative failure.

COMELEC did not properly plan or complete a program to re-validate, modernize and centralize the national voter registry. Though it printed more than 50 million revalidation forms, COMELEC in fact had the capacity to revalidate only 2 million voters, and the project was suspended with less than 10 percent of registered voters entered onto the new list. At this stage, the original voter registration records that COMELEC had directed local COMELEC offices to send to Manila, along with the partially completed registry, were returned to the field offices. In many cases the original registration records that were returned were incomplete or sent to the wrong locations. Not only did COMELEC fail in its efforts to create a more accurate, secure and centralized voter registry, its efforts in fact contributed to further undermining the foundations of the existing registry and to confusing voters, many of whom had been led to believe that if they did not revalidate their registration they would be ineligible to vote.

A second key element of the modernization program was aborted in early January 2004. COMELEC was prevented from proceeding with the distribution and utilization of automated counting machines pursuant to a Philippine Supreme Court ruling that the Commission had violated its own procurement regulations. Annulment of the contract with COMELEC's computer hardware supplier forced the cancellation of COMELEC's plans for utilization of a simplified optical scan ballot and for computerized vote tabulation. The equipment, for which COMELEC had spent nearly 3 billion pesos (approximately US\$53 million), would as a result sit idly in a Manila warehouse while election administrators and precinct workers reverted to preparations for a traditional paper ballot and manual ballot tabulation process.

Despite the scrapping of plans to modernize the balloting and counting processes, COMELEC did proceed with plans to consolidate voting precincts. The decision was suspect given that the consolidation program was based largely on the fact that computerization would make larger precincts feasible. On Election Day precinct consolidation would prove to be a major cause of confusion and delay in the voting process. Some registered voters did not cast ballots as a result.

COMELEC's Quick Count -- A second Supreme Court decision, handed down only two days before Election Day, forced a last minute scrapping of COMELEC's plan to conduct a much publicized quick count. The quick count was intended to provide the public with timely, though unofficial, information on the outcome of elections up to but not including the Presidential and Vice Presidential contests. Given that the manual and complex ballot canvassing process was not expected to produce official results until several weeks after Election Day, the quick count offered a way of increasing transparency, creating a barrier against tampering during the canvassing process, and quelling the inevitable speculation of fraud.

COMELEC's Chairman argued that the quick count could be carried out successfully despite the fact that the computerization program's implementation for 2004 had been terminated. The Supreme Court disagreed. When questioned regarding the basis for its decision, a Justice told observers that the Court's lack of confidence in COMELEC's ability to competently carry out and report the results of its quick count was as much at issue when the Court considered the case

as the legal questions involved. Though the quick count had as many opponents as proponents within COMELEC, and within political establishment as a whole, the last minute decision further undermined confidence in the Commission's managerial competence and in the prospects for fair and transparent balloting and canvassing processes.

Performance of Local Election Administrators -- The practical consequences of these failed COMELEC initiatives were borne most heavily by local COMELEC officials and workers in regional and particularly in municipal offices. They were not reticent in expressing their low opinion of the COMELEC leadership's competence and what they regarded as its ignorance of the concrete realities and practicalities of the electoral process. COMELEC's failure to consult and solicit input from its field officers when it develops policy initiatives and regulations was regarded as a major problem. Election Officers also complained of COMELEC's overly centralized bureaucracy, which strips local administrators of the capacity to make even relatively minor decisions. In one COMELEC district office near Cebu, an official told observers that the voter list returned to them from Manila had contained so many errors that they had been forced to prepare an entirely new voter list from their existing records. That official characterized the precinct re-mapping, the re-validation and modernization of registration lists, and the production of the voter ID cards as "a big waste of money." Other local COMELEC staff complained of understaffing, inequalities in pay, and of reprisals against workers that voiced criticisms. A typical municipal COMELEC office would have a full time staff of only three COMELEC professionals, plus "casual" staff comprised mostly of local students. COMELEC policy provided for one "casual worker" per 25,000 registered voters.

Largely as a consequence of the poor leadership and management from above, observers found that at the local level pre-election procedures were not always followed, deadlines were not met and some work was left undone. As opposed to a planned and orderly process, preparation for the elections in many localities was an exercise in crisis management and administration.

Fortunately, local administrators, government officials and civic leaders were in most cases able to overcome the obstacles with which they were confronted. The extent to which they did so was linked to their levels of experience and also to the degree of cooperation that existed between them. Observers in Iloilo, for example, reported that strong cooperation between the local COMELEC Election Officer and the experienced head of the local Municipal Treasury Office, which has initial custody of all sensitive and non-sensitive election material distributed by COMELEC from Manila. This cooperation resulted in relatively well-organized and on-time election preparations. In Albay Province, other observers reported the creation of an "Inter-Agency Task Force" involving representatives from numerous government agencies in addition to COMELEC, civic organizations and local media. In addition to facilitating preparations for the election, the Task Force also cooperated to enhance voter education and training of election workers.

It was due primarily to the determination and creativity of local COMELEC officials, officials in the Municipal Treasury Offices and the nearly 600,000 public and private school teachers responsible for readying the nation's 216,000 individual voting precincts, that sensitive and non-sensitive voting materials were procured and, for the most part, distributed in time for the scheduled commencement of voting. Their efforts to insure that voting precincts were

operational and to repair the damage that COMELEC caused to the integrity of local voter lists were critical to preventing a potentially fatal electoral system collapse on May 10.

Voter Registration Lists -- Of greatest concern as the election approached was whether accurate voter lists would be ready and available. Local election administrators throughout the Philippines were working to create a reliable voter registry from multiple sources right up to Election Day. Many voting precincts did not actually receive their registration lists until the early hours of the morning on Election Day itself. In place of a unified registry, they received pre-existing lists, the partially updated lists that COMELEC in Manila had generated, and original voter registration documents. Problems were magnified, and the situation further complicated for local election administrators and voters, by the precinct consolidation program that COMELEC pushed forward.

With very few exceptions, there were no single, unified and updated voter registration lists available in any province, city, municipality or locality anywhere in the Philippines by the time balloting commenced on May 10. Voters and political parties had only limited opportunity to examine the registration lists prior to the commencement of voting for purposes of confirming their accuracy and identifying the specific precincts where individuals were registered to vote. Allegations that the registration lists would be padded, or that they would be incomplete and therefore result in massive voter disenfranchisement, struck a resonant cord with the media and the public. Opposition parties, candidates and their spokespersons fueled public apprehension, making frequent public statements suggesting that fraud was inevitable and warning that their supporters were prepared to take to the streets in protest.

Voter Education -- Given the many problems and complexities that contributed to apprehension about the potential for electoral fraud and massive voter disenfranchisement, a basic and broadly disseminated voter education program could have been of great value. Yet, there was very little evidence that COMELEC gave significant priority to its responsibility for insuring that citizens knew how, where, and when to register and to vote.

Though COMELEC officials in Manila were able to produce some sample voter education materials, there is no evidence that they were effectively or systematically distributed. An obvious and critical failure involved the very late delivery of voter registration lists to local COMELEC offices. In most instances, it appears, COMELEC did not deliver the lists in time for them to be posted until after the deadline for inclusions and exclusions had already passed. Only in rare cases, it seems, did voters have the opportunity to inspect voter registration lists before Election Day to confirm their registration and the correct number of their voting precinct. The fact that many voters did not even know they had a right to preview the lists added to the scope of the problem.

COMELEC was also responsible for distributing to registered voters the critically important Voter Information Sheet. The VIS contained the list of all candidates running for national office, as well as the names of the candidates running for seats in the House of Representatives and for local offices in the locality where individual voters resided. It also contained a sample ballot, and instructions for casting votes. Once delivered to local COMELEC offices, the voter's name and the number of his or her voting precinct was to be added before mailing. Given that voters

were asked to select candidates for over 30 offices on Election Day, the VIS was an obviously important vote planning tool. Nonetheless, observers found that few voters had received the document. In many cases, local COMELEC election officers reported that the VIS for his/her city arrived from Manila only a few days before the election. Staff said that it would be impossible for them to prepare the forms for mailing in time for Election Day. They planned to destroy the undistributed documents shortly after the election.

In some areas observers saw or learned of local elected officials stepping into the breach, such as one Barangay Captain in the NCR who organized a “Know Your Precinct Number” campaign in the community he served. Local political organizations, such as Bando Osmena-Pundok Kauswagan (BO-PK) and Kugi Uswag Sugbu (KUSUG) in Cebu City also took the initiative to print and distribute information that provided citizens with information on where to vote. Ad hoc efforts such as these, though commendable, were hardly compensation for absence of a system-wide voter education effort.

Recruitment and Training for Election Workers -- In general, the process of identifying BEIs and delegating them among the nation’s 216,000 individual precincts appears to have functioned adequately. Observers did, however, discover locations where COMELEC Election Officers had encountered problems filling BEI positions owing to eligibility restrictions. In Mandaue, for example, the election officer was unable to find the necessary number of people who were both public school teachers and registered to vote in the city. He appealed to the Manila head office for authorization to find substitutes. He first received approval – the decision had to be made by the Commission *en banc* - and then a reversal a week before Election Day. Thus, certain precincts under his jurisdiction had less than three electoral workers. In some other areas, observers learned that members of the police had themselves been assigned to work as BEIs. Observers were unable to determine whether these cases resulted from difficulties in finding qualified recruits within the local population of teachers, or because of other reasons. Irregularities of this nature, however, did not appear to be widespread or predictive of unusual or especially severe problems on Election Day.

COMELEC’s efforts to insure that the hundreds of thousands of individuals who would be working in voting precincts on Election Day were properly trained were, at best, lackluster. Though COMELEC officials in Manila presented observers with instructional materials designed for BEIs and canvassers, there was little evidence to suggest that these materials had been disseminated widely or integrated effectively into BEI training programs. Election Officers and BEI with whom observers spoke after the elections said that one problem was that the training materials were poorly designed for layman, being overly legalistic.

The Department of Education, from whose ranks the BEIs are drawn, appears to have put more resources and better planning into training programs than COMELEC. The Department of Education prepared a training manual which provided the basis for a professionally managed “train the trainers” program that eventually reached much of the electoral workforce. Observers in Cebu City, for example, reported that teachers there received training and training materials from the Department of Education three weeks prior to the election. The training lasted for a half day, was well-planned and included role-playing exercises. In addition, the Department produced an hour-long instructional video for BEIs that was broadcast multiple times on all

public television channels. Though the Department of Education's efforts may have been more substantial than COMELEC's, the effectiveness of the training was in doubt. One COMELEC official reported that only 15 per cent of prospective BEI Chairman in his city scored above 75 percent on a test that was administered after their DoE training. What observers saw on Election Day, moreover, suggested that this is still an area that needs significant attention.

Ironically, the greatest contribution to the preparedness of election workers on May 10 may have resulted from the Supreme Court's late termination of COMELEC's planned modernization of the voting and vote tabulation processes. Given that a majority of the teachers enlisted for election duty had previously been members of BEI teams, they were familiar with the old system and the basic procedures for manual balloting and canvassing. Had modernization gone forward, there would have been a far more pressing need for re-education and re-training of the entire electoral workforce. Insufficient or poorly designed training could have had more serious consequences than it did, and led to a system-wide breakdown.

COMELEC's Failures Considered in a Broader Context -- While COMELEC's failures can be traced most clearly and directly to its poor management and wasteful allocation of resources, they also have political roots that touch the Presidency, the Congress and the Philippine court system.

The President and her advisors, through politicization of the appointment process, compromised both the integrity and the administrative capacity of the Commission. According to pre-election opinion surveys, neither the general public nor candidates for elective office had confidence in the impartiality or the professionalism of the Commission. Several Commission members were seen as political loyalists of the President first and foremost. Concerns of this nature had validity. Less than four months before Election Day, President Arroyo appointed two new COMELEC commissioners while the Congress, which has oversight authority over such appointments, was in recess. As it turned out, one of her appointees was discovered to have made substantial financial contributions to her campaign. The other had been accused of executing vote fraud in Mindanao while he was a COMELEC official there.

Certain Commission rulings made during the course of the campaign reinforced concerns about COMELEC's political bias. Most notably was a case in which COMELEC was asked for a clarifying interpretation of its regulations limiting parties and coalitions to 120 minutes of paid advertising on television and radio. In ruling that the 120 minute limit was applicable to individual television and radio stations, rather than to all TV stations and radio stations combined, COMELEC contradicted the most obvious interpretation of its own regulation and effectively rendered it meaningless. A significant media advantage accrued as a result to the relatively well funded campaign of the President and her political allies.

The Congress has also not lived up to its responsibility to enhance the integrity of the appointments process or to provide effective and constructive oversight of COMELEC. Serious and non-partisan determination to make COMELEC functional and to restore faith in the electoral system is in no greater supply in Congress than it is in the Executive Branch. Sources with whom observers spoke suggested that members of the Philippine House and Senate are reluctant to examine COMELEC's affairs too critically for fear of reprisal. Many of them have, or fear they some day might have, cases related to their election campaigns pending before

COMELEC. COMELEC's enforcement and adjudicative powers, in this case, may ironically be providing a more potent deterrent against the development of a functional electoral system than to violations of election law.

-- Political Parties, Political Campaigns, and Media

The absence of a definable national political party system was among the most evident and consequential factors affecting the character of the 2004 political campaign and elections. In the nearly two decades since Ferdinand Marcos was forced from office, and martial law was lifted, little progress has been made in building new and durable party structures. The nominal two party system that existed before martial law, when the Nationalist and Liberal Parties were forcibly merged into the New Society Party, has evolved into a complex and shifting mosaic of national and regional organizations that have little resemblance to modern political parties. The 2004 election, like previous elections going back to 1986, introduced voters to a score of new parties and multi-party electoral coalitions. Within them voters could identify only the faintest traces of political tradition or continuity.

The inevitable result was a campaign that focused almost exclusively on personality and, particularly at the local level, one or another form of promised patronage. Though loud and energetic, the campaign ultimately provided little in the way of a programmatic basis for the appeal to voters or the selection of candidates. Voters went to the polls with very little idea of the programs of alternative parties or candidates, how they contrasted, or how their choice of for whom to vote might materially impact their lives in the long term. Philippine voters were cheated of the opportunity to cast an informed and meaningful ballot on Election Day. This was an aspect of disenfranchisement that parties and candidates paid little attention to during their campaigns, preoccupied as they were with attacking each other, attacking COMELEC, and forecasting election fraud.

The absence of well organized and politically unified parties also had adverse consequences for the election itself. In more developed political party systems, parties are a fully integrated part of the elections process. They are represented on electoral bodies at all levels, and in many places around the larger parties at least are entitled to have representatives on polling station and on canvassing committees. They thereby have both a role in and a responsibility for safeguarding the integrity of the process. They contribute, in a very significant way, to the ultimate legitimacy of the process and the credibility of its results. Philippine political parties, for the most part, do not have a similar role or responsibilities. With respect to process, they are outsiders; opportunistic critics of the process with neither responsibility nor accountability for how well or poorly it functions.

Seen in the most positive light, the political campaign was energetic and for the most part open. It was generally peaceful, legal, well organized, and characterized by open and vigorous competition, if not real political debate. Campaign posters were evident in abundance in all areas of the country where observers were present and political rallies - the largest of which attracted crowds of several hundred thousand or more - were commonplace. Candidates for national office had substantial, if not equal, access to both electronic and print media.

Particularly impressive to many observers were the well-managed, innovative and in some instances technically sophisticated campaigns that were organized at the local level. These campaigns were principally mounted on behalf of candidates for provincial or municipal office running under the banner of local political parties. In Cebu City, for example, the BO-PK conducted an efficient voter outreach and GOTV campaign on behalf of the organization's mayoral candidate. BO-PK described their program as "multi-level marketing." In each of 80 barangays throughout the city, the BO-PK identified a leader, who then identified two or three field workers to cover each of the approximately five voting precincts in each of the Barangay. Beginning in February, field workers received a tentative voter's list of their precinct, and conducted personal interviews with people to determine whom they preferred for mayor. This process took about 3 weeks. Supporters of BO-PK candidate received a yellow card showing where the voter needed to vote as well as a list of local and national candidates endorsed by BO-PK. Opposition supporters did not. The names of undecided voters were shared with BO-PK supporters in the individual precincts, and they were asked to contact these individuals and ask for their support. In the days immediately preceding the election, identified BO-PK supporters were again contacted and reminded to vote.

Though the election campaign offered abundant evidence of the vibrancy of Philippine electoral politics, far less encouraging indicators also emerged, pointing to deeply rooted and politically dangerous problems. Serious violations of criminal and electoral law by individual candidates, their parties and their supporters were reported in many parts of the country. Also notable was the generally poor quality of political debate during the campaign, and its lack of relevance to the most pressing social and economic problems of the nation.

Violations of Election Law -- Observers found substantial and credible evidence suggesting that neither the letter nor the spirit of many election laws was respected by political parties and candidates. The campaigns' of national parties and coalitions, and of candidates for provincial and municipal offices appeared to pay little attention to the limitations which the law places on overall campaign spending, which is set at 10, eight, and three pesos per registered voter in presidential, congressional and local elections, respectively. Because political fundraising and expenditures are poorly documented, reported and audited, these provisions of the law are for all intent and purpose neither respected nor enforced.

Restrictions on the size and placement of printed campaign materials also appear to have been ignored with impunity. Entire neighborhoods were literally pasted over with multiple layers of campaign literature. One media professional that observers met complained that the entire nation had been turned into a "paper mache." Observers visited neighborhoods in which exterior walls, telephone polls, electrical wires and even trees were draped with banners and posters for dozens of candidates.

Violations of limitations on the purchase of television and radio time for political advertising were also well under way until COMELEC essentially accommodated the violators by means of a favorable reinterpretation of its applicable regulations.

Vote buying by local politicians and their supporters was alleged to be especially prevalent in many parts of the country. Observers near Iloilo in the Visayas region, for example, witnessed a

large and appreciative crowd coming from the residence of a congressional candidate bearing bags of groceries, which could be deemed as inducements. Another observer in Iloilo was told by a mayoral candidate's poll watcher that they, 'like everybody else,' had engaged in vote buying. Less clear is whether the receipt of an inducement actually resulted in the desired vote being cast on Election Day, as many voters appear to have accepted some form of payment from multiple sources, perhaps reflecting the fact that voters did not appear to have serious concerns related to the secrecy of their ballots. It is nonetheless unfortunate that a substantial number of the Philippines' economically disadvantaged voters have been motivated to regard their vote as a commodity to be offered to the highest bidder.

The recruitment by local candidates and party organizations of excessively large numbers of poll watchers was also alleged to be a disguised form of vote buying. Though the law says that a candidate or party can not have more than two poll watchers at a precinct at one time, it does not specify any limit on the overall number of watchers that a candidate or party can hire. Many candidates and parties were clearly hiring and accrediting far more watchers than were needed, a fact that was borne out on Election Day. Allegations that the watchers were being paid for their votes as well as their poll watching services seemed credible. Many Filipinos assume that there is a close relationship between the economic costs of such apparently widespread vote buying, and the extreme measures that candidates at practically all levels are willing to go, including the use of violence, to avoid what for many candidates could be an economically ruinous defeat.

The use of state resources by incumbents at every level of government was widely alleged. For example, allegations were made suggesting that the President's campaign improperly allocated national health, agriculture, and transportation funds to support expenditures that blatantly promoted her candidacy. While the judicial system addressed these complaints, it seems clear that this is an area in need of reform even if specific laws were not violated.

Neither COMELEC nor the police demonstrated a strong desire or capacity to actively police the campaign. While suspected violators of one or another provision of the election law were not difficult to identify, there was little evidence of police or COMELEC intervention or penalties. One plausible explanation for the authorities' less than vigorous enforcement policies is that Philippine election law provides for few penalties short of termination of the guilty party's candidacy when a violation is committed. It is not difficult to imagine that COMELEC would have considered such a course of action politically unappealing and disruptive. Observers, as well as Filipino analysts with whom they spoke, considered that the absence of less draconian sanctions may have been less of a deterrent to violations of the election law than to the actual enforcement of the law.

Absence of Substantive Political Debate -- The campaign also fell short with respect to the quality of the political debate which it generated. While the names and faces of candidates and their parties and coalitions were present throughout the country on posters, in newspapers and on television, the quality of the political campaign hardly matched its quantity. In this respect, political parties and their candidates failed at many different levels.

Party leaders and candidates did little throughout the campaign to preserve or restore public confidence in the electoral process. In keeping with the unfortunate dictum that Philippine

elections produce ‘only winners and those that were cheated,’ parties and candidates wildly charged each other of planned electoral fraud. Allegations touched on virtually every aspect of process and implicated election administrators, government officials, security organizations, leading non-government organizations and the sponsors of and public opinion polls. Candidates regularly attacked the integrity of unfavorable polls, for example, and accused their sponsors of engaging in efforts to condition the public so that they would later accept fraudulent election results. When polls were proven wrong by the reported election results, it was cited as evidence that the pollsters had in fact been “playing” with their numbers. When polls were accurate, it was cited as evidence that pre-conditioning had worked and that political reality, in effect, had been successfully reverse-engineered.

In a broader sense, parties and candidates failed to provide coherence to the public debate on national priorities and on the programmatic means of achieving those priorities. Personality was emphasized to the almost total exclusion of political ideology or programmatic priorities in campaigns. Given the dire social and economic conditions, under which tens of millions of Filipinos live, there was a striking lack of substantive political discussion during the recent campaign on the problems of poverty, employment, and the means of promoting long-term economic growth and development. There was no evidence suggesting that parties or coalitions used opinion research, or interpreted the research that others provided, for the purpose of enhancing the quality and relevance of their dialogue with potential voters.

Nowhere was this absence more clearly manifest than in the candidacy of Fernando Poe Jr., presidential candidate of the largest opposition coalition - the KNP. Mr. Poe, a movie star with no previous political experience, refused to participate in formal political debate and remained silent on practically all matters large and small throughout the campaign. His candidacy represented a particularly bold and transparent example of the kind of political puppeteering that may unfortunately be on the rise in the Philippines. The phenomenon of “celebrity politics” is far from limited to the presidential arena, as an increasing number of television and film stars are competing in local elections.

One post-election commentary on the new law allowing political advertising on television provided a glimpse into the extent to which fame and notoriety have become predominant factors in Filipino politics and political thinking. The commentator, a senior member of the Senate, offered nothing in his comments on the impact of the new law that suggested the decision to permit television advertising was made in consideration of the fact that television has long been the principal medium through which people worldwide receive political information, or to suggest that the law be evaluated in that context. He stated, rather, that “when we allowed political advertisements, we were trying to level the playing field between the known and unknown candidates.” Neither the dissemination of political information, nor citizens’ right to have access to political information was or is a priority consideration, as was borne out in the campaign.

Absence of Coordination between National and Local Campaigns -- There was little evidence that the campaigns of the major parties or coalitions were either organizationally or politically networked from the national to local level. Many campaigns for local offices were well organized and sophisticated with respect to the methods of communication and the technologies that they employed, such as SMS messaging and local phone banking. Local candidates and parties, however, appeared to have little or no relationship – other than a financial relationship – with the national parties or candidates with which they were officially allied. Much of the literature distributed by national campaign offices to local political partners, for example, was observed to have gone undistributed.

There was, moreover, little correlation between the political affiliation of candidates for local office and the national candidates that they supported. The much commented upon phenomenon referred to as “turncoatism,” which refers to the frequent and opportunistic changing of party affiliation by candidates, political operatives and elected officials at all levels, is widespread and for the most part accepted. Party loyalty is not regarded as an important priority. Former President Corizone Aquino herself, perhaps the most venerated political figure in the Philippines, endorsed a candidate from an opposition party to succeed her in 1992.

Another indication of the near irrelevance of party or coalition affiliation to the campaigns of individual candidates could be found in the “sample ballots,” or so called “codicos” distributed on behalf of candidates for local office. Sample ballots, though clearly not official, were designed to look similar to the ballot that voters would receive at their precincts on Election Day. On the sample ballots, the names of specific candidates would be written in the appropriate place. This appears to have been a principal way that candidates attempted to persuade voters to support them, and at the same time instruct voters on how and where to write their name on the ballot. In many cases, the sample ballots distributed by local candidates did not include the names of other candidates for local or national office from the same party or coalition. Thus, while the mayoral candidates name would be written in the appropriate place, the place for the presidential or gubernatorial or congressional candidates would be blank. In other cases, some of the sample ballots distributed by a local candidate’s organization included one set of names for other positions on the ballot, while other sample ballots included a different set of names. It was evident that party or coalition loyalties were at most only skin deep.

The media’s coverage of the campaign contributed little to its quality. This was not always the fault of journalists alone. Journalists were not immune to the dangers of the campaign. Parties, individual candidates and/or their supporters reportedly threatened journalists. There are some areas of the country, moreover, to which journalists could not or would not travel because of concerns for personal safety. In other instances, journalists’ freedom to research and write about political events was undermined by the fact that their newspaper was owned by a political party or run by partisan publishers and editors.

Compromised journalistic and editorial standards, nonetheless, did play a large part in the overall failure of the media to contribute to or encourage a higher level of political debate. Newspapers, following a practice that is widely commented upon and apparently condoned, accepted payments from parties and their candidates in return for printing politically beneficial stories. Journalists focused their reporting, more often than not, on issues related to possible backroom political deals involving the major candidates and parties, the leveling of personal attacks by

candidates and their spokesmen against each other, and the abundant speculation on the prospects for electoral fraud. Journalists appeared to place little importance on fact checking or factual accuracy in their reporting. They failed for the most part to question or rationally examine the charges and allegations that politically interested parties were bringing to their doorsteps each day. In the five weeks preceding the election, there was virtually no substantive discussion of any public policy issue in the context of campaign coverage by either of the Philippines' two largest and most reputable daily newspapers, as monitored by one of the CEPPS team members.

ELECTION DAY / MAY 10, 2004

Due to the experience and dedication of the estimated one million Filipinos directly involved in organizing and implementing the voting and ballot counting process on May 10, and to the patience and determination of the voters themselves, Election Day appeared to be a qualified success. Of an estimated 43.5 million eligible voters, approximately 32.4 million – or 74 percent – valid cast ballots. The process, as one observer described it, seems to have been “disorganized and adaptive, but not dysfunctional.”

There were numerous irregularities in the implementation of voting procedures and the tallying of precinct ballots on Election Day. The combination of problems with the voter registry, procedural irregularity, crowded voting centers, complicated ballots and a tedious manual vote tallying process made the system vulnerable to error or individual acts of intentional wrongdoing. Based on their direct observations, however, the observers could not conclude that problems of either nature were of a scope or character that would compromise the essential integrity of the voting and vote counting process at the precinct level. Observers did not find evidence of an overall pattern of mistakes or deliberate violations that appeared to have been designed to benefited one candidate or political party over another, although the possibility of such did seem more serious in the local races.

A fundamentally important point, on which the observers were in general agreement, is that the approximately 216,000 Election Returns that were the result of vote counting at the Precinct level would appear to represent a generally accurate reflection of the will of Filipino electorate. As such they constitute a generally reliable, and widely available, fact base for either a partial or an overall audit of the announced election results.

-- Voting Stations and Board of Election Inspectors

Voting stations in most parts of the country opened on time at 7:00 a.m. with all BEI members present. Precinct Chairs appeared to have had previous election experience, as did one both of the other BEI members at individual precincts. The vast majority of BEI teams acted professionally throughout the very long Election Day, and proved up to the task of processing voters and maintaining general order within their precinct. It was nonetheless obvious that better and more standardized training and instructional materials for the BEI would have resulted in an overall improvement in the environment in which voting took place and in the efficiency with which voters were processed and ballots tabulated.

While observers found in almost all cases that BEI members had been selected according to the requirements of the law, there were exceptions. COMELEC Election Officers in some places were unable to find a sufficient number of legally eligible precinct Chairpersons. In Mandaue, for example, the COMELEC Election Officer had a difficult time finding the necessary number of people who were both public school teachers and registered to vote in the city, which is what the law requires of precinct Chairpersons. As previously stated, this finally resulted in understaffing at some voting precincts. More problematic were instances in which observers discovered that PNP officers were serving as BEI in some localities, and as a Municipal Canvassing Board member in one instance in Tagbilaran City, Bohol.

There were also some locations from which observers reported that voting did not begin on time owing to delays in the delivery of necessary materials and/or the late arrival of precinct BEIs. Some voters are reported to have gone home rather than wait for these precincts to open. There was no evidence, however, to suggest that the problem was widespread or that a large number of voters did not cast ballots as a result. More severe problems that required the postponement or interruption of voting or ballot counting were reported in 23 of the nation's 41,968 Barangay, and were for the most part related to problems that were of a criminal, rather than an administrative nature. Barangay are the smallest administrative unit in the Philippines and each contains approximately five precincts on average. These elections were rescheduled and eventually carried out or completed.

Most voting precincts were clustered in public school buildings, with either one or two precincts set up in each classroom. Rudimentary and extremely confined, the facilities in which balloting took place were no more than barely adequate. At peak hours, voting centers and individual voting precincts were crowded with administrators, poll watchers and voters, many of whom lingered casually at the premises after casting their ballots. Voters at many precincts were reported to have waited upwards of one hour to cast ballots.

The vast majority of precincts observed had adequate supplies of essential materials to prepare their precinct stations and to accommodate voters, although observers did report that the delivery of both sensitive and non-sensitive materials to BEIs had often been late and poorly organized. In Cebu, for example, BEIs reported waiting more than seven hours to get their non-sensitive precinct materials on May 9, owing to the fact that only two local COMELEC officials were trying to manage the distribution of materials for nearly 500 precincts. On Election Day, observers saw evidence in some locations that material shortages, or faulty materials, did interfere with voting and later with counting processes. In Lapu Lapu, for example, observers reported that late arrival of voting materials resulted in the late opening of several precincts. Later in the day, at least 12 precincts had to delay commencement of vote counting due to a shortage of Election Return forms. There were no reports, however, of precincts having to turn voters away, or being unable to complete ballot tallying and reporting functions, for lack of ballots or other necessary materials.

Considering the extremely lengthy list of candidates that voters were asked to consider, and the need for voters to write in 30 or more names on their ballot, the voting process appeared to proceed without major delays or interruptions in most areas. The fact that fewer than 200 voters were registered to vote at most precincts mitigated severe overcrowding within most individual precincts. Voter waiting times of more than 30 minutes were uncommon except during peak

voting times. Despite the difficult physical conditions, and the lengthiness of the ballots, voting stations were in general orderly and observers did not find that a significant number of voters had difficulty understanding or filling in their ballots.

Numerous problems of an administrative or procedural nature were nonetheless observed, and it seems safe to conclude that very few precincts actually operated in accordance with established procedure. Irregularities, however, were neither of a scope or a nature to suggest that they were a manifestation of planned election fraud, or that they had compromised the overall integrity of the balloting in the voting stations where observers were present. Among the observed problems and procedural violations were the following: the posting of campaign literature within 30 meters of voting stations; electioneering usually in the form of distribution of sample ballots near the entrances of voting stations; instances in which proper locks had not been provided for ballot boxes; instances in which precincts had not been supplied with the required number of ballots (three more than the number of voters on the precinct list); insufficient copies of the COMELEC General Instructions for precinct workers; improper application of indelible ink; isolated failures to remove serial numbers from ballots before giving them to voters; and poll watchers assisting BEIs with counting functions at some precincts.

-- Voter Registration Lists

Of paramount concern as Election Day approached was the potential for serious problems associated with the voter registration lists. Though a patchwork, the registry did in the final analysis hold together. Observers noted that BEIs in the majority of precincts had versions of the computerized registry, the new but partial photo/fingerprint registry, and original voter registration documents to confirm the eligibility of voters. Observers saw BEIs using all three lists at one time or another to confirm the identification of voters. In only one locality, Lapu Lapu City, were observers able to confirm that the new photo/fingerprint registry was complete and the sole registry used for the voting process.

Observers found no evidence to substantiate pre-election fears, or post-election claims, of “massive disenfranchisement.” While many voters were no doubt disenfranchised as a result of not having had the opportunity to confirm their registration prior to Election Day, or because of a lack of information about where to vote, the problem appeared to have been far from “massive.” Observers saw no evidence, and received no reports at the voting centers that they visited, indicating that significant numbers of voters were not given the opportunity to cast ballots. An estimated 32.5 million Filipinos cast ballots and the overall percentage turnout approached 74 percent. This was approximately 5 percent lower than average turnout in previous elections. It was not possible for observers to offer a qualified opinion on the extent to which this difference was related to problems with voter registration as opposed to other factors. Concern about list padding and the potential it created for multiple voting, moreover, was not borne out by what the observers directly witnessed or by what was credibly reported to them.

The most serious problem that emerged was not that voters were not included in the registries, or incorrectly registered. The biggest problem was that too many voters – a consensus estimate among observers was two percent to seven percent - could not easily locate the precise precinct at which they were registered. COMELEC’s decision to go ahead with the consolidation of voting precincts despite the fact that overall modernization of the balloting and canvassing

process program had been terminated contributed to this confusion.

Observers in all locations reported that many voters had to move back and forth between several precincts trying to find their name on the voters' list posted outside the precinct. The sources of the problem were traceable to COMELEC's precinct consolidation program as well as its failure to distribute accurate Voter Information Sheets. In areas where Voter Information Sheets had been properly distributed, evidence suggests that the problem was lessened to a significant extent.

Many of the voters willing to make the effort to seek additional guidance from the local COMELEC office, or from the voter assistance tables set up at many voting centers by the PPCRV, were able to get properly directed and cast a ballot. However, because this required spending 30 minutes to an hour in one line or another before returning to the correct voting station, it is not unreasonable to assume that many simply went home. Others were presented with valid reasons why they were not registered and could not vote. In some cases their names had been struck from the registry because they had not voted in the two previous elections. It was not possible to say with certainty to what extent these problems contributed to the marginally lower voter turnout as compared with previous national elections.

-- Ballot Secrecy

Owing to the very uncommon absence of voting booths, observers expressed uniform concern that voters' privacy was not sufficiently protected. Concerns about voter privacy were especially relevant given the evidence of widespread vote buying with which observers had previously been presented. In place of voting booths, precincts were furnished with up to a dozen individual student desks and chairs, arranged in rows or side by side along a wall. Most commonly, a paper file folder was taped upright around one corner of the desk to form a partial screen. Taped to the inside of the makeshift screen was usually found a copy of the Voter Information Sheet. The folder provided the voter with only limited privacy in a room where several voters were usually marking their ballots at one time. Concern was heightened by the fact that most Filipino classrooms are separated from adjoining hallways by transparent wire meshing, rather than walls. Large numbers of people were generally in those hallways throughout Election Day.

Their concerns notwithstanding, neither IRI, NDI, IFES nor domestic observers they encountered reported evidence of deliberate or systematic efforts to violate the privacy of voters, or to deliberately undermine voters' confidence in the secrecy of their ballot. Given the lengthiness of the ballot and the fact that voters had to write in the names of up to 32 candidates, it would have taken far more than a quick or casual glance to identify a voter's individual choices. Efforts to intrude on the privacy of voters would not have been easy to disguise, especially given the number of poll watchers present at most voting locations.

While there may not have been evidence to suggest that the secrecy of the ballot was in fact seriously violated or compromised on Election Day, it is impossible to say with certainty to what extent voters' perceptions about the secrecy of their ballots may have been affected by the open voting environment. Ballot secrecy is fundamentally a question of confidence, and Filipinos are clearly not provided with a voting environment that builds or reinforces that confidence. In more rural or isolated locations, or in locations that had experienced higher levels of election related

tension or more aggressive vote buying, one can easily imagine that confidence in the secrecy of the ballot may in fact have been quite low. In these cases, the election result may have been affected.

-- Domestic Election Observers

IRI observers encountered substantial numbers of Filipino counterparts at virtually all the voting centers that they visited. Many of the domestic observers were representing individual candidates for municipal or provincial office. Others represented one or another of the major national parties and/or candidates for national office. All appeared to be wearing official credentials. In addition, the Parish Pastoral Council for Responsible Voting (PPCRV), or a local civic organization affiliated with it, had watchers at most precincts. The PPCRV's Voter Assistance Tables made a very important contribution to the general order of most voting centers and to the efforts of voters to locate the precincts at which they were registered to vote.

The quality of the domestic observers varied widely with respect to their level of knowledge about the election law and procedures, and to the conscientiousness with which they performed their duties. Many of the observers did not seem to be especially well prepared or diligent. PPCRV's observers were an exception in this regard. They had been trained and were in almost all cases in possession of detailed observer manuals. It seems not to have been uncommon, at least in the polling stations observed by IRI, for BEI Chairpersons to seek information on specific procedural points from the PPCRV watchers.

In general, observers believe that the large number of domestic poll watchers present on Election Day was a positive check against the possibility of significant or widespread electoral cheating at the precinct level. Cheating at the precinct level, if it did occur, would have had to take place under a great many eyes. IRI observers questioned domestic watchers at all voting centers that they visited, moreover, and received very few credible or consistent reports of intentional wrongdoing. At the same time, however, the sheer number of watchers present at some voting centers did lend credibility to claims that many were paid not only for their services, but also for their votes. In some instances, observers questioned whether the presence of large numbers of party affiliated poll watchers was not in fact intended to intimidate voters.

-- Ballot Counting and Preparation of Election Returns

As with most other aspects of the election itself, the ballot counting and reporting process could be described as a qualified success. The evidence directly and indirectly received by observers suggests that the vast majority of precincts conducted their ballot counts in only rough compliance with procedure. Nonetheless, they did successfully complete their counts and transmit reliable Election Returns for canvassing.

In some instances, however, observers received far more problematic reports of locations where procedure was circumvented to the extent that the integrity of the count, as recorded on the Election Returns, was called into question. In some areas of Mindanao, for example, it was reported that military units had taken ballot boxes from their precincts and counted the vote at military barracks where poll watchers were prohibited from entering. It is impossible to determine whether these measures, and similar measures reported in other locations, were in all cases taken on the basis of legitimate security concerns. Regardless of the motivation, the failure

to insure transparency was a critical failure in these instances. Observers also received reports of isolated instances in which ballot boxes were illegally removed from voting stations and/or stolen from BEI that were transporting them for post-election storage.

With relatively few exceptions, voting stations nationwide appear to have closed on time at 3:00 pm. Voters that were still within the premises of voting centers at that time were generally accommodated. There were no indications that delays associated with the registration lists or the balloting process itself had resulted in voting stations closing while voters were still waiting to cast ballots. BEI seem for the most part to have closed their precincts in an orderly manner, if not in a procedurally consistent manner. In most precincts, ballot tabulation proceeded after a meal break of one or in some cases two hours, and was not concluded until well after 10:00 pm in most cases. Domestic poll watchers were present at all precincts visited by CEPPS observers.

Observers did not report significant problems related to discrepancies between the number of ballots that were in ballot boxes at the end of the day, and the recorded number of actual voters. Observers were, however, critical of the method for reconciling such differences. In cases where there were more ballots in the box than actual voters, a corresponding number of ballots were simply removed and placed in an Envelope for Excess Ballots.

Observers also did not report significant problems related to the validation of ballots. Ballots could be declared invalid in their entirety if they contained markings deemed to be intentional and for the purpose of identifying the voter. During the actual counting and recording process, one or more of an individual voter's ballot choices could be declared invalid because the name written into the space in question was illegible or otherwise incorrect. Observers did not see or receive evidence that the number of ballots being invalidated, or the number of votes being invalidated, was unusually large. Neither was there indication that the process of declaring a ballot or a vote invalid was unusually contentious within precincts. Data available after the election, moreover, does not suggest that an unusually large percentage of ballots or individual votes had been declared invalid.

Ballot counting was slow and tedious. Each valid ballot, with up to 32 individual names, surnames, nicknames or variations thereof, was read aloud by the BEI Chairperson. Vote tallies for each candidate were marked by BEI clerks on an official Election Return sheet kept next to the Chairperson. The Election Return was designed to yield six carbon copies in addition to the original. A mirror tally was kept on a large Tally Sheet posted along a wall of the Precinct. Poll watchers were in most cases also keeping their own tally of the announced vote in addition to monitoring the tally sheets. The nature of the ballot made it very difficult for poll watchers to confirm the accuracy of what the Chairpersons were declaring, as well as the consistency between what the declaration and what the clerk was writing on the official Election Return, unless they were in very close proximity. Though some were, most were not. In some cases it was reported that poll watchers were not being allowed to move freely about the precinct during the count. In other instances it was reported that poll watchers were inappropriately assisting in the counting process, though this appeared in all instances to be with the agreement of the BEI and other poll watchers. Observers did not, however, witness or receive reports of BEI attempting to purposefully proclaim or record the vote incorrectly.

As in the case of Excess Ballots, observers were critical of the rather arbitrary manner in which BEI appeared to deal with discrepancies that emerged between what was recorded on the Tally Sheets and on the official Election Return. When discrepancies emerged, BEI simply “balanced” the numbers. In some instances this meant adjusting the vote totals of one or another candidate on the Tally Sheet to match what was on the Election Return. In other cases, it meant adjusting the totals on the official Election Return to match the Tally Sheet. Fortunately, the discrepancies and “balancings” that observers witnessed only involved a very few votes. Poll watchers, moreover, were present in these instances and raised no objections.

The final tallying of votes for individual candidates and parties was also extremely slow and seemed especially prone to error. By the time the process of recording and tallying of votes began, most BEI had been on the job for more than 20 hours in a physically uncomfortable and emotionally stressful environment. Observers reported that at certain precincts the environment became less orderly as the process wore on, although there were few confirmed reports of serious arguing or unresolved disputes. In some instances observers noted mathematical errors on the Election Reports, or inconsistencies in what had been read out vocally by the BEI Chairman and what had been written on tally sheets.

It would later become clear that many BEIs also failed to include all of the required information in their Election Returns before submitting them. The failure of many BEI to include required data on the number of registered voters, and/or on the number of voters that actually cast ballots at their precinct, would result in time consuming disputes and the inevitable allegations of attempted fraud at latter stages of the canvassing process.

In only a relatively few instances were precincts unable to complete their count and deliver the official copy of their Election Return to the appropriate City or Municipal Canvassing Center by midnight on Election Day. Some precincts, however, reportedly did not complete their counting for up to two days after Election Day.

It did not appear, however, that BEIs failed, except in a relatively few instances, to make the required carbon copies of the official Election Returns available to accredited representatives of NAMFREL, the civil society organization authorized by COMELEC to conduct an unofficial “quick count,” or to the accredited representatives of the dominant majority and minority political parties. Observers noted that very few complaints related to the accuracy of the vote tally seemed to emanate from the ranks of the candidate and party poll watchers present at the precincts on Election Day. Throughout the long canvassing process that followed the voting, the Election Returns were available and offered the basis for a generally reliable audit of reported results. At the campaign headquarters of the K-4 coalition that supported the candidacy of incumbent President Gloria Arroyo, coalition operatives showed observers many large binders in which Election Returns from regions across the country were being collected and organized.

POST ELECTION

The close of polling stations and the delivery of Election Records to municipal and city canvassing boards initiated a long and contentious process. During the six weeks that it took for all votes to be canvassed and for results to finally be announced, it was evident that the

canvassing phase was the most deeply and structurally flawed element of elections process. It presented a stark and unflattering contrast with elections that were simultaneously held in India, where nearly half a billion votes were cast and tabulated in less than four days and a new government was announced. The period between Election Day and June 22, when the Philippine Congress at last proclaimed the newly elected President and Vice President, was one of political uncertainty in which opposing political forces alternatively threatened massive street protests and crackdowns on alleged coup plotters.

Canvassing was also the stage of the process where apprehensions about fraud were most acute. Candidates and party spokesmen from across the political spectrum had warned incessantly throughout the campaign and during the canvassing that plans were in place to manipulate the Certificates of Canvass (CoCs) emerging from municipal, city and provincial canvassing centers. Particularly striking was the fact that cheating was not only expected, but that candidates and the electorate itself had seemingly been conditioned to accept it as an inevitable part of the canvassing process. References to ‘dagdag bawas,’ the process of fraudulently adding and subtracting votes on the CoCs, were ubiquitous.

It was impossible for observers to accurately assess the extent to which the constant warnings and allegations were based upon real concern, or were merely a strategic device intended to create the grounds for later challenges to unfavorable election results. The latter seemed plausible, and in keeping with the often cited tradition in Philippine electoral politics that there are ‘no losers, only winners and those that have been cheated.’ Losing candidates and political parties at all levels would remain faithful to the tradition, routinely challenging results and maneuvering to block or delay the official proclamation of winning candidates when possible. Many of the allegations of fraud and other challenges involving the accuracy of municipal or provincial level Certificates of Canvass, it seems, could have been resolved relatively quickly by audit had the plaintiffs’ wanted to pursue this course.

At the same time however, observers were direct witnesses to instances in which attorneys for candidates or political parties did bring forward factual evidence of tallying errors – in one case quite significant – or inconsistencies in the data contained on CoCs. Considering the very small size of the observer team, this suggests that such errors and inconsistencies were not rare, and it leaves open the question of errors and inconsistencies that may have gone undetected or been ignored. Given that the combined observation team of the CEPPS partners through the most critical phases of the canvassing process was limited to fewer than 10 people, and that their regional coverage was narrow, it is impossible to say with confidence to what extent, or in fact whether, error or wrongdoing in the canvassing process affected the final outcome of the races, including that for the Presidency. Based upon what they did see, both on Election Day and during the canvassing process, however, observers believe that it is reasonable to suspect that there existed some statistically significant overall margin of error in the final election results.

-- Canvassing

Canvassing was a multi-phased process. Precinct Election Returns were brought by BEIs to either Municipal or City Canvassing Boards. The information recorded on these Election Returns was compiled and re-recorded on Municipal or City Certificates of Canvass. These provided the basis for the proclamation of winning candidates for city and municipal offices, and

for some of the races for seats in the House of Representatives. Municipal and City Certificates of Canvass also contained compiled data for higher level offices. These certificates and copies were forwarded to Provincial Canvassing Boards, and made available to party poll watchers and accredited domestic monitors. CoCs from larger cities were also sent directly to COMELEC, sitting as the National Canvassing Board, and to the Congress. At the provincial level, votes were again compiled and the information was re-recorded onto Provincial CoCs. Winning candidates for provincial offices, and for the remainder of races for seats in the House of Representatives, were proclaimed. Copies of the Provincial CoCs were then forwarded to the National Board of Canvassers for use in the canvass of the election results for Senators and Party-List Representatives in Congress, and to the Congress, for use in the canvass of election results for President and Vice President. Party poll watchers and accredited observers again also received copies, contributing to the audit trail that extended back to the original precinct ERs.

Though many of the canvassing centers that observers visited were confined and overcrowded, the canvassing process itself nonetheless took place in a manner that was in general orderly and consistent, though observers did note exceptions. Canvassing Boards at all levels appeared, in general, to have been properly constituted. The appropriate level COMELEC official or senior lawyer Chaired the BEI BOC, a head of the local or provincial treasurers' office served as Vice Chairman, and either a superintendent or senior supervisor of schools was the third Canvassing Board member.

The canvassing was nonetheless prone to error and extremely slow. This owed to the substantial amount of numerical data that had to be manually recorded, tabulated and compiled, and to the frequent interruptions of the process by attorneys representing candidates or political parties.

Canvassing centers were typically set up with multiple tables, each with a team of three canvassers. At municipal canvassing centers, for example, precinct ERs were organized into batches of 21 and placed into unused ballot boxes. Canvassing teams removed the ERs from the boxes, one after the other, and compiled the data on tally forms. As each form was completed with the data from 21 ERs, designated tabulators added and recorded the votes for candidates and parties. At the conclusion of the process, the data on the tally forms was compiled and recorded onto the official Municipal CoC, which was then transferred to the appropriate Provincial Canvassing Board, where the process was organized along similar lines. In locations visited by observers, poll watchers and attorneys were present and had the opportunity to physically inspect the ERs and CoCs that were being canvassed and compare them against their own copies of such.

Municipal and city canvassing boards typically took between five and seven days to complete their work, announce local election results and forward their Certificates of Canvass to the appropriate provincial and national canvassing bodies. In rural and geographically isolated areas of the country especially, the first round of canvassing sometimes took longer. Security of the precinct Election Returns and sensitive canvassing materials, under the circumstances, was a concern. In Cebu and Bohol, observers reported that municipal canvassing board members at one location had slept at their canvassing center for four nights during the canvassing. In general, however, it appeared that COMELEC and the PNP provided adequate security at canvassing centers at all levels.

Though deliberate falsification of CoCs was a preeminent concern, the environment in which the canvassing took place was not conducive to fraud, particularly through the level of municipal and city canvassing boards. The typical municipal and city canvassing center visited by observers was crowded with domestic monitors and attorneys representing candidates and parties, as well as canvassers, tabulators and members of the Canvassing Board. Though a crowded environment peopled with guardians of multiple interests does not in itself constitute a guarantee against cheating, or a satisfactory substitute for better technical and administrative safeguards, it does pose a significant deterrent. Deliberate falsification of tally forms or the final CoCs, it appears, would have had to take place in the presence of multiple observers and required the cooperation and acquiescence of at least several individuals.

Canvassing at the Province level was widely considered to be more problematic given that there were typically fewer people present at that stage of the process and, presumably, because falsifications would be easier to disguise in the context of larger vote totals. Though observers did not find, and were not presented with, direct evidence of falsification of provincial CoCs, allegations of such were nonetheless rife. Mindanao was once again an area of principal concern. No less senior a figure than a COMELEC Commissioner told observers he was certain that some of the provincial CoCs coming from Mindanao had been falsified. He was apparently not, however, motivated by this knowledge to initiate an audit or an investigation. His actions were consistent with a general system-wide pattern of alleging violations and yet not offering evidence to support the allegations or initiating investigative follow-up. The means of doing so appeared to be at hand in the form of either original Election Returns or Municipal and City Certificates of Canvass.

-- Complaints and Challenges

At all levels, the canvassing was slowed and frequently interrupted by complaints and challenges brought by the numerous attorneys, representing candidates and parties, that could typically be found in and around canvassing centers. Although observers personally visited relatively few canvassing centers, they were direct witness to a multitude of legal interventions. The vast number of challenges and complaints lodged throughout the canvassing process disrupted and delayed the count, and at the same time sowed public doubt as to the legitimacy of many of the announced electoral outcomes.

The pattern that unfolded was in keeping with the recent history of Philippine elections. In the opinion of observers, it reflected both the deep mistrust that pervades the electoral process at all levels and the extent to which the current complaints and adjudication process is itself dysfunctional. Evidentiary standards for the filing of complaints are too low. COMELEC, for its part, clearly appeared to be overwhelmed by the scope of its adjudicative responsibilities and incapable of handling complaints in a timely and efficient manner.

Interventions fell into three categories. Most damaging, with respect to their impact on the overall quality and integrity of the electoral process, were interventions clearly intended to publicly de-legitimize the vote count and delay the proclamation of winning candidates. The motivation in these cases appeared to be a simple refusal to accept electoral defeat, or possibly an attempt to gain post-election political concessions. The most dramatic example of this

occurred in the Philippine Congress during the canvassing of votes for the Presidency and Vice Presidency. Supporters of KNP candidate Fernando Poe Jr. first sought to delay initiation of the canvassing through myriad and ultimately unsustainable challenges to the rules and procedures under which the majority proposed to organize and conduct the canvass. Ballot boxes containing provincial and major city CoCs, as well as those containing the results of overseas balloting, remained unopened on the floor of the Congress for more than one week while the various interpolations and legal challenges ran their course. Once the counting commenced, the opposition initiated numerous challenges related to the integrity of the provincial and major city CoCs. They consistently failed, however, to provide credible and convincing evidence to support their allegations, even though it was reasonable to assume that the KNP leadership had access to a full range of ERs and CoCs from municipal, city and province levels with which to validate their allegations. The canvassing ultimately took three weeks, concluding on June 22, 12 days after the constitutionally mandated deadline for the final proclamation of election results.

Another example came from Isabella Province, where an incumbent governor was challenged by a popular woman political activist. The canvass showed that the incumbent - the head of a political dynasty that had controlled the provincial governorship and lower level elective offices for 30 years - was losing by a decisive 40,000 votes. His attorneys sought to stop the proclamation of his opponent's victory on the basis of allegations that she had received illegal funding from the communist New Peoples' Army. Succumbing to political pressures and fear, the Chairman of the Provincial Canvassing Board abandoned his post and went into hiding, at which point the incumbent sought to have COMELEC move the canvassing venue from the PCB to Manila. As previously mentioned, this tactic was regarded by some Filipino critics of the electoral process as a way to diminish transparency and facilitate fraud. Though that effort to change the canvassing venue failed, it took COMELEC six days to create a new PCB in Isabella. The allegations could not be substantiated and the challenger was ultimately proclaimed the winner, but the process was delayed by three weeks. During that time the challenger, fearing for her personal safety, remained in seclusion.

In other instances, however, pre-proclamation complaints by candidates or party representatives had a more legitimate basis, and were motivated by serious deficiencies in the process of adjudicating post-proclamation electoral complaints. Candidates that file post-proclamation complaints, either with COMELEC in the case of elections for provincial, municipal and city offices or with House and Senate Electoral Tribunals in the case of Congressional elections, have routinely had to wait from one to several years for a decision. There have been numerous instances in which COMELEC or the Tribunals have ruled favorably on a complaint, and overturned an election result, more than a year after the incorrectly proclaimed winner had assumed office. In a very recently decided case, the House Tribunal ruled on behalf of a complainant and awarded him a seat in the House of Representatives, less than a month before the three year term to which he was elected was set to expire. Complaint adjudication is clearly an area where the system is failing badly.

A second category of interventions involved complaints that had technical merit but were essentially unrelated to the recorded vote totals. Attorneys at municipal, city and provincial canvassing centers identified numerous cases in which all required information, or all required signatures and thumbprints, were not included on an Election Return or a CoC. It is reasonable

to assume that many of these mistakes were the result of misunderstanding or simple fatigue. Such documents were placed in abeyance while the canvassing continued. Observers directly witnessed only a few instances in which the documents were corrected and re-introduced for canvassing, but there was no evidence to suggest that most of these cases were satisfactorily resolved.

The third category of interventions related to inaccuracies in either the mathematical vote total or in the correlation between the number of registered and the number of ballots that had actually been cast at a particular precinct or in a municipality, city or province. Such inaccuracies were relatively common. Although this was in itself a matter of serious concern, it is important to note that in many cases these mistakes appear to have been both detectable and correctable. At the National Canvassing Board in Manila where provincial CoCs were being canvassed for the party list vote, for example, observers were present when an attorney presented the Canvassing Board with evidence of substantial errors in the vote totals contained in the provincial CoCs that had been transferred from Mindanao. He presented data from municipal CoCs in Basilan province in Mindanao to demonstrate that his party's vote total, as recorded on the Provincial CoC that had been sent to the Manila Canvassing Board, was several thousand votes less than it should have been. The CoC was placed in abeyance as a result.

Collection and utilization of the audit trail of precinct ERs and lower level CoCs was thus shown to be a potentially effective means of supporting the integrity of the canvass. This naturally raised important questions regarding the constant stream of unsupported allegations of vote tampering that KNP's supporters leveled throughout the Congressional canvassing process. Though repeatedly challenged to produce the evidence upon which the allegations were based, KNP leaders failed to do so, despite the fact that they should have had access to the necessary documentation. During a meeting at the campaign headquarters of the K-4 coalition, for example, observers were shown an extensive file of Election Returns and CoCs from across the country. KNP and its supporters had no less of an opportunity to collect these materials. Why they failed to do so, or why they failed to produce them in evidence to support their many allegations, remains an open question. Whatever the reasons, the process itself, and the electoral outcome, could not help but be tainted as a result of the allegations and the public attention that they received.

RECOMMENDATIONS

The principal goal of the joint IRI/NDI/IFES long-term election monitoring program was to facilitate a critical examination of Philippine electoral processes, and dialogue on electoral reform, by and among Filipino stakeholders. In this respect, the project has succeeded. Legislators, current and former senior election administrators, influential members of the media, academics, and the leaders of civil society organizations appear to have been energized to make a collective effort to reform and strengthen an electoral system that is clearly in need of repair. It is IRI's hope that the recommendations that follow will contribute to that dialogue and to the hard and detailed work of reaching consensus on legal, administrative and institutional reforms that can be implemented prior to the next national election in 2007.

An essential and striking characteristic of Philippine elections is the deeply rooted – one can even say institutionalized – mistrust that characterizes the relationships between and among virtually all participants in the processes. In no quarter can one find evidence of faith in the system, or in the honest intent of any of its participants. All parties in the process are assumed guilty of actual or planned malfeasance, and there are no accepted or respected processes, or evidentiary standards, for demonstrating otherwise. The basic integrity and the legitimacy of virtually every elective office in the land, it seems, is in question. Thus far, this phenomenon has not undermined the Philippine public's enthusiasm for participation in elections. It is evident, however, that public cynicism is on the rise and that appreciation for the meaning and significance of the franchise is diminishing. It is foreseeable, under the circumstances, that Philippine elections may one day produce outcomes at odds with the continued development or even the existence liberal democracy in the nation.

Recommendation 1: Build public and institutional confidence in the election process.

Instilling integrity in the nation's electoral processes is critical to the future of Philippine democracy and must be consciously and conspicuously adopted as a fundamental goal of a broad based electoral reform effort

To have any chance of achieving this goal, the process of electoral reform must be broadly inclusive and fully transparent. As important as the specific details of any electoral reform program is that it enjoy consensus support from within COMELEC, the Congress, the government of the day, and the civil society. It must be the product of a dialogue that includes national and local leaders from all of these sectors and institutions. Moreover, the public must fully comprehend as well as support the reform effort. Public education must be an integral component of the program, and plans must be developed for a coordinated public education and training program well before the 2007 elections.

Recommendation 2: Full management audit of COMELEC and implementation of results.

The Commission on Elections is the place to start in addressing the many problems that beset the electoral system. In all of its areas of principal responsibility, policy making, administration and adjudication, COMELEC is fundamentally lacking. COMELEC's standing as a Constitutional body guarantees its independence, and limits the capacity of outside bodies to impose reforms or restructuring. Nonetheless, there are many steps that can be taken which would neither threaten COMELEC's institutional prerogatives nor necessitate prior Constitutional reform. Moreover, as the institution with the most to gain in terms of restored public trust and respect, COMELEC should welcome and participate fully in these efforts.

The Senate and House of Representatives Committees on Suffrage and Electoral reform should propose, as one of their earliest actions in the new Congress and in keeping with their oversight responsibilities, a Full Management Audit of COMELEC, to which the Commission should voluntarily comply. The deadline for the auditors' report and recommendations should be no later than January 31, 2005. Priority issues for the auditors should include:

- An examination of the 'Commissioner in Charge' managerial structure that has evolved within COMELEC. It has been criticized, among other things, for encouraging and allowing too much administrative micro-management from

COMELEC commissioners. The professional civil service within COMELEC, as a consequence, has been marginalized and retarded in its development. Communication with and coordination of COMELEC's network of field offices has also suffered as a result.

- An examination of the feasibility of creating managerial and administrative firewalls within COMELEC to create and adequately staff more professional and independent offices to administer and carry out 1) investigations and adjudication of election law violations and electoral challenges and complaints, 2) COMELEC's constitutionally mandated security functions, 3) voter education and election worker education and training programs.
- In light of their overall findings, auditors should develop a guidance document to assist the government and the legislature in selecting the professionally best suited candidates for appointment to the COMELEC Commission. It was repeatedly pointed out to observers that the appointments process is failing to provide COMELEC with a Commission that are professionally well suited to the demands of the job. In particular, critics cited the preponderance of commissioners drawn from the legal profession as a factor that has contributed to the body's lack of managerial and technical skill and orientation.

Recommendation 3: Modernization of the electoral system.

Modernization of the electoral system must once again be deemed a national priority. A new and more automated voting and canvassing system, as well as an updated and reliable voter registry, must be in place prior to the next national elections in 2007.

Modernization should focus on six key areas and seek, to the fullest extent possible, to utilize the substantial financial investments that COMELEC made in new election equipment and technologies 2003 and 2004.

1. The national voter registry must be comprehensively updated and consolidated. Serious consideration should be given to whether or not the partially completed registration and revalidation program that preceded the 2004 election continues to provide a realistic and workable basis from which to proceed.
2. Ballots must be re-designed and the vote counting and canvassing processes must be automated. Though paper ballots and manual counting procedures are not unworkable, the current system is so thoroughly discredited that only a fundamentally new system can provide the basis upon which to restore public confidence in the voting process and to dramatically reduce the number of electoral complaints and challenges. Congress should act, if necessary, to pass legislation that would make it possible to salvage investments already made in automation equipment prior to the 2004 election. The computerized system must be in place and operational for the 2007 elections.
3. Automation should proceed in tandem with plans to substantially reduce the number of voting precincts and canvassing centers prior to the next national election, and to make election service by public and private school teachers voluntary rather than mandatory. The 216,000 precincts in which voting took place in 2004 were set up to

each accommodate approximately 200 registered voters. This is a far smaller number of voters per precinct than the international norm. Automation would allow for each precinct, without additional manpower, to accommodate at least twice that number of voters and allow an approximate halving of the number of precincts. This would dramatically reduce the number of BEI necessary to administer elections, substantially reduce the cost of election administration, facilitate better and more efficient monitoring, and increased transparency.

4. Procedures to insure truly “quick” and accurate public reporting of both partial and final election results must be designed into a new and automated ballot counting and canvassing system. Though non-governmental bodies should not be restricted from conducting quick counts or exit polls if they wish to do so, official responsibility for presenting the public with information on election results should not be delegated to non-government bodies, but should reside with a Commission on Elections that enjoys and deserves public respect and confidence.
5. A comprehensive voter education program must be designed well in advance of the 2007 elections. In addition to comprehensive and comprehensible written materials, the program must also utilize the nation’s publicly owned television stations as a means of communicating about the new process. In addition, demonstration centers should be set up well in advance of the 2007 elections at which voters can acquaint themselves with the new systems.
6. A similarly comprehensive training program must be designed and implemented for election workers. COMELEC and the Department of Education should create a joint program management team for both voter education and election workers education programs. Duplication of training and education programs, such as was the case in 2004, is wasteful and counter productive.

Modernization of the electoral system, in line with recommendations that have been suggested above, will in and of itself contribute to a substantial lessening of the election related complaints and litigation. A system that is more centralized, more transparent, less reliant on human intervention, and less prone to human error will offer the basis for far fewer legitimate electoral complaints and challenges. Although limited in scope, experiments in the use of automated election processes in Mindanao suggest that automation does inspire greater confidence and significantly fewer complaints and challenges.

Recommendation 4: Reform the adjudication of complaints process.

Additional measures are necessary to create stronger barriers against baseless or frivolous complaints and challenges, as well as to deter violations of election law. The complaints and adjudication process must be thoroughly evaluated and reforms must be adopted to insure against future abuses of the complaints and adjudication process for the purpose of delaying or discrediting election results. Among the steps that should be considered are the following:

- Mandatory deadlines should be established for presentation of material evidence after the filing of an electoral complaint. Failure to meet such deadlines should result in the immediate and final dismissal of the claim. Presentation of false or fabricated

evidence should be defined and prosecuted as a criminal offense.

- Guidelines should be adopted for the imposition of monetary fines in the case of complaints that are deemed frivolous.
- The current system of available sanctions for violations of election law is far too limited, and leaves election administrators with few options other than disqualification of candidates found guilty of even relatively minor violations. A more graduated sanctions regime, wherein disqualification would be reserved for only the most egregious or repeated violations such as vote buying, would be far less prone to politicization and diminish the apparent reluctance of responsible authorities to enforce the law

Recommendation 5: Strengthen and reform political party and campaign finance laws.

Both chambers of the Philippine Congress should once again take up for consideration and passage legislation consistent with the “Political Party Act of 2003,” which passed the House of Representatives on 3rd Reading in 2003. Particularly important elements of the legislation that should be reviewed in light of the most recent election campaign include: provisions pertaining to the promotion of more transparent and democratic processes for the selection of party officers and candidates; provisions to ensure a more transparent and broad based party finance system that includes publicly financed incentives for grass roots organization and program development activities; and, provisions that would create sanctions to discourage and penalize political party switching.

Previously enacted legislation intended to curb the creation and continuance of so called “political dynasties” must be implemented and enforced. The “dynasty” phenomenon facilitates and perpetuates corruption, retards progress toward institutionalization of good governance at the local and provincial levels, and is contrary to the development of political party structures at the local level.

The absence of a consolidated political party system was among the most evident and consequential factors affecting the character of the 2004 political campaign and elections. The 2004 election introduced voters to a score of new parties and multi-party coalitions that gave them little to identify with in terms of a programmatic tradition or political continuity with past elections.

Data from public opinion polls conducted over the past several indicate the extent to which the political party system in the Philippines is failing in its representative function. Only 16 percent of Filipinos currently identify with any political party. This figure has remained essentially constant since 1991. Only 6 percent of voters indicate that party affiliation is the most important factor in determining their vote. Nearly 70 percent of voters say that they cannot identify a political party that represents their welfare.

The Philippines’ failure, thus far, to make significant progress toward consolidating its party system is undermining its capacity for sustained development within the context of liberal democracy. Over the long term, this may lead to an irreparable loss of public faith and confidence in the system. Consolidation of its political party system must clearly be considered

a high national priority. Less critical, yet still important with respect to party building and the goal of a stronger electoral process, steps should be taken to more fully integrate the major parties, at least, into the electoral process.

Recommendation 6: Establish fair guidelines for party agents and poll watchers.

The Omnibus Election Code, before modification by RA 6646, allowed for a representative of the dominant majority and opposition parties in respective constituencies to sit as fourth and fifth members of Canvassing Boards. The decision to change this policy should be reviewed and considered for reversal. In the context of this effort, consideration should also be given to establishing new guidelines on the allowable number of poll watchers that political parties and candidates can accredit. Limitations should apply to the number of poll watchers accredited, and not only to the number permitted to be present at any one time at voting precincts and canvassing centers.

Recommendation 7: Reform the electoral system to provide better political competition

Serious consideration must be given to the ways and means of consolidating the field of political parties. Though it is impossible to speculate on what would constitute an optimal number of parties, the Philippine system is now grossly fragmented and overpopulated. Some of the steps that should be considered include: raising the threshold for party list parties to gain representation in Parliament from two percent to no less than five percent; ending the prohibition on the major parties represented in Congress from participation in the party list voting; raising the upper limit on the number of seats that any one party can win in the party list voting from the current level of three to no less than eight.

Recommendation 8: Voter education efforts should be expanded and include civil society.

NAMFREL and PPCRV should be invited to be part of a task force with the mandate to address voter registration and education. Representatives of COMELEC, the Department of Education, and Philippine Public Radio and Television should also be included. The task force should develop a plan for the coordinated utilization of their respective technical and organizational resources for national voter registration and voter education programs in advance of the 2007 elections.

Civil society organizations have played and can continue to play an important role in Philippine electoral processes. In particular, the National Citizen's Movement for Free Elections (NAMFREL) and the Parish Pastoral Council for Responsible Voting (PPCRV), along with their many locally affiliated organizations, have played important and successful roles in the areas of voter education and election monitoring. NAMFREL has also been delegated a unique role in the compilation and transmission of unofficial election results to the public. Unfortunately, the technically complex quick count system that NAMFREL attempted to employ in 2004 proved to be unworkable. The resulting absence of information in the several days immediately following the election, and its slow dissemination thereafter, added to apprehensions about electoral fraud and opened NAMFREL to damaging allegations of political bias.

Recommendation 9: COMELEC should not depend on civil society organizations to provide transparency.

Currently COMELEC provides civil society organizations such as NAMFREL with copies of

each precinct's Election Return, which permits them to share electoral results with the public. This is an important aspect of civil society's role as election observers and should not change. However, COMELEC has used this practice to essentially delegate responsibility for verifying and reporting election results to civil society organizations. COMELEC should institute additional methods of building transparency into the system of compiling electoral results. This is a critical responsibility they bear as a legally constituted electoral body. One way COMELEC can achieve this is through automation of the balloting and canvassing processes. They should seek other means, as well. NAMFREL and other civil society organizations should still retain their role as observers and watchdogs of the entire electoral process.

**Consolidated List of IRI Team Meetings/Philippine Long term Election Observation
April 24-July 27, 2004**

NATIONAL CAPITAL REGION

USAID/US Embassy

Steve Edminster/Democracy Officer
Andrew McClearn/ Political Officer
Richard Nelson/Deputy Political Counselor
Joseph Mussomeli/ Charge d’Affairs
Vincent/ Deputy Regional Security Officer
Ruth Urry / Press Officer
Lt. Gregory Sawyer/Asst. Army Attache
Col. Terry P. Cook/Defense and Army Attache

Commission on Elections (COMELEC)

Benjamin Abalos/Chairman
Resurreccion Borra/Commissioner

Supreme Court

Justice Jose C. Vitug/Justice

Non-Government Organizations

NAMFREL

Damaso G. Magbual/NCR Chairman
William Luz/Executive Secretary
Ms. Ching Escalera/Namfril Overseas Voting

Philippiner Center for Investigative Journalism

Shiela S. Coronel/Exercutive Director

Parish Pastoral Council for Responsible Voting

Brother Clifford Sorita/NCR Director
Antonio Ventosa/National Chairman

Social Weather Stations

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Linda Luz Guerrero/Vice President

Asia Foundation

Steven Rood/Representative

The Patriots

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Atty. Hector Villanueva/Senior Advisor FPJ campaign

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11/24/04

To the People of God in the Philippines

Another crossroads in our nation's history is confronting us. Even before the campaign season begins, the elections of 2004 have already been poisoned by a climate of confusion, cynicism and loss of credibility. More than ever, political patronage, payoffs and personalities dominate our electoral process, not principles, party platforms and genuine people's participation.

In this critical moment, we hear Jesus' assuring words, "Be not afraid" (Mk 6:50). We therefore confidently face up to the following challenges:

(1) We have to uphold the constitutional process and the rule of law. Clean, honest, and orderly elections are the hallmarks of a working democracy. There are indeed shortcomings and threats to our democratic way of life. But the freedoms we cherish are best safeguarded by a vigilant and informed citizenry during times of election. The opposite scenario would be recourse to violence.

(2) We have to work together. In various parts of the country, citizens' movements for clean elections and good governance have sprung up. These are often multi-sectoral, interfaith groupings of concerned citizens involved in political education, scrutiny of candidates' qualifications, and poll-watching. With the advances in communications technology, these citizens' groups have the potential to reach out to all sectors of society. We commend their efforts.

We support the formation and networking of these groups throughout the country in our own dioceses, we shall encourage local groups and communities to participate critically in these discussions. In particular, we reiterate the call to the Catholic laity to exercise their Christian responsibility and noble calling to be involved in politics through education in social responsibility, non-partisan pollwatching, in the conscientious choices of candidates, etc.

(3) We have to believe in our own power to transform society. Clean and meaningful elections and transformed politics depend on ordinary people and on each one of us. We start with our own values and attitudes (e.g., walang hihingi sa panahon ng eleksyon). Let us encourage the teachers, the youth force, military people, and others directly involved in the elections to exercise their roles uprightly. In a Church of the Poor, it is the poor who must take the lead in transforming our society. All of us, especially the poor, must realize that this transformed society requires leaders to be public servants, not providers of favors.

Finally, we invite all of you to join us in prayer during this election period – that God's grace may enlighten us at this difficult crossroads in our nation's journey. May the First Friday devotion to the Sacred Heart focused on Conversion, Offering and Renewal, as well as the entire Lenten season, provide us moments of prayer – to take courage, and be guided by the Gospel as we hope for a brighter dawn for our nation. As Jesus sent his disciples, Jesus sends us now, with the same promise, "I am with you always." (Mt. 28: 20).

For the Catholic Bishops' Conference of the Philippines

NATION-BUILDING THROUGH ELECTIONS

(Pastoral Statement on Elections 2004)

Elections are a crucial moment in our continuing task of nation-building. They are a "timely opportunity to transform society by electing wise, capable and upright leaders." (*Oratio imperata*) It is a time when we can institutionalize further People Power through the informed and responsible choice of local and national leaders by millions of Filipinos here and abroad.

Despite disturbing talk of massive frauds and unconstitutional measures being contemplated by various political groupings, we assert once more that the vigilante and concerted action of ordinary citizens would be the best guarantee of maintaining honest, orderly and peaceful elections. Are we ready to defend our democratic way of life through the constitutional process and the rule of law?

It is in this that we emphasize the importance of safeguarding the election process. We highly endorse citizens' groups such as PPCRV, NAMFREL, and others to work closely with COMELEC, the military and PNP and public school teachers in maintaining a neutral and non-partisan role in ensuring the electoral process. We also note that the voters' list in many places has not yet been made available by COMELEC and neither has the supply of indelible ink been assured. Will this problem be solved before election?

The electoral process is also a time when we can state that we cannot be neutral against corruption in its various forms, e.g. vote-buying and vote-selling, taxation by the NPA of political candidates and ordinary citizens, misuse of public funds, etc. This fight against corruption is a gospel imperative.

Even as we focus on election-day itself, we also remind voters of their right and duty before elections to discern and choose candidates based on certain criteria. At least three basic criteria are to be considered: First, is the candidate a person of *competence*, i.e. in terms of leadership experience, professional qualifications, and record of governance? Second, is the candidate a person of *conscience*, i.e. with personal integrity, transparency, accountability, and respect for human rights? And third, is the candidate a person of *commitment* to a vision and program of action on key issues such as family and life, environment, illegal drugs and gambling, justice, peace and order, poverty alleviation, education, etc.?

Beyond elections, there is the greater challenge for all citizens: to continue monitoring winning candidates in order to ensure transparency, accountability and people empowerment for good governance. We have been praying for clean elections; we continue to pray and work for reconciliation and the solidarity that is essential to nation-building.

"So let us not grow weary in doing what is right, for we will reap at harvest time, if we do not give up. So then, whenever we have an opportunity, let us work for the good of all." (Gal 6:9-10).

For the Catholic Bishops' Conference of the Philippines:

FERNANDO R. CAPALLA, D.D.

Archbishop of Davao
CBCP President
April 21, 2004
Manila

COVENANT OF HOPE

May 2004 Elections

I, MELVIN DE LA CUESTA (LAKAS-CMD-KEL), a candidate for the position of
(name)
SANGUNIANG PANGLUNGSOD in LAOAG CITY, ILOCOS NORTE
(district) (province)

being aware of my identity as a child of God and a brother to all men, and knowing the need to create solidarity among Filipinos and advancing the progress of the Filipino nation, do hereby solemnly swear to uphold the dignity of man and respect his life and freedom of choice to all times and especially during the coming elections through:

- H** onorable and honest behavior in public and private life,
- O** bservance of all the laws of the land particularly the Election Code,
- P** ursuance of peace relentless, and by
- E** nsuring the reign of justice and freedom in this political exercise.

All my prayers and sacrifices I offer to the Holy Triune God, the Father, the Son and the Holy Spirit for an Honest, Orderly and Peaceful Elections.

So help me God.

CANDIDATE'S SIGNATURE

Witnesses:

ATTY. FIDEL J GINES II
City/Municipal COMELEC
Supervisor

PPCRV Coordinator

MSGR JACINTO A JOSE
Roman Catholic Parish Priest

AN URGENT APPEAL TO THE PEOPLE OF ABRA

We, the members of the Multi-Sectoral Group for the May 10, 2004 election composed of NAMFREL – PPCRV, COMELEC, Dep-Ed, Academe, Media, Philippine National Police (PNP), Phil. Army, Church, Peoples' Organizations and other sectors call on all the candidates and their respective political parties, supporters and the electorate:

We appeal to you, respected candidates, to conduct your campaign on the high level of "new politics" clearly enunciating orally and in print your proposed platform of government if elected, and to hold meetings and rallies peacefully, **with the noble heart and dignified mind of respecting the free exercise of the electorate to choose their own leaders without harassment, bribery, and other forms of evil pressure.** Refrain from employing armed goons to intimidate people to vote for you and to secure your person except the PNP or military men assigned to you by the COMELEC. A number of men were already killed, some wounded, some homes and establishments were sprayed with bullets because of the heightening political campaign. The people are disturbed, cowering in fear and agitated into angry frustration;

We appeal to the PNP and Phil. Army whose representatives are with us in this multi – sectoral body to remain neutral for the clear purpose of maintaining peace and order leading to the submission to the laws of the land. While human rights should be respected, strict compliance of the gun ban and the arrest of private armed groups in clear violation of the ban should be done in the interest of upholding the safety and protection of the citizenry;

We appeal to the Justice Department especially the judges, prosecutors and lawyers and those directly involved in overseeing that justice is properly and

earnestly served – to handle cases with courage, utmost care and righteousness based on honest simplicity and unassailable clarity of truth even as we are unabatedly beset with unnerving election – related incidents;

Lastly, we appeal to the electorate and the whole community to cooperate in working for an honest, orderly, and peaceful election. **Do not sell your votes. Do not allow the candidates to buy your votes.** If you were forced by circumstances to accept the money of candidates, follow the dictate of your conscience. Remember that vote selling will compromise good governance. The winning candidates who involve themselves in bribery, vote – buying and other forms of intimidation to rake in votes in order to win will find ways of getting back their investment at the expense of public service and good governance. Do not forget that it is through the active cooperation and vigilance of each one and each sector that we will be able to bring about fair and clean election.

Signed:

Most Rev. Artemio Rillera, SVD,DD
Bishop of the Diocese of Bangued

Pura C. Sumangil
Provincial Chair, NAMFREL-PPCRV

PSSupt. Artemio Hicban
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Report on the 2004 Philippine Elections

National Democratic Institute for International Affairs

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Appendix D: Copy of a "Covenant of Hope" pledge form

Appendix E: Urgent Appeal to the People of Abra

Associated Publications

PPCRV Consolidated Election Monitoring Report for the 2004 Local Elections

Citizen's Media Monitor Report on the Campaign and Elections Coverage In
The Philippines 2004

Introduction

After nearly two decades of multi-party democracy, the 2004 national elections reflect both the accomplishments and challenges to democratic development in the Philippines. Since the transition to democracy in 1986, the public's confidence in democratic institutions, including the election commission and political parties, has eroded. This election marked a significant opportunity for the Philippines to help restore confidence in the credibility of the political process.

The 2004 national elections themselves were marked by high voter turnout, poor electoral administration, a lack of cohesive political parties, and election results far closer than most observers had foreseen. The elections also reflected the larger challenges to democratic consolidation in the Philippines, which include the need to reestablish a credible electoral administration, to promote the development of issue-based political parties and a legitimate role for a credible political opposition, to enforce civil and criminal laws related to the conduct of elections, and to ensure that citizens receive sufficient information about the issues at stake in any election.

Representatives of the National Democratic Institute for International Affairs (NDI), in cooperation with Consortium for Elections and Political Processes partners, the International Republican Institute (IRI) and IFES, were present in the Philippines from April 25, 2004 through July 31, 2004 and followed political developments in the country during the pre-election, Election Day and immediate post-election periods. The institutes' representatives were in the Philippines to express an interest in and support for a democratic election process, to assess the electoral conditions and political environment in which the national elections were held, and to offer an accurate and impartial report on the election situation. This report summarizes the observations of NDI during this period as well as observations offered to the Institute's representatives by Filipino political actors. The report also offers recommendations regarding possible areas of electoral reform.

This report is offered in the spirit of international cooperation and in recognition that it is the people of the Philippines who ultimately must determine the credibility of these elections and any need for future reforms.

Political Background

Following the end of nearly four centuries of Spanish rule, the Philippines was established as a democratic republic on June 12, 1898 and the first democratic constitution in Asia, the Malolos Constitution, was adopted a few months later. Since that time, however, two foreign occupations and a twenty-year dictatorship interrupted the development of democratic institutions. Between 1946 and 1965, power was peacefully transferred between the Nacionalista and Liberal parties. In 1965, Nacionalista candidate Ferdinand Marcos was elected president and won reelection in 1969. Citing a communist rebellion and deteriorating civil order, Marcos declared martial law in 1972 and consolidated his authoritarian rule. In 1981, Marcos eased

martial law restrictions and orchestrated his own electoral victory. A lack of independent media sources and the decision of some opposition parties to boycott the election made it relatively easy for Marcos to ensure victory.

Resistance to the Marcos dictatorship grew following the 1983 assassination of opposition leader Senator Benigno Aquino, Jr. In February 1986, popular unrest led Marcos to call snap elections. Though both domestic and international observers exposed widespread fraud, Marcos declared victory over Corazon Aquino, Benigno's widow. Incensed, Filipinos protested in the streets and stormed the presidential palace. Virtually all military forces joined the demonstrators and Marcos fled the country.

The Philippine people's successful rebellion against the widespread corruption and electoral fraud of Marcos through "people power" – EDSA I – ended his 21-year authoritarian rule. Following EDSA I, Corazon Aquino became president and reinstated democratic institutions and processes, including a new constitution that established a presidential system of government and separated governmental powers among executive, legislative and judicial branches. Since the removal of Marcos, there have been two successful electoral presidential transitions – the election of Fidel Ramos in 1992 followed by the election of Joseph Estrada in 1998. In early 2001, accusations of embezzlement of state funds and misuse of power again undermined the stability of the democratic process and sent Filipinos into the streets in an EDSA II rebellion that resulted in Estrada's removal from office. Then Vice President Macapagal-Arroyo was sworn in to serve the remaining term of President Estrada.¹

The fragility of the democratic process and democratic institutions in the Philippines became evident again in July 2003 when 300 Filipino soldiers launched a coup attempt against President Macapagal-Arroyo that was quickly put down.

Governance System and Legal Framework for Elections

In an effort to place the challenges observed in the pre-election and election periods in the proper context, this report first outlines the governance system and legal framework for elections in the Philippines. The report then discusses the particular challenges that arose during the pre-election and election periods and how these were addressed by election officials, political parties and representatives of civil society groups.

Governance System

The Constitution mandates a presidential system of government and governmental powers are divided among the executive, legislative and judicial branches. The president is the head of state and is vested with all executive powers of the government. The president is chief administrator of the bureaucracy with general supervision over local governments, as well as the chief legislator, responsible for the introduction of the

¹ While a constitutional provision exists that prohibits the President from serving more than one term, President Arroyo was able to stand for election in 2004 because she was viewed as completing Estrada's term of office, rather than serving out her own term and she served as President for less than four years.

legislative agenda at the start of each congressional session. As the Commander in Chief of the Armed Forces, the president has the power to suspend the writ of habeas corpus and declare martial law. However, martial law can be revoked by Congress and reviewed by the Supreme Court, and a state of martial law cannot result in the suspension of the constitution.

The Philippines has a bicameral legislative system. The upper body is the 24-member Senate. The lower body is the House of Representatives, which includes representatives from the 212 single member districts as well as representatives elected from party lists.² The tendency of political parties in both houses to form coalitions around the party of the president facilitates general cooperation between the legislative chambers.

The judicial branch is composed of the Supreme Court and lower courts. The president appoints justices to the Supreme Court on the recommendation of the Judicial and Bar Council and with the consent of the Commission on Appointments whose members come from both chambers of Congress. Judges at all levels are tenured until the age of 70 or until they are unable to perform their duties.

Article X of the Constitution defines the territorial and political subdivisions of the Philippines. The country has 78 provinces, 84 cities, and over 1,500 municipalities. Article X also provides for the establishment of autonomous regions in Muslim Mindanao and the Cordilleras. Local government officials are elected to three-year terms, with a limit of three consecutive terms. The *barangay* is the lowest level of government, and there are approximately 42,000 *barangays* in the country. *Barangay* governments have the ability to levy taxes, fees, and charges. *Barangay* officials (chairs and councilpersons) are chosen through direct elections held separately from those for higher levels of government.

Legal Framework for Elections

The legal framework for elections in the Philippines is primarily governed by the Constitution, Omnibus Election Code and subsequent laws, and regulations and rules of the Commission on Elections (COMELEC).

The Electoral System

The Constitution mandates a mixed plurality and limited party list system. The President and Vice-President are elected by direct vote for a term of six years. The President is not eligible for reelection. No person who has succeeded as President and has served for more than four years is eligible to stand for election as President at any future time. The Vice-President is prohibited from serving more than two successive terms. The returns of every election for President and Vice-President must be certified by the board of canvassers of each province or city and must be transmitted to the President of the

² The 13th Congress includes 236 members – 212 members from single member districts and 24 members elected from party lists.

Senate. The Congress shall, under its own promulgated rules, canvass the votes. The candidate with the majority of votes is elected.³

Senators are elected on a national basis in a first past the post system to six-year terms and are prohibited from serving more than two consecutive terms. Half of the Senate seats are contested in mid-term elections held every three years. The majority of representatives to the House of Representatives are directly elected from single-member constituencies. The remaining seats – up to twenty percent of the total number – are elected through a party list system of registered national, regional and sectoral parties or organizations in an effort to allow Filipinos belonging to marginalized and underrepresented sectors to serve in the House. Representatives serve three-year terms and are restricted to serving no more than three consecutive terms.

The electoral process is overseen by COMELEC, one of three commissions established by the Constitution. COMELEC is an independent body, constitutionally separated from the other branches of government, and composed of a Chairman and six commissioners.⁴ Commissioners are appointed by the President with the consent of the Congressional Commission on Appointments⁵ for a term of seven years. Commissioners are not eligible for reappointment and appointments to vacant seats are only for the unexpired term of the predecessor. (A detailed discussion of the powers and functions of COMELEC is included *infra*.)

Suffrage and Voter Registration

Suffrage may be exercised by all citizens of the Philippines who are at least 18 years of

The Election Registration Boards of each city or municipality must prepare and post certified lists of voters 90 days prior to a regular election. Fifteen days before the start of the campaign, members of the Board of Election Inspectors (BEIs) as well as representatives of registered political parties, must inspect and verify the completeness of the voter registration records for each precinct compiled in the book of voters. After verification and certification by the BEIs and party representatives as to the completeness of the registration records, the Board seals the book of voters in the presence of the BEIs and party representatives at the start of the campaign period and takes custody of the book of voters until distribution to the BEIs on election day.⁷

Philippine citizens who reside overseas at the time of an election are eligible to vote for president, vice-president, senators and party-list representatives. For the May 2004 elections, all applications for overseas absentee registration were required to be filed 280 calendar days before the day of the elections. A Philippine citizen who is recognized as a permanent resident in his/her host country is not eligible to vote unless he/she executes an affidavit declaring that he/she shall resume actual, physical presence in the Philippines not later than three years from approval of his/her registration as an absentee voter.⁸

Political Party and Campaign Finance Laws

There are few requirements for registering as a political party in the Philippines. Any organized group of persons seeking registration as a national or regional party may file with COMELEC a “verified” petition, attaching the party constitution and bylaws, platform and such other relevant information as may be required by COMELEC. COMELEC rules require that a party notify the public of its existence and establish party chapters in a majority of the country’s regions, and within each region, a majority of the provinces, towns, and *barangays*. Religious sects are prohibited from registering as a political party and no political party that espouses violence as a means to achieve its political goals is entitled to accreditation.⁹

To participate in elections, a registered political party must submit a list of its current elected officials, national executive committee members, and local chapter chairs as well as a party platform and party list of candidates to COMELEC. In order to field candidates for the May 10 elections, political parties were required to submit certificates of nomination signed under oath by the party president, chairman, secretary-general and the accepting nominee by January 2, 2004.

Election expenditures and contributions are regulated under the *Omnibus Election Code* and the *Synchronized Elections and Electoral Reforms Law of 1991* as well as implementing resolutions of COMELEC. There is no limit on the amount of contributions to candidates or parties from legal sources. Electoral contributions from public educational institutions, foreign nationals or corporations, public and private

⁷ Continuing Registration Act, Section 30-31.

⁸ Overseas Absentee Voting Act, Section 5. July, 2002.

⁹ Omnibus Election Code, Article VIII Political Parties, Section 61.

financial institutions, public utilities, corporations that hold government contracts and corporations that have been granted franchises, incentives, exemptions, allocations or similar privileges or concessions by the government are prohibited.¹⁰ There is no public funding for elections, though candidates can receive free and equal time for campaign purposes on government owned or operated broadcast outlets.

Candidates for President, Vice-President and the Senate are prohibited from spending more than ten pesos for every registered voter. All other candidates are allowed to spend a maximum of three pesos for every registered voter in the constituency. A political party can spend a maximum of five pesos for every voter currently registered in the constituency where the party is fielding candidates.¹¹ Candidates and treasurers from all political parties are required to submit to COMELEC itemized statements of all campaign contributions and expenditures within thirty days after the day of the election.

The use of public funds or equipment and facilities owned or controlled by the government for an election campaign or any partisan activity is prohibited.¹² The release or expenditure of public funds for public works projects during the 45 days in advance of an election is also tightly controlled by legislation in an effort to prevent an abuse of state resources in support of a particular candidate or party.¹³

Several key pieces of legislation regarding political parties and party finance have been stalled in the legislature. Proposed bills on political party structures and finances have been delayed in part over language prohibiting political “dynasties,” as well as the prospect of restrictions on party financing, and the recognition that the legislation will likely reduce the number of parties.

Election Administration

In a democratic election, political contestants and the electorate must be able to count on the electoral administration to be both impartial and effective. Equally important, the electorate must believe that its choices will be accurately recorded and respected.

COMELEC is responsible for enforcing and administering all laws and regulations relative to the conduct of elections. The body is vested with the authority to determine all questions affecting the elections, except questions regarding the right to vote, including determination of the number and locations of polling places, appointment of election officials and inspectors, and registration of voters. COMELEC is also responsible for monitoring all political party activity during the campaign period and has responsibility for certifying candidates in the election. In the event that COMELEC officials deem it necessary, the Commission is authorized to make use of the nation’s security forces to

¹⁰ *Omnibus Election Code*, Art. XI, sec. 95 (a-h).

¹¹ *Synchronized National and Local Elections Act* (1991), RA No. 7166, sec. 13.

¹² *Omnibus Election Code*. Article XXII, sec. 261 (o).

¹³ *Id.* at sec. 261 (v).

ensure the safety and integrity of the election process.¹⁴ The Commission is further vested with the authority to exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective officials at the regional, provincial, and city level.¹⁵

COMELEC's constitutionally-mandated independence is intended to insulate the body from partisan influence. Its wide-ranging powers – from deputizing the security forces to dismissing candidates to managing voter registration – reflect the belief that only an independent body could adequately defend against fraud and partisan influence in all aspects of an election process. Oversight of COMELEC is provided by the Supreme Court --- which can review and, if necessary, reverse COMELEC decisions --- and the Congress --- which can impeach COMELEC commissioners or hold hearings to investigate COMELEC's actions with respect to specific laws and spending. COMELEC representatives can be subpoenaed to appear before Congress and the body investigated if it appears to have committed “grave breaches of discretion” and jurisdiction.¹⁶ There is no clearly defined authority for an independent administrative review of the body short of a Congressional investigation.

Pre-Election and Campaign Periods

Several issues of concern arose during the pre-election and campaign periods. Many, though not all, of these issues were related to election administration and contributed to a less than favorable public perception of COMELEC.

COMELEC and Election Preparations

For the 2004 elections, COMELEC was responsible for administering national, provincial, and local elections in more than 216,000 precincts. Fifty-five thousand candidates vied for the support of 43 million voters¹⁷ for a total of 17,700 positions.¹⁸ Several issues in the pre-election period related to voter registration, COMELEC's plans for its own “Quick Count”, Commission appointments, and staff preparation and training generated anxiety among voters and candidates by creating opportunities for fraud.

¹⁴ Article IX of the Constitution grants COMELEC the authority to deputize, with the explicit concurrence of the President, law enforcement agencies as well as the armed forces in order to help ensure free, orderly, peaceful and credible elections. Phil. Const. Art. IX, Sec 2 (4) C.

¹⁵ COMELEC has appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction. Phil. Const. Article IX, Sec. 2 (2).

¹⁶ Phil. Const. Art. IX Sec. 4.

¹⁷ COMELEC reports the official number of registered voters as 43,536,028.

¹⁸ <http://www.COMELEC.gov.ph/stats/2004stats.html>.

¹⁸ The following positions were being filled: president, vice president, 12 senate seats, 265 members of congress, 53 party list representatives, 79 provincial governors, 758 provincial board members, 115 city mayors, 115 vice city mayors, 1,500 municipal mayors, 1,500 vice municipal mayors, 1,288 city councilors, and 12,017 municipal councilors.

COMELEC's handling of these issues contributed to a lack of public confidence in the Commission's ability to conduct an election free from fraud¹⁹.

Appointment of Interim Commissioners

The circumstances surrounding the appointment of two new COMELEC commissioners contributed to COMELEC's credibility problems. In February 2004, President Arroyo appointed Vigilio Garcillano and Manuel Barcelona, Jr. as commissioners to COMELEC to replace retired Commissioners Ralph Lantion and Luzviminda Tancangco. These appointments were made while the Congress was in recess and the Committee on Appointments could not meet to vote on the appointments. Members of the political opposition argued that the Constitution prohibits the appointment of temporary or "acting" commissioners to COMELEC and because Congress was in recess at the time of the appointments and could not vote on them, the appointments were by definition temporary in nature and therefore, unconstitutional.²⁰ The opposition further noted that the constitutional injunction against temporary appointments to COMELEC was designed to protect the body from political pressure because COMELEC commissioners serve staggered terms to prevent any one President from appointing a majority of the commission. With the appointments of Garcillano and Barcelona, President Arroyo had appointed five of the seven COMELEC commissioners.

The government defended its authority to make the appointments and noted that the Constitution grants the President the power to make appointments during the recess of Congress. The government argued that such appointments, while only effective until either rejected by the Committee on Appointments or until the next adjournment of Congress, have been ruled permanent in nature by the Supreme Court because the President is prevented from removing ad interim appointees until rejected by the Committee on Appointments.²¹ Despite the criticism of the opposition, the two new appointees took their posts and served as commissioners for the May 10 elections.²²

¹⁹ A Social Weather Station poll conducted 10 days before the election showed 60 percent public confidence in COMELEC, but only 27 percent in its Chairman Benjamin Abalos. Just days before the election, the archbishops of Manila and Davao, along with retired Cardinal Sin, publicly expressed a lack of confidence in COMELEC.

²⁰ Malaya News. *Angara: Interim COMELEC Appointments Violate Charter*, February 13, 2004.

²¹ *Id.*

²² Allegations of partisan politics surrounding the two new commissioners re-surfaced when a challenge was made to Ferdinand Poe's ability to stand as a candidate for President. Petitioners sought to have Poe disqualified because they alleged that he could not be considered a Filipino citizen because his parents were not married at the time of his birth and his mother was not a citizen of the Philippines. The matter was originally brought before COMELEC and that commission ruled in favor of Poe, though Commissioners Barcelona and Garcillano, along with Commissioner Florentino Tuason, voted to disqualify Poe. The three Commissioners each submitted a dissenting opinion that was part of an appeal to the Supreme Court asking it to overturn the COMELEC decision and disqualify Poe. The Supreme Court ultimately ruled 8-5 in favor of Poe's candidacy, but the controversy surrounding the Commissioners' actions in supporting Poe's disqualification coupled with the circumstances surrounding their own appointments to the Commission bolstered the growing public perception that their appointments to COMELEC were political in nature.

Failure to Automate the Election System

The Election Modernization Act of 1997 authorizes COMELEC to create an automated election system for the process of voting, counting votes and canvassing/consolidating the results of the national and local elections. The Act also authorizes COMELEC to procure the appropriate materials and services necessary to create and maintain such a system.²³ COMELEC initially intended to implement the automation during the May 11, 1998 presidential elections, but decided against full implementation at that time and limited the automation to the ARMM.²⁴ In October 2002, COMELEC adopted Resolution 02-0170 which set forth a modernization program for the 2004 elections. In January 2003, President Arroyo issued an Executive Order allocating three billion pesos to fund the automation program. Later that month, COMELEC outlined procurement and bidding procedures and began accepting applications.

On May 16, 2003 COMELEC awarded the automation project to Mega Pacific eSolutions Inc. Immediately following the award, several individuals and entities challenged the award on the basis that there were “glaring irregularities in the manner in which the bidding process had been conducted.” The case eventually went before the Supreme Court which ruled in January 2004 that COMELEC awarded the contract in “inexplicable haste” and without adequately observing mandatory technical and legal requirements. The court also noted that COMELEC accepted delivery of the computer hardware and software from Mega Pacific even though it had failed to pass eight “critical requirements designed to safeguard the integrity of the election.”²⁵ The Court voided the contract with Mega Pacific and noted that COMELEC’s actions in awarding the contract “cast serious doubts upon the poll body’s ability and capacity to conduct automated elections.”²⁶

Faced with an abbreviated time period within which to finalize election preparations, COMELEC officials briefly considered continuing with plans for an automated election system and using the computers and software supplied by Mega Pacific in spite of the Supreme Court decision on the matter. In the end, COMELEC accepted the finding of the Court and proceeded with preparations for manual balloting, counting and canvassing.

Not only was the failed automation attempt particularly damaging to COMELEC’s reputation, it left open continued opportunity for fraud in the election process. Many opportunities for fraud are found in the manual counting, tallying, and canvassing efforts. The practice of “dagdag-bawas,” or “shaving and padding,” is possible because of the

²³ *Election Modernization Act*, RA No. 8436 (1997).

²⁴ Due to the failure of the machines to correctly read some ballots in one town, COMELEC later ordered a manual count for the entire Province of Sulu.

²⁵ *Information Technology Foundation of the Philippines et al. v. Commission on Elections, et al.* Phil. S. Ct. No. 159139, January 13, 2004. The critical areas in which the Mega Pacific automated technology failed to safeguard the integrity of the election included: 1) Failed to achieve the accuracy rating criteria of 99.9995 percent set-up by the COMELEC itself; 2) Unable to detect previously downloaded results at various canvassing or consolidation levels and to prevent these from being imputed again; and 3) Unable to print the statutorily required audit trails of the count/canvass at different levels without any loss of data. *Id.*

²⁶ *Id.*

vulnerabilities of numbers to human intervention. Although technology is no guarantee that fraud will be eliminated, one of the main reasons for computerizing the election process was to minimize those opportunities for intervention. As noted above, COMELEC failed in this crucial effort to follow simple bidding processes properly. In addition, it also ignored the parameters of what aspects of the process were to be computerized. Rather than purchasing stand-alone machines, as the law mandated, COMELEC invested in networked computers, which were also more vulnerable to manipulation. These failures of judgment, particularly when taken into consideration with the loss of three billion pesos spent on the failed automation effort, further eroded the public's trust in COMELEC.

Voter Registration and Voter Lists

The accuracy and readiness of the voters' list merited serious concern in the run-up to the election. COMELEC launched an effort to "validate" the current voter list, which entailed using 1.2 billion pesos of technology to combine information from the old locally-maintained lists with current voter biodata in an effort to remove multiple registrants, the deceased, or those de-activated²⁷ from the list. But COMELEC was only able to validate about 5.7 million voters before it had to suspend the effort in order to concentrate its limited resources on digitally processing the new information. It was unable to restart the validation process due to a lack of funds, and was then faced with trying to combine the validated and non-validated lists. These complications meant that the voters' lists, which were legally required to be posted in February, were not made available to the public until about a week before the election, and long after opportunities for redress were gone.

COMELEC asserted that the failure to make the voters' lists public in the mandated time frame did not actually impede anyone from checking on his/her status based on the fact that voters could check and update their registration status at any time²⁸, but most citizens were not aware that it was possible to do so. NAMFREL and PPCRV, as well as local inter-agency task forces of government offices, civil society groups, and others, tried to help COMELEC clean the lists, but such efforts were only successful in some areas. To further complicate matters, in the absence of new lists from Manila, many local election officials continued to use the original locally-maintained registries. As a result, it was not clear on which of the three possible lists of names a voter's name had to appear in order for him/her to be allowed to vote, nor was it clear what decisions COMELEC had made to determine eligibility to vote in the event a voter's name was not on the most recent lists.

²⁷ By law, voters who have failed to vote in the past two elections are de-activated, or dropped from the list. Voters are supposed to be notified of this status by mail sufficiently in advance of the next election so that they can re-register if they so choose.

²⁸ *Continuing Registration Act*, RA 8189, 1996. This Act provides that: "All registration records/computerized voter list in the possession of the Election officer, the Provincial Election Supervisor, and the Commission in Manila shall, during regular office hours, be open to examination by the public for legitimate inquiries on election related matters, free from any charge or access fee. *Id.* at sec. 41.

Moreover, when the lists were finally released in late April, the number of total voters had increased to 43.5 million, an increase of more than seven million people since the 2001 election.²⁹ This represented an increase far larger than that accounted for by population growth rates. Some areas reported an increase of as much as 22 percent. The number of names on the voters' lists in some areas, such as Cotabato, reportedly surged in the days before the elections.

In addition to the list issues, some voters had been reassigned to vote in different precincts. Although COMELEC must send precinct reassignments to voters through the mail, few voters got such notifications. Others simply waited until the lists were posted, but in some cases, that was not until election day itself. All of these registration, verification, and notification factors contributed to a lack of confidence that the voters' lists accurately represented those who were entitled to cast ballots, or would ensure that those entitled would be able to do so.

Lack of Training for Election Officials

COMELEC's work is carried out by staff members and Board of Election Inspectors (BEIs). The staff members are civil servants and are generally regarded as competent and dedicated. To some extent, though, they suffer from a lack of standardized training. Many do not have copies of COMELEC's manual of general instructions and they do not regularly participate in retraining programs to learn about new procedures. NDI encountered significantly different interpretations of rules and procedures from COMELEC staff members, which suggest that such procedures are not uniformly understood. Local COMELEC officers interviewed by NDI uniformly complained of being short-staffed. One officer explained that out of the electoral period, his office could function smoothly with four staff members. During the election period, however, the workload demanded at least four times that, but it was increased by only two staff members. COMELEC also faces difficulties when it transfers local-level officials to different areas only about a week ahead of the election. Some COMELEC officials suggest this is done in order to avoid any partisanship, but there are also serious practical difficulties associated with changing officials at the last moment.

BEIs are responsible for overseeing the balloting and tallying. Most are local schoolteachers who have previously served in this capacity, and it is their involvement that helps increase public confidence. But serving as a BEI is extraordinarily taxing: they must appear the day before the election to collect the necessary materials, most are expected to work for a minimum of 24 straight hours on election day, and some have to endure the harassment of party-watchers or candidates when, out of sheer exhaustion, they make errors in the tallying process. For this, they are paid between one and three thousand pesos (US \$20-60).

²⁹ Total number of registered voters for the 2001 election as reported by COMELEC was 43,536,028. COMELEC Website, <http://www.comelec.gov.ph/stats/2004stats.html>. In 2001 the total number of registered voters was approximately 36,000,000 and in 1998 the total number of registered voters was 34,163,465. This is an annualized increase in registered voters of 4.6%. The population growth rate in the Philippines is between 2.2 and 2.3% per annum.

The teachers were among those disappointed by the failed modernization effort, given that it would have made their participation unnecessary. In the 2004 elections, some areas had to recruit almost half of their BEIs from local college graduates or professional groups, as many veteran BEIs found excuses not to serve. Many claimed to be the distant relatives of candidates; in one area, NDI was told that a family of teachers had persuaded a relative to run for local office solely for the purpose of making the teachers ineligible as BEIs.

Training for the BEIs in advance of the 2004 elections was much the same as it had been in the past. It focused on the legal and procedural aspects of the election, how to protect the integrity of the process, and how to set up a polling station for maximum efficiency. These trainings tend to be conducted as lectures, rather than interactive exercises, and given the higher percentage of first-time BEIs, the training might not have been especially effective. Moreover, although COMELEC officials said that the BEIs were trained by the middle of April, most were actually only trained in the week prior to the election.

COMELEC's Quick Count

COMELEC's efforts to undertake its own Quick Count became one of the most contentious issues in the pre-election period. Quick Counts are conducted as a means of verifying the integrity of official data by obtaining information from that source at the lowest possible level, then following the count to the national level to ensure that no fraud has taken place in the tallying and canvassing processes. In the past, a Quick Count has been conducted by NAMFREL (see *infra*) as an unofficial but necessary check on the integrity of COMELEC's counting. Observers were understandably surprised to learn that the official election body intended to undertake an unofficial count alongside an official count. COMELEC had planned to send results by VSAT-automated transmission of the municipal results to the national level, skipping the provincial level and hoping to minimize fraud in the count. Yet questions were almost immediately raised about whether COMELEC, which is entitled only to announce official results for congressional and local races, would share information about the presidential and vice-presidential results. Moreover, it was duplicative of NAMFREL's work. Serious concerns were raised about the prospect that COMELEC's Quick Count results would not, as most unofficial counts do not, ultimately agree precisely with the official count. Should those figures turn out differently, were people to believe the official or unofficial COMELEC count?

The opposition KNP Party in conjunction with other political parties and NAMFREL took the matter before the Supreme Court in late April, arguing that COMELEC had no mandate to conduct a Quick Count³⁰. The Supreme Court did not issue its decision barring the Quick Count until less than 48 hours before the polls opened, and observers noted the presence of COMELEC technicians in the far northern and southern reaches of

³⁰ Two days before the election, the Supreme Court ordered COMELEC to halt plans for its own Quick Count of the May 10 election results.

the country setting up transmission systems on May 9. One local candidate wondered why such resources had been spent on this effort rather than on fully cleaning the voters' lists.

Candidates, Political Parties and Campaign Organizations

Political parties are essential elements for elections. They are vehicles for mobilizing voters, upholding the integrity of the process, and articulating particular platforms. But in the Philippines, political parties remain relatively weak institutions. Although they have existed for more than half a century, they have never been more powerful than patronage systems, which only reinforce the power of the individual and force voters to make choices based on extremely short-term gains. For individual politicians, there is little incentive to cede his or her individual power to a political party.

Other obstacles also stand in the way of developing stronger parties. The remarkable powers vested in the presidency make proximity to that office so desirable that individuals and parties are constantly realigning themselves to do so. The growing cost of campaigns, and the relatively new phenomenon of paid television advertising, places even greater emphasis on generating name recognition for individuals among the electorate.

As a result, political parties barely exist outside of elections. Few parties are able to mobilize supporters to scrutinize the voters' lists; ideological discipline is fleeting, few parties exercise control over the number of candidates running, and in some cases parties are unable to prevent rivalries between their own candidates from escalating into lethal violence. Most parties rely on civic organizations to train party poll watchers, help investigate charges of fraud, or assist their supporters in finding the right precincts. And even the resulting administrations feature coalitions of individuals who are in no way constrained by a party affiliation, such that they tend to be quite unstable. It is worth noting that President Arroyo technically represented three different parties in the 2004 election (Lakas, Liberal, Kampi), while Fernando Poe Jr. is not actually a member of any of the parties in the KNP coalition.

It is not surprising that the 2004 campaigns were questionably financed, structured around individuals, lacked the support of or connection to national parties, and remarkably devoid of substance. The relationship between the national and local parties or candidates is highly inconsistent, particularly in terms of candidate selection. Both K4 and KNP use national committees to review and approve candidates for congressional and local races, though the approved candidates are given considerable discretion with respect to vice-governor or vice-mayoral running mates. Two candidates from Lakas in Abra, for example, gave different explanations regarding their campaigns' financial relationship to their party. One campaign said it had affiliated in order to get funds, but that none had actually been forthcoming. The other campaign explained that affiliating only meant that it would help distribute the parties' national candidates' literature and posters. Some of the party list organizations, such as Akbayan, conducted barangay-level

training programs on conflict resolution and then ran their more successful participants as candidates

Although parties are required by law to maintain certain financial systems and to report on campaign expenses after the elections, in reality those systems and reporting compliance are far from uniform. NDI was told that contributions to a party go to the party's president, and the president decides how the funds should be disbursed. At the local level, campaigns are primarily self-financed. Senate races, enormously expensive because senators are elected nationally, are to some extent party financed, though clearly candidates themselves bear the brunt of the costs.

In addition to wealth, incumbency makes individuals particularly attractive as candidates. Incumbent officials have an edge over the opposition, in that they can mask election costs, such as transportation and rally expenses, as part of their normal official duties toward their constituents. They can make visits using government vehicles in the guise of periodic visits, and food can be charged to appropriations. The months before the campaign season are the favored times to launch new infrastructure projects, where they can hire workers, or extract favors from contractors. In addition, previously unavailable services – primarily health and welfare – suddenly become available. Allegations were made in the pre-election period that the Arroyo administration made use not only of state resources such as health cards and rice subsidies, but also of government infrastructure projects and of the use of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP). These problems reach all the way down to the local level and are so common that voters clearly expect some of their taxes to be used for campaigns. NDI witnessed the blatant use of an incumbent Mindanao mayor's use of a local "social fund" to cover his campaign costs. Non-elites do occasionally run and win, but they must be able to mobilize human machinery for their campaigns.

Candidates and parties offered voters no real platforms or positions on issues as a basis for discerning between them, further reinforcing the focus on individuals. Invariably, candidates claimed to be "for the masses," against corruption, and against nepotism, but their real selling points stressed either their level of fame or their connection to a political family. A remarkable number of movie stars, TV personalities, and other entertainment figures ran for office. In every municipality NDI visited, at least one candidate was related to a current or previous office-holder; in many areas, pairs of family members were running for mayor and vice-mayor, or governor and mayor. Some candidates went to remarkable lengths to illustrate such connections. Senate candidate Pia Cayetano, the daughter of a late senator, plastered the country with campaign billboards depicting her in front of a faded image of her father. Another senatorial hopeful, Jamby Madrigal, persuaded a popular film star, Judy Ann Santos ('Juday'), who vaguely resembled her, to appear in her campaign photographs, and Madrigal also convinced the COMELEC to accept votes cast for "Juday" to be counted in her favor.³¹ Voters in Baguio appeared to reject the incumbent mayor for having supported the construction of a controversial casino, but this issue-oriented competition was hardly the norm.

³¹ Both Cayetano and Madrigal were successful in getting elected.

Obtaining endorsements from large organizations mattered primarily in the presidential race. The heads of religious groups with at least a million members, such as the charismatic Christian sects Iglesia ni Cristo and El Shaddai, chose to back GMA, and it is generally understood that members of the sects will vote the same way. Similarly, campaigns garnered the support of business groups, unions, and even of a group of transvestite Arroyo look-alikes.

Standard campaign tactics included signs, posters, t-shirts, sample ballots, and endorsements painted on the sides of jeepneys. Posters and signs were supposed to have been confined to designated areas but often were not, though few took issue with this. Some campaigns, including local-level races, were highly organized and used sophisticated technology, such as phone banking, direct mailings, and SMS text messaging, to reach their voters. A few campaigns started their own newsletters to make up for the lack of local print media coverage.

Most campaigns held rallies and other public events, though senatorial candidates, constrained by the need to campaign nationwide, only made short visits. Wealthier candidates made use of private planes or helicopters to travel quickly. Provincial and local-level candidates employed different strategies to meet constituents, including making use of *barangay*-level networks, church events, or paid organizers. Local candidates got messages out on provincial radio stations and in the local print media if such outlets existed. At the national level, candidates availed themselves of paid TV time.

Some candidates, particularly in Mindanao and the Cordillera Autonomous Region in north-central Luzon, were unable to campaign freely. The New People's Army (NPA) extorted fees of up to 100,000 pesos in exchange for candidates' access to NPA-controlled areas. In late April, the Secretary of Defense said that 19 candidates had given money, guns, and mobile phones to communist insurgents in exchange for access to their areas. On several occasions, those candidates' PNP or AFP security forces were disarmed by the NPA. In some areas with higher levels of election-related violence, candidates did not make public appearances out of concern for their individual safety. Senate candidates made only short visits.

Most candidates at the local level arranged to have party poll-watchers trained by civil society organizations, usually NAMFREL or PPCRV. Few seem interested in conducting their own training programs.

Representatives of party list organizations fill up to 20 percent of seats in the House. These seats were originally set aside in order to ensure that "marginalized groups" had representation. There is a certain irony in this, given that the marginalized – the poor, farmers, fishers, the elderly – actually make up a considerable part of the population, and the special representation seems in part a commentary on the regular parties' disinterest in these constituencies and their issues. The party list organizations' campaigns obviously focused on the issues they represent, such as better health care for the elderly and rural electrification. Some of these organizations, such as APEC, Bayan Muna, and

Akbayan, were able to distribute campaign literature across the country, but NDI was unable to locate any particular campaign events. Little attention is paid to their races, in part because often the party lists often fail to garner enough votes (two percent) to earn seats in the congress. Socialist and communist parties are more organized and have fairly clear policy stances, but they, like the party lists, are in the minority and are often regarded with considerable suspicion.

Role of Civil Society in the Pre-Election and Campaign Period

Democratic elections require that citizen organizations be able to participate in the election process to help educate other citizens about the importance of the elections, and be free to monitor every aspect of the election process. Civil society organizations in the Philippines, ranging from religious institutions to election monitoring organizations to business associations, were crucial in mobilizing popular support against martial law in the early 1980s. That success left a deep impression – as one nun told NDI representatives, “We had never thought before that we were important, but once we did, we knew we had to fulfill our responsibilities again at each election.” Their involvement improves public confidence in the electoral process – a critical contribution amidst persistent charges of fraud, skepticism about COMELEC’s competence, and the low level of political party involvement. Relatively few civil society leaders make the crossover into politics, clearly preferring their watchdog role, and the organizations are known for being able to take down – but not put up – a government.

In the 2004 elections, most of these organizations continued to help update voters’ lists, conduct voter education and get-out-the-vote programs, and monitor the conduct of polling day and canvassing.

Parish Pastoral Council for Responsible Voting

The Catholic Church continues to play a prominent role in elections, primarily through the Parish Pastoral Council for Responsible Voting (PPCRV). PPCRV describes itself as “a faith response for political renewal and social transformation.” At the suggestion of the Catholic Bishops’ Council of the Philippines, PPCRV began working through its national network of parishes and volunteers in November 2003 to assist COMELEC in its efforts to clean the voters’ lists. In the past, PPCRV has run good governance seminars for newly-elected officials. In the 2004 elections it not only fielded election day observers, but also ran help desks for voters and helped direct COMELEC’s attention to various problems, particularly the need in some areas for more security forces.

The Catholic Church, along with most other religious denominations, also regularly encouraged voters to participate and choose leaders wisely, though they are occasionally accused of being partisan toward administrations. These exhortations were couched mostly in the language of having a say in one’s future, of participating and being a good citizen, and of service. A January 26 pastoral letter, for example, noted that “confusion, cynicism and loss of credibility” in the elections, yet it encouraged participation, cooperation, vigilance, and belief in “our own power to transform society.” A similar

pastoral letter was released on April 21, urging people not just to vote but to choose candidates of competence, conscience, and commitment, a statement that was seen as discouraging people from voting for Fernando Poe. The homily and prayers at Mass on the day before the election focused on a clean process, wise choices, and good leadership. The Prayer for National Elections 2004 reiterated the same messages.

These aspirations were not limited to Church statements. In February, the Church, along with COMELEC, the PNP, and local officials encouraged all candidates to sign “Covenants of Hope.” These pledges, which were not legally binding, were designed to morally commit candidates to following the law, not engaging in violence, and respecting citizen participation in the process. Most were signed in the presence of all local candidates and the parish priest. In some areas, the documents were effective; in others, however, they became, in the words of one candidate who was herself far from complying with the stipulations, “just another piece of paper because everyone else is violating them.”

National Citizen’s Movement for Free Elections (NAMFREL)

NAMFREL is a non-partisan national organization that coordinates individuals and organizations (civic, religious, professional, business, labor, and others) for “the cause of free orderly and honest elections.” NAMFREL was formally organized in 1983, but its roots can be traced back to work in 1957. It reports over 120 participated organizations and is organized into 78 provincial chapters and 1,608 city and municipal chapters across the Philippines. Each chapter is responsible for manning all the polling places in its area and conducting a parallel tabulation of results. NAMFREL does undertake between-elections work, such as advocacy in support of electoral modernization and analyses of COMELEC plans for voter validation and precinct mapping efforts. In addition, NAMFREL also helped try to clean the voters’ lists in areas where the most recent information could be obtained.

NAMFREL’s primary function is to conduct a Quick Count. As noted above, the purpose of a Quick Count is to collect precinct-level data and quickly tally it to the national level in order to verify the integrity of the official count. It is designed to minimize fraud and catch errors in the highly vulnerable manual counting process. In the past, NAMFREL’s ability to release information at a faster rate than COMELEC has acted not only as a deterrent to fraud but also, given the slow pace of the official count, as an early, though unofficial, source of results. NAMFREL and PPCRV coordinate their efforts, as PPCRV volunteers observe the process during the balloting and counting, while NAMFREL volunteers gather the sixth copy of the tally sheet and undertake the parallel count.

As the officially-designated “accredited citizens’ arm,” NAMFREL volunteers are entitled to collect the sixth copy of the precinct-level tally sheets. In the past, volunteers have taken the information from those tally sheets, compiled the data at the municipal level, and then faxed or phoned it to the provincial level, which in turn passed it on to about 50 Manila-based coordinators. NAMFREL tallies results until it reaches the same

number and volume of votes COMELEC has counted, though these need not be results from precisely the same precincts.

NAMFREL and COMELEC have a complicated relationship, one largely influenced by the personalities of their respective leaders. Not surprisingly, COMELEC tends to see NAMFREL as an irritant and a constant critic of its every move. NAMFREL argues that it tries to assist COMELEC, not undermine it. NAMFREL's impartiality is probably called in into question as often as COMELEC's, though with considerably less evidence, and often as a result of a poor understanding of NAMFREL's function, financing, and history.

For the 2004 elections, NAMFREL had some difficulty obtaining accreditation from COMELEC to conduct a Quick Count, apparently because COMELEC itself had planned to conduct such an effort. After concerns were raised by other citizens' groups and the Catholic Church in late 2003 and early 2004, COMELEC relented and again accredited NAMFREL. Local NAMFREL chapters told NDI observers that they had had more trouble during this election recruiting volunteers, as those already-trained volunteers were now in demand to perform the same function – and get paid – by candidates and political parties.

NAMFREL's leadership opted to try to employ more advanced technology to relay the precinct-level results. SMS text messaging is extremely popular in the Philippines, and NAMFREL decided that relaying the data through SMS could be considerably more efficient. Designated volunteers would work in pairs to cover five to ten precincts, collect the data, and relay it in a particular format, such that the figures would tally through a computer program. If the system worked, NAMFREL would be able to release results even faster than it had in the past.

When modernization does go ahead, the need for data verification due to a manual count will evidently change. NAMFREL is planning ahead to work on modernized elections with the Philippine Certified Public Accountants Association to conduct an audit of the results, and it is likely that NAMFREL will concentrate more of its energy on advocacy efforts and on monitoring campaign promises, government spending, and other governance-related issues.

In the pre-election period, the relationship of some of NAMFREL's leadership to organizations viewed as partisan – particularly the Makati Business Club which came out in support of President Arroyo – was perceived by some to undermine the organization's historically unquestioned neutrality. No claims of bias on the part of NAMFREL were ever substantiated, but the perception of a loss of neutrality left the organization open to charges of conflict of interest in the immediate post election period.

Other Civil Society Organizations

Other civil society organizations played important parts in helping prepare for and observe the elections. The Institute for Popular Democracy (IPD) conducts research and

advocates electoral and constitutional reform. The Institute for Political and Electoral Reform (IPER) and the Consortium on Electoral Reform (CER) have advocated the passage of new legislation addressing voter education, reform of election management, political party reform, and voting modernization. The Social Weather Station (SWS), a non-profit, social science research institute, conducted polls in advance of and after election day. The pre-election polls predicted not only victory but also a far larger margin of victory for President Arroyo than had previously been thought, about seven or eight percent. Hundreds of other local organizations, including multi-sectoral groups, the Rotary Club, C-Cimpel, Clean Philippines, People's Net, the Coalition of Alternative Politics, and Mincode all urged candidates and parties, voters, and the security forces, to conduct themselves properly, refrain from violence, and remain vigilant with respect to electoral fraud.

The Media

The media serves two important functions during elections: it informs the public about issues, candidates, parties, and electoral administration, and it serves as a watchdog by critically evaluating candidates' and parties' post-election performance. The government-controlled media must provide a vehicle for the political contestants to speak to the electorate and must be required to cover all political contestants accurately, fairly, and in an equitable fashion, while private media must be strongly encouraged to act ethically and in accordance with the guidelines for proper election-related coverage.

The current Filipino media is no longer the moribund, state-controlled press of the past. There are now more than twenty daily newspapers, most with different political affiliations, dozens of regional radio stations, and six national television stations. The Philippines has one of the highest newspaper readership rates in Asia. According to Philippine media observers, television has now become a more powerful determinant of people's voting behavior than their families, churches, or class, and the media has now become the main arena for political contests.

Yet the freewheeling and multifaceted press is falling short in fulfilling those two crucial functions. Serious concerns exist about the quality of media debate on candidates and issues. Problems range from outright corruption – instances of journalists or outlets taking money in exchange for positive coverage – to the recent involvement of entertainment publicists to solicitations by news organizations of candidates and parties for advertising in the 2004 elections.

Concerns about journalists and media outlets accepting payments from candidates or parties for positive coverage or negative coverage of their opponents were articulated well in advance of the 2004 election season. The partisan affiliation of many media outlets and executives also reinforced concerns about whether coverage would be objective. For example, the entertainment media's entry has further blurred the lines between objective journalism and press agency, as those providing the commentary are usually representing those being covered.

The broadcast media was deeply involved in lobbying for the adoption of paid TV advertising for candidates primarily because they were lucrative, not because they would necessarily inform the public. Those who raised concerns about this decidedly un-level playing field were accused of trying to curtail free speech. This is ironic, given that, after 1986, radio and television advertising was actually banned specifically because its cost would create a non-level playing field for candidates.

The focus on national races – president, vice president, and senators – meant that relatively little attention was paid to local races. There are no regional or provincial TV stations in the Philippines, and though there are dozens of local radio stations, the quality of coverage is not necessarily better. Radyo Mindanao Network and the Notre Dame Broadcasting Network (NDBC) only discussed candidates' biodata, not their positions on issues. However, NDBC did organize a candidates' forum. Local print media is also limited, and in some areas candidates who could afford to printed their own newsletters.

Even more fundamental than media bias or coverage are concerns about basic accuracy. In the run-up to the 2004 elections, news outlets regularly fabricated or misreported COMELEC procedures, the number of election-related deaths, and statements by domestic and international observers. Articles frequently made use only of unnamed sources, and in some cases fabricated information. Some journalists deliberately misconstrued information, perhaps most notably by treating poll results as tantamount to results. Most newspapers that reported on the Social Weather Station's controversial prediction of a considerably larger than anticipated Arroyo victory neglected to include the poll's margin of error which, when taken into account, actually suggested the race was still a dead heat. The national coverage also tended to be very day-by-day and offered almost no systematic evaluation of candidates' progress or platforms.

The public broadcast media ran public service announcements encouraging citizens to vote and providing some information about candidates and parties. The law provides for equal access to public television and radio during the campaign period, and the guidelines originally envisioned each candidate would have 120 minutes of time total, but changed that to 120 minutes of time per station partway through the campaign period.³² This change, which some thought was made to accommodate the Arroyo campaign, which had already exceed the 120 minute threshold, along with COMELEC's lax enforcement of equal access regulations during the campaign reinforced the perception that some candidates would get more airtime than others. COMELEC claimed in late April that it was enforcing the rule of 120 minutes of TV and 180 minutes of radio time per candidate per station, but it seems likely that was exceeded.

Two civil society organizations, the Philippine Center for Investigative Journalism and the Center for Media Freedom and Responsibility, planned to undertake monitoring efforts that focused on content analysis of news programs and other election coverage, and on editorial decision-making practices.

³² *Fair Elections Act*, RA No. 9006, Sec. 6.

The Security Forces and the Election

In any election, the electorate must be free and must believe that it is free to make political choices, without intimidation, bribery, undue influence and fear of retribution for their vote. Political contestants must be given a fair chance of reaching the voters and winning their support. Yet the 2004 elections were marred by a surge in violence and an inability or unwillingness on the part of the security forces to adequately address the concerns.

One of COMELEC's more unusual powers is the right to deputize the Armed Forces of the Philippines (AFP) and Philippine National Police (PNP) nationwide in order to ensure security. In effect, both forces take their orders during the election period from the Chairman of COMELEC rather than the Commander-in-Chief. Typically the AFP, which normally focuses on external defense, is deployed to urban areas and regions such as ARMM or the Cordilleras to deal with insurgencies like the NPA. The PNP is charged with keeping the local peace and guarding candidates. Both share the responsibility of guarding precincts, counting centers, and sensitive materials like full ballot boxes while they are being transported. According to one senior PNP spokesperson, COMELEC pays the PNP or AFP for its assistance in transporting materials to and from remote areas.

It has been less than two decades since the end of martial law in the Philippines, during which time the AFP served primarily to protect Marcos' rule. Since 1986, experts suggest, the force is primarily interested in self-maintenance rather than self-defense, and the tradition of military intervention into politics continues, with the most recent coup attempt less than a year before the elections. The PNP, which is a national force, is notoriously poorly trained, short of resources, and alleged to be deeply involved in organized crime. In some areas, the AFP and PNP were hired by candidates and parties to "moonlight" as security forces; in others, the squad cars driven by the PNP were donated by the local mafia. An AFP brigade commander in Sulu had to be replaced because of his partisan electioneering. Two PNP officers pointed out to NDI representatives that because their professional advancement depends upon the support of mayors and governors, it is difficult for them to maintain the required nonpartisan stances. Obviously, these have negative consequences for the elections.

For the 2004 elections, COMELEC's plan for security included at least one PNP officer at each precinct -- though that officer was not allowed within 50 meters of the precinct -- and as many as available on stand-by. By May 8, 14,000 PNP and 3,000 AFP were deployed in Manila alone and another 22,000 members of the security forces were on stand-by. Given the rising tide of violence in the run-up to the elections, COMELEC and the security forces had worked together to identify approximately 500 "hotspots," or areas with a particularly high degree of violence, and deployed additional forces to those areas. The PNP and AFP jointly maintained checkpoints to enforce COMELEC's gun ban, and the AFP mobilized strike forces that could respond quickly to any sudden problems.

Despite these preparations and PNP claims that these elections were not more violent than those of the past, the Secretary of Defense reported a week before the election that there were already 118 election-related deaths. On March 24, the PNP reported that 339 criminal cases had been filed for violations of the election law and that 593 investigations were ongoing, a few of which involved members of the security forces. It also stated that the NPA had been involved in 159 violent incidents during the election period, creating some confusion as to whether these incidents were in addition to, or tracked separately from, other cases. By May 9, the PNP had recorded 119 incidents in which 96 people had been killed and 166 had been wounded since December 15, 2003. It also reported that 1,808 people had been arrested for gun ban violations and 1,445 weapons had been confiscated, though the lack of cantonment procedures left some uneasy about where the weapons wound up. By focusing on the number of incidents – rather than the number of dead, wounded, or confiscated weapons – the PNP could claim that the elections were less violent than in the past.

By early May, the PNP was reporting about three incidents per day, all of which cast doubt on how free voters and candidates were to exercise their right to support candidates and campaign. These incidents included the bombing of a congressional candidate's headquarters in Pampanga; the shooting deaths of two campaign workers in Abra; an assassination attempt on a journalist in the Cordillera Autonomous region; multiple disarmings of candidates' PNP escorts; an assassination attempt on a mayoral candidate and his AFP escort in Misamis Occidental in which the latter man died; the spraying of bullets into a vice mayoral candidate's office in Angeles City; the shooting deaths of four and wounding of seven in a disputed mayoral race in Cavite; the killing of two and wounding of three in a disputed race in Ilocos Sur; the murder of a barangay association captain in Sorsogon; the murder of two mayoral candidates in Leyte; and the shooting death of a village councilor campaigning for her cousin's mayoral race at a fundraising dance in Bohol.

Part of the difficulty in gauging the magnitude and therefore appropriate responses to pre-election violence was a general disagreement as to its causes. According to COMELEC, the NPA was the greatest threat. Some PNP officials agreed with this, but not with the same conviction as COMELEC. The election administration's statements did not acknowledge that the NPA's status is now more complex than it was even in the 2001 elections. In some areas, former NPA commanders have run and currently hold office. In addition, peace talks between the administration and the NPA are ongoing. Others, including some PNP commanders, suggest that at least some NPA, whose numbers have also dwindled considerably over the past decade, now have a stake in the election process working and therefore are not likely to mount a wholesale disruption. It is true, as noted above, that in some areas the NPA "taxed" candidates, but this was not a nationwide or violent phenomenon. It is also true that some members of "goon squads," or private militias, are current or former NPA, but their activities do not appear to have been driven by the NPA.

The Arroyo administration and, to some extent, the international community, expressed concern about potential disruptions by Muslim militant groups such as the Jemmah

Islamiyyah, the Abu Sayyef Group, and the Moro Islamic Liberation Front, all of which have footholds in the southern Philippines. Little attention was given to the MILF's May 7 statement that it would not disrupt the process, and, by May 10, little JI or ASG activity had materialized. Some security force officials in areas plagued with other kinds of problems expressed frustration at the distribution of resources to stave off those threats.

Local actors battling over access to resources generated the bulk of the violence. Holding office is less about public service than it is about controlling and distributing public funds and goods. Several factors have made the stakes for gaining public office considerably higher. First, even local campaigns have gotten considerably more expensive. If candidates have paid to mobilize campaign workers and voters and fail to reach office, it is difficult for them to repay their debts. Some of the violence has been attributed to candidates who appeared unlikely to succeed and would therefore not be able to repay their debts; other incidents involved candidates attempting to regain the money they spent on buying votes, figures that sometimes reach as much as US\$60 per vote. In some areas, including Maguindanao and Caraga, voters were killed for their allegiance to particular candidates. Second, some areas have new administrative designations, such that their budgets are larger and therefore running them is even more desirable. One area of Pampanga, for example, had in the last election been a municipality and its annual budget was about 100 million pesos; now it is considered a city and its budget is about 500 million pesos. It was rating a higher level of violence in this pre-election period than at any point in the past. Third, despite the gun ban, some parties and candidates maintained "goon squads" or private militias who were particularly aggressive in ensuring local support.

The effects of violence were significant. Forty-six mayors in northern Luzon ran unopposed, and similar percentages were seen in Mindanao. In some areas, large numbers of candidates moved into municipalities in order to improve their personal security. In Maguindanao, 14 of 27 municipalities opted to allocate positions rather than go through the process of electing people. One PPCRV coordinator in northern Luzon was concerned about the effects of the violence on voters, saying that, "because of violence, people don't really care about elections – they are too frightened, and they will not vote." Clearly, some parts of the Philippine electorate must factor intimidation and violence into their political choices.

Given COMELEC's power to deputize the security forces, it is imperative to consider whether that power was used effectively in the pre-election period. Although COMELEC responded to some requests to assume direct control of problem areas, it was not particularly aggressive in directing the security forces to stem the violence. The PNP's efforts to present numbers that made the situation look better did little to assure observers that the problems were being objectively addressed. PNP spokespeople had no data available regarding the arrest and conviction rates from incidents in the 2001 elections, further calling into question the force's commitment to addressing the concerns. Moreover, NDI representatives were concerned by the security forces' failure to enforce even simple infractions, such as removing illegal signs. The failure to uphold

laws, investigate incidents, and prosecute perpetrators creates impunity, which is hardly conducive to democratic political participation.

Some local PNP officials said that short of “monitoring compliance with the Covenant [of Hope],” there was little they could do to stop the violence. A regional PNP commander said that his officers were “constrained by democracy” in the need to procure warrants and follow other aspects of due process. PNP officials pointed to witnesses’ unwillingness to provide accounts, file charges, or testify, and to the vulnerability of PNP officers themselves to those perpetrating the violence. Minimal witness protection services are available, and local PNP officials blame the lack of convictions on judicial corruption. COMELEC and the PNP seemed to share a *laissez faire* attitude with respect to this local violence, going so far in some areas as to suggest that the COMELEC’s and PNP’s jobs are made easier if violent candidates simply eliminate each another.

COMELEC and the security forces do not appear to have adequately addressed pre-election violence. While their explanations are not without merit, and while some of the problems are not specific to elections, the fact remains that their attitude and actions bear some of the blame for the ongoing and increasing levels of violence. It is those bodies’ responsibility to create and maintain an environment conducive to peaceful elections, and it is unacceptable for them to simply fail to fulfill their most basic function.

Election Day

Election Administration

Despite pre-election concerns, the polling, counting, and canvassing proceeded in most areas apparently without serious problems. Although the circumstances in many polling stations were somewhat chaotic, the voters’ patience and the local election officials’ fortitude helped make the process function. In general, the atmosphere was festive, though in some areas the environment was tense due to clashes between rival candidates and between security forces and rebel groups. There was no shortage of procedural errors in all of the processes nationwide, but there is little compelling evidence to suggest that these materially affected the outcome of the election. Indeed, most of the problems stemmed from issues of competence rather than partisanship.

Local COMELEC officials and BEIs deserve the bulk of the credit for conducting a smooth poll. Although the circumstances were less than ideal, most BEIs faced their challenge with efficiency and patience, and in conformity with the regulations. As noted above, some of the BEIs were not teachers. In some areas, such as Matanog, PNP and/or AFP forces served as BEIs, although the PNP denied this happened anywhere. This is a cause for concern, partly because they were not trained as BEIs, did not follow proper procedures, and may have been partisan in their conduct. One NDI representative witnessed one AFP BEI calling some, but not all, voters into a precinct.

In areas where NDI was present on Election Day, sensitive and non-sensitive materials were not always distributed according to the legally-mandated timetable. Although all

but a few areas received their materials in order to open at 7 am on May 10, the distribution to that point was problematic. In Ilocos Norte, for example, local officials did not get the non-sensitive materials until late on May 8 and the sensitive materials on May 9, creating some tension as to whether the distribution of all materials to the BEIs on May 9 would be possible. In at least one part of Abra Province, the materials were collected from the City Treasury not by the BEIs, as the law mandates, but by the incumbent mayor's wife. In another part of the province that had the same problem in past elections, the failure to deliver materials in time on May 10 meant a declaration of a failed election, followed by a special election held the following day. A few BEIs were forced to make do with hand-written voters' lists.

Observers had not previously expressed concerns about ballot secrecy, yet this emerged as a particular concern on Election Day. Paper folders, which were smaller than the ballot itself, were set up on desks as screens. But not only were the screens too small, they often impeded the voter's ability to write comfortably, such that many voters pushed them aside. In precincts situated in larger classrooms, this was not necessarily a concern, but in smaller rooms, where voters were sitting closer together and/or close to windows through which their writing could be observed, or in rooms that accommodated two precincts, the secrecy of the ballots was seriously jeopardized. In a few precincts, NDI representatives also noted unsealed ballot boxes, which could also call secrecy into question. In other areas, observers noted that the serial numbers of ballots, which correspond to the voter's name on the registry, were left on, such that a voter could be identified. It is particularly important to consider this lack of secrecy in relation to vote buying.

The quantity of materials was also not necessarily appropriate. Some precincts were concerned about whether they had enough ballots (one for each voter plus three for the BEIs), given concerns about the voters' list and reassignment of precincts. Other areas reported having too many ballots, leading to concerns about whether those would be used to stuff boxes. Observers reported shortages of ink, tally boards, envelopes, pens, paper, padlocks, and security folders.

Despite concerns going into Election Day about problems with the voters' lists, in some regions patience and local knowledge on the part of local COMELEC officials, BEIs, and voters helped avert major problems with respect to allowing people to vote. In other areas, though, thousands were unable to cast ballots because their names were not on the list, including people who knew they were registered and had the documents to prove it. It is impossible to know either how many voters were unable to cast ballots because their names had been omitted from the lists or because BEIs used different standards to admit voters to precincts, or how many, upon learning that they were to cast their ballots in different precincts, simply abandoned their efforts and went home. For example, in South Upi and Bangued, dozens of voters were told just minutes before 3pm that they were supposed to vote in different precincts, ones they could not possibly reach in the remaining time. PPCRV later speculated that a statistically significant number of voters – perhaps even more than the margin of victory-- may have been prevented from casting ballots as a direct result of problems with the list, but it is impossible to verify this claim.

It is equally difficult to determine the extent of multiple or illegal voting. Indelible ink is supposed to be applied to a voter's finger after he casts his ballot so that he is easily recognized as having already voted. Some observers suggested that the ink was easily removed, or that BEIs were bribed or harassed into ignoring an already-inked finger. In some precincts, NDI observers witnessed "excess" ink – the amount need to properly stain the fingernail – being wiped away so quickly as to render it ineffective. In Maguindanao, the use of ink was declared "optional" in some polling stations. Precincts in Davao del Sur did not receive indelible ink and instead used ink from an ordinary stamp pad. Some NDI observers reported credible stories of "flying voting" – individuals who move from precinct to precinct trying to cast as many ballots as they can. Some voters told NDI observers that while they could not find their own names on the voters' lists, they could find those of their dead relatives, and that ballots had been cast in their names.

Occasionally, voters voiced concerns that *barangay* captains and/or candidates were lingering inside or just outside precincts. When asked by an observer what he was doing inside a precinct, one *barangay* captain insisted that he and his colleagues had passed a local resolution enabling them to do so. Despite clarifications from the BEI that such resolutions had no bearing, the captain refused to leave.

Many allegations of vote buying were made to NDI representatives. Although this is generally thought to be a local phenomenon, it has been known to play into congressional and national races. Most parties and candidates to which NDI representatives spoke maintained that they did not engage in this practice, but those who did admit to vote buying claimed to do so only because everyone else was doing it. Vote buying must be considered alongside concerns about ballot secrecy and voter intimidation. Without the certainty that their choices will be known only to them, voters become vulnerable to pressure. Although the problem of vote buying is hardly new to Philippine elections, COMELEC appeared to do little in terms of minimizing concerns about secrecy or incidences of intimidation, and candidates clearly played on voters' uncertainties about both. NDI representatives were told that votes in some parts of the country commanded 15,000 pesos, and that in certain parts of ARMM, intimidation was such a problem that voters had no means to resist vote buying efforts.

Most polls closed on time and followed the correct procedures. Special elections had to be scheduled in Tinged (Abra Province) because materials had not been delivered in time, and in Dupax Del Norte (Nueva Vizcaya) due to inclement weather. In Tinglayan (Kalinga Province), local thugs blocked the arrival of BEIs and materials, leading to a postponement of elections there, and a similar "failure of precincts to function" led to a delay in Kapatagan (Lanao del Sur Province).

Consistent with past elections, turnout was quite high, 74 percent³³. Most voters cast their ballots in the morning, and voting took anywhere from 20 minutes to three hours,

³³ Voter turnout percentage is calculated based on the total number of votes cast for all Presidential candidates divided by the total number of registered voters. The Social Weather Station exit poll computed

depending on the BEI's efficiency, the number of voters trying to vote, and the time of day. A few isolated cases of low turnout (30-35 percent) were attributed to intimidation by local officials, and Mindanao reported about 70 percent turnout.

Election Day Monitoring

Civil society and party poll-watchers observed in large numbers. Party watchers were not particularly observant or helpful during the balloting, and while many could identify the particular candidate for whom they were watching, they could not identify the party. PPCRV and NAMFREL fielded more than 300,000 observers. PPCRV was to observe during the balloting, while NAMFREL would watch the tallying (see *infra*). Coverage of volunteer poll-watchers varied considerably. In some provinces, such as Abra, a smaller group of volunteers had to work in roving teams, while in other areas, like Pampanga, more than enough volunteers had mobilized to cover 5,000 precincts. In more urban areas, PPCRV set up voters' assistance desks primarily to help voters locate the right precinct.

Immediate Post Election Period

May 10 Results: Counting and Tallying at the Precinct Level

Polls closed at 3pm on Election Day. Immediately following the close of the polls, BEIs began the arduous process of manually counting and tallying the votes in each precinct. Election officials, in the presence of party poll watchers and representatives of domestic monitoring groups, began the counting process by checking the seal on the ballot boxes, opening the box and counting out the ballots to ensure that the total number of ballots cast inside the box matched the total number of ballots issued to registered voters in that precinct. Three officials then read, check and record the results. The manual process is painfully slow, it takes between two and five minutes to read one ballot, each precinct has an average of 300 ballots.

In the precincts in which NDI watched the counting process, the BEIs generally appeared to perform well despite exhaustion. Party watchers who were somewhat disengaged during the balloting, became quite engaged during the count, but appeared to focus most significantly on the counting of votes for local races, rather than on the national level races. Volunteers from PPCRV and NAMFREL watched the counting process and NAMFREL volunteers collected the sixth sheet of the tally form from the election officials. This form is what NAMFREL uses to conduct its own independent quick count of returns. Following the count, the election materials are then transported to canvassing centers. This transfer of the ballots and tally sheets to the provincial canvassing centers was often chaotic. In many instances the materials were not accompanied by the authorized individuals, in some cases ballot boxes were actually transported by

voter turnout to be 81.5 percent. Voter turnout for the 2001 mid-term congressional and mid-term elections was estimated at 85 percent by the COMELEC Chairman Alfredo Benipayo.

candidates. In Sultan Kudarat a dispute between the supporters of rival mayoral candidates over who would transport the boxes led to violence that left four people dead.

Except for what appear to be a few isolated instances³⁴, NDI election experts did not notice, and Philippine domestic monitoring groups and political party poll watchers did not report, any significant fraud at the precinct level in either the balloting or the counting process.

Canvassing at the Municipal and Provincial Level

Once ballots have been tallied at the precinct level, the materials are transported to canvassing centers in each province. At the canvassing center the election returns are reviewed by election officials in the presence of party poll watchers and volunteers from domestic monitoring organizations and the results are posted on public tally boards. The board of canvassers for each province or city then certifies the returns and transmits the certificate of canvass along with the ballots themselves directly to the President of the Senate.

In the areas in which NDI election experts were present, party poll watchers were present, but focused their attention primarily on local, rather than national level races. At this level, Philippine domestic monitoring organizations reported minor procedural irregularities such as inverted numbers on tally sheets, information sheets missing the correct precinct numbers and a lack of public tally boards. Party poll watchers did not raise any objections during this portion of the canvass.

In some areas, canvassing was conducted in military camps. While this helped alleviate some security concerns, the perception in some areas that the military had allegiances with certain local civilian leaders, cast doubt on the validity of the canvass. Additionally, because of restricted access to military bases, party poll watchers and representatives of domestic monitoring groups were not permitted to observe the canvass. The absence of such observers contributed to the perception of possible fraud in the reporting of the returns, though no substantiated allegations were reported.

Canvassing for Legislative and Local Government Seats

COMELEC's canvassing for legislative and local government seats began on the evening of May 10 and in some instances, the morning of May 11. The process was reasonably smooth and, in the areas NDI observed, engaged party and civil society poll watchers. By May 22 COMELEC had canvassed all but seven COCs, and three days later managed to proclaim eleven of twelve senators. The canvassing at this level was faster than efforts for other elections in recent memory, yet this success was marred when a senior COMELEC official told a journalist that the results would favor Arroyo. Given that

³⁴ Party poll watchers at a precinct in Sultan Kudarat provided NDI with a copy of the tally sheet for that precinct. The tally sheet records a total of 300 registered voters in that precinct and a total of 300 voters who actually voted. The total number of votes obtained by President Arroyo are recorded as 1,041. See Appendix.

canvassing for presidential and vice presidential results, let alone announcing them, is clearly outside COMELEC's mandate, such behavior reinforced opposition complaints regarding COMELEC incompetence and bias.

Congressional Canvassing

Congressional canvassing for the presidential and vice-presidential races was considerably more controversial. The Constitution mandates that the Congress canvass the votes for President and Vice-President and proclaim the winner as the candidate with the highest number of votes.³⁵ The board of canvassers (BOC) of each province or municipality transmits certified returns in the forms of certificates of canvass (COCs) directly to the President of the Senate. Upon receipt of the COCs, the President of the Senate must open all the certificates in the presence of a joint public session of the Congress within 30 days of the election and "upon determination of the authenticity and due execution thereof in the manner provided by law, canvass the votes."³⁶ The Constitution further provides that the Congress shall promulgate its own rules for canvassing the votes.³⁷

The relevant law does not specify whether the full plenary or a committee conduct the canvassing, nor does it specify the composition of a committee should one be used in place of the plenary. In addition, the law does not clarify the procedures for the canvass, such that the rules governing who does the canvassing and how it should be conducted must be renegotiated for each election. As a result, convening the constitutionally mandated bicameral National Board of Canvassers (BoC) for the May 10 elections took a full week as members squabbled over the membership and procedures. The opposition KNP maintained that the canvassing must be conducted by the full congress and filed a petition with the Supreme Court.³⁸ The Supreme Court ruled that the Constitution expressly empowers Congress to promulgate its own rules for the canvassing of certificates and that the Court has no power to review the internal proceedings of Congress unless there is a clear violation of the Constitution and the creation of the Joint Committee does not constitute such a violation.³⁹ Following the Supreme Court decision, the House and Senate agreed to work through a joint committee. It took another three days to settle on the composition of that committee and another full week to agree to the rules of conduct. The actual canvass of votes began in the evening of June 4 and 176 COCs needed to be canvassed. The sitting government's mandate was set to expire on June 30, and this created concerns regarding a possible constitutional crisis if the canvassing was not completed and a winner proclaimed in advance of that date.

During the course of the canvassing, counsels for the candidates for President and Vice-President were given the opportunity to examine all of the certificates of canvass as well

³⁵ Phil. Const. Article VII, Sec. 4

³⁶ Phil. Const. Article VII, Sec. 4.

³⁷ *Id.*

³⁸ *Cong. Ruy Elias C. Lopez v. Senate of the Philippines, House of Representatives, et al*, G.R. No. 163556, June 8, 2004.

³⁹ *Id.*

as supporting statements of votes. Any objections of counsel were made orally and in writing. Counsel for FPJ made several objections regarding the authenticity of the COCs. These objections and other grievances raised by the opposition are discussed *infra*. The Committee noted the objections of counsel and in several instances took steps to address these concerns. Objections raised with respect to alleged erasures, alterations, superimpositions, “snopaking”⁴⁰ and padding and shaving of votes in the SOVs were duly noted, but the Joint Committee found no compelling reason or legal basis to exclude any COC from the canvass. (See *infra*.)

Upon completion of the preliminary canvass, the Joint Committee found that Gloria Macapagal-Arroyo received the most votes (12,905,808) and that her closest rival was Fernando Poe, Jr (who received 11,782,232 votes). In the race for Vice-President, the Committee found that Noli L. De Castro received the most votes (15,100,431). The Joint Committee recommended that Congress, as the National Board of Canvassers, approve the Report of the Joint Committee and adopt Resolution of Both Houses No. 2 declaring the results of the National Elections held on May 10, 2004 for the offices of President and Vice-President and proclaiming Gloria Macapagal – Arroyo and Noli L. De Castro as the duly elected President and Vice-President of the Republic of Philippines, respectively.

Grievances and Complaints

No election is free from all allegations of fraud and even localized irregularities can create a perception of more widespread electoral malfeasance -- this is especially true if the electorate lacks trust in the electoral authorities. Credible, non partisan election observers can be particularly useful in offering independent evidence that either confirms or dispels the perception of fraudulent practices. A grievance procedure that allows aggrieved parties to voice complaints and resolves challenges to the electoral process or results in a timely and transparent manner is also essential to the credibility of the electoral process.

In the Philippines, there are three categories of election complaints: pre-proclamation complaints that deal largely with grievances that arise during canvassing; election contests which challenge proclaimed results and; election offenses where violators of the electoral law are prosecuted. Jurisdiction of election complaints is dependent upon the type of complaint. COMELEC has sole initial jurisdiction over pre-proclamation cases involving provincial, city and municipal offices. The complaint must first be brought to the board of canvassers of the province or municipality. An appeal of the Board’s decision may be made to COMELEC. These cases are dealt with summarily in an effort to ensure that the proclamation of results is not unduly delayed. Pre-proclamation cases cannot be brought in House, Senate, Vice-Presidential and Presidential races.⁴¹

There is not a single body with exclusive jurisdiction over all post-proclamation complaints. Disputes involving barangay or municipal contests are heard by municipal and regional trial courts. Appeals of these decisions may be made to COMELEC.

⁴⁰ Snopaking is the process of using a concealing substance, such as “White Out”, to cover over writing.

⁴¹ *Synchronized National and Local Elections Act*, RA No. 7166, 1991 Sec. 15.

COMELEC has initial jurisdiction over cases involving elections involving regional, provincial and city offices. Tribunals of the Senate and House of Representatives hear cases related to their respective members. The Supreme Court is the sole judge of all contests relating to the Presidential and Vice-Presidential elections, and may promulgate rules for this purpose.

Elections offenses cover all aspects of the electoral process and are outlined in the Omnibus Electoral Code and subsequent legislation. Any person found guilty of an election offence is subject to imprisonment of not less than one year and not more than six years. Probation is expressly prohibited. Once found guilty of an election offence, an individual is disqualified from holding public office and deprived of his/her right to vote.

The most common criticism of the complaints adjudication system in the Philippines is that the system is overburdened and exceptionally slow. A lack of trust in the electoral system and in electoral authorities contributes to excessive litigation of complaints. It is often repeated in a discussion of Philippine elections that there are “no losers, only those who are cheated.” Rather than accept defeat, electoral losers will often file complaints that are intended to save face or begin the campaign for the next election.

Opposition Claims of Fraud and Electoral Irregularities

Following the 2004 election, the opposition charged the administration with fraud, intimidation, and massive voter disenfranchisement. In the immediate post-election period and particularly during the congressional canvass, the opposition maintained that not only had massive voter disenfranchisement taken place (to the detriment of FPJ) as well as clear misuse of state funds for the purpose of influencing the election, but the administration had manipulated the returns to orchestrate a GMA victory. Opposition leaders are convinced that had no manipulation taken place, even with the other electoral irregularities, FPJ would have won the election by a margin of approximately 500,000 votes.

The opposition raised the majority of its electoral complaints during the congressional canvass. At issue primarily was the opposition’s assertion that the COCs from several areas had been tampered with and no longer reflected the true tally of the election returns. During the course of the canvass the opposition raised objections regarding alleged erasures, alterations, superimpositions and padding and shaving of votes and requested that the Joint Committee look beyond the COCs to the election returns in particular areas in an effort to verify the accuracy of the COCs. Section 30 of Republic Act 7166 and Section 14 of the Rules of Canvass provide the Joint Committee with the authority to look beyond the COCs if it appears that any COC bears erasures or alterations which may cast doubt on the veracity of the number of votes as stated therein and may affect the result of the election.⁴² In particular, the Opposition cites the COCs from Cebu as being

⁴² Section 30 of the *Synchronized National and Local Elections Act* provides: “When it appears that any certificate of canvass or supporting statement of votes by precinct bears erasures or alterations which may cast doubt as to the veracity of the number of votes therein and may affect the result of the election, upon request of the Presidential or Vice-Presidential candidate concerned or his party, Congress shall, for the

particularly problematic.⁴³ While the Joint Committee noted the objections raised by the opposition, it did not deem it necessary to look beyond any of the COCs for any region and found no “compelling reason or legal basis” to exclude any COCs from the canvass.

The Joint Committee was particularly concerned that any examination of the election results beyond those as reported on the COCs would lead to an unacceptable delay in the canvassing procedure. Many members of the Committee were concerned that the canvass, already proceeding slowly due to partisan debate and tactics, would be so delayed that the proclamation of results would not be made by June 30 when the existing government’s term expired and that a constitutional crisis would develop. The Joint Committee noted that allegations of cheating and fraud involving the election returns are the proper object of a protest before the Presidential Election Tribunal and that such a protest could be made following the proclamation of results.

In July, Fernando Poe Jr. and running mate Loren Legara filed petitions with the Supreme Court, convening as the Presidential Election Tribunal asking the tribunal to annul the proclamation of Ms. Arroyo and Mr. de Castro as the winners of the election and seeking a retabulation of the votes. The petitions further allege that the government committed “massive and widespread electoral fraud, anomalies and irregularities” in up to 124,404 precincts.⁴⁴

In early August, President Arroyo and Vice President de Castro filed their answers and counter-protests with the PET. If the PET finds that the election protest brought by Mr. Poe and Mr. Legara are sufficient, it can require a retabulation of the election results.

NAMFREL Quick Count

In previous elections, NAMFREL’s quick count was conducted manually – observers would collect the results of the count at each precinct observed and transmit this data, usually by fax, to a central data collection site at the province and then at the national level. The count was quicker than the official tally, but still fairly time consuming because the group undertook a comprehensive count – attempting to get polling data from all of the precincts rather than just from a statistically meaningful sample.

sole purpose of verifying the actual number of votes cast for President and Vice-President, count the votes as they appear in the copies of the election returns submitted to it. *Synchronized National and Local Elections Act*, RA No. 7166, 1999, Sec. 30.

⁴³ The KNP alleges that massive election fraud took place in Cebu. In a speech before a plenary session of congress on June 23, 2004, Senator Aquilino Pimental asserted that President Arroyo appears to have secured her lead in the election by votes gathered in Cebu province and Cebu city. He notes that the returns from Cebu were “statistically improbable” and that the number of votes reported were greater than the number of registered voters in some areas. Speech of Sen. Aquilino Pimental, June 23, 2004. See also, “Cebu Witnesses vs. GMA Fraud Surface”, <http://www.erap.com/news/june> 11.

⁴⁴ Poe asked the PET to allow a retabulation of the election returns from 10,554 precincts in seven provinces, one city and seven municipalities as well as the ballots from 118,339 precincts in 42 cities. Legarda asked for a recount of the election returns from 9,007 precincts in six provinces, one city and five municipalities and the ballots from 124,404 precincts.

For the 2004 elections, NAMFREL sought to modernize its own reporting structures in order to increase the speed and efficacy of the quick count. NAMFREL opted to use text messaging to relay the data. Observers collected the data at the precinct level, then using the prescribed format – based on precinct number – the figures were tabulated through a computer program at the national level. The system, however, had several flaws that became apparent on polling day. Most notably, there was no mechanism to handle instances where the number of a particular precinct had been changed – in some instances, NAMFREL volunteers reported the polling data based on the new precinct number and in some instances used the previously assigned number. In the end, the data collected through text messaging had too many errors and could not be used. Fortunately, NAMFREL had kept in place its previous system of obtaining one of the tally sheets from election officials at the precinct level and this information provided the data for the quick count.

Partly because of the failure of the text messaging system, NAMFREL was slow in releasing the results of the quick count. The lack of this independent information at a time when the official count was moving slowly and both sides were making statements regarding possible victory as well as fraud by the competition, was a missed opportunity and contributed to a lack of confidence in the electoral system. The slowness of the count, particularly when considered along with the ties of some in NAMFREL's leadership to organizations that had endorsed President Arroyo, opened NAMFREL to charges of bias in its own count. Had NAMFREL been in a position to release meaningful information quickly, it would have contributed to confidence both in the election and in NAMFREL.

Violence and Intimidation in the Post-Election Period

By a week after the election, the death toll from violent incidents related to the polling had risen to about 150, or about 30 more fatalities in a week, according to the Secretary of Defense.

The governor's race in Isabela provided the best snapshot of post-election intimidation, which reflected the power of political dynasties, the weakness of COMELEC, and the power of the media to involve the public. As the provincial canvass progressed, incumbent Governor Ferdinand Dy, Jr., whose family's involvement in politics predates that of the Marcos family, appeared to be losing by a considerable margin to Grace Padaca, a former radio journalist, by about 40,000 votes. Presumably under pressure from the Dy campaign, the local Board of Canvassers quit rather than proclaim Padaca the winner, whereupon Padaca went into hiding. Several days later, a new BoC arrived from Manila, and it was from that group that Dy's campaign successfully obtained a stay on the proclamation of the victory after lodging a petition with the local COMELEC that Padaca had intimidated voters with the help of NPA rebels. The allegations regarding Padaca's affiliation to the leftists emerged only after her victory seemed clear, and there was no evidence to believe it was true. When NDI observers met with the head of Dy's party in Manila and asked about the situation in Isabela, the party head treated Dy's behavior as an embarrassment, saying that, "He just really didn't want to lose," but

showed no signs of taking steps to ensure the results will be honored. It was not until June 14 – and another series of efforts by Dy to prevent her proclamation – that Padaca was proclaimed the victor, but her safety will likely remain an issue despite her win.

In the days following the election, the Department of Education established a legal defense fund for teachers. Candidates had already begun to file suits against BEIs for their mistakes on election returns. The Department of Education began to collect its own set of certificates of canvass in order to defend the teachers in question. Very few BEIs have filed complaints against overly aggressive candidates or party watchers, mostly because they do not want to make enemies in their own communities.

Threats of demonstrations in Manila failed to materialize. The Poe camp had tentatively scheduled a rally or vigil for the afternoon of May 15, but few people appeared. Small groups of supporters and protestors gathered outside the congress as the debates and canvassing commenced, but most were held without serious incident. The administration issued several ominous statements warning against attempts to interrupt the canvass, baselessly challenge the results, or try to derail the proclamation process, and repeatedly stating that it had put the security forces on high alert. Given that the opposition's behavior was thoroughly non-violent, and that the security forces arguably posed the greatest threat, these statements seemed excessive and misdirected.

Predictably enough, the business community and Catholic Church began to call for stability about two to three weeks after the election. Several large business organizations, such as the Philippine CCI, the Makati Business Club, and the Filipino-Chinese Business Association ran newspaper ads in late May encouraging a swift and peaceful resolution to the electoral process. NAMFREL had already publicly stated its confidence that there had been no serious fraud within a week of the election, while the Catholic Bishops' Council of the Philippines waited until June 1 to do so.

Recommendations and Conclusions

A genuine desire for credible elections was expressed by public officials, political and civic leaders and Filipino citizens generally; however, important challenges still lie ahead. NDI offers the following recommendations in an effort to contribute to the dialogue among Philippine stakeholders and to the hard and detailed work of reaching consensus on legal, administrative and institutional reforms that can be implemented prior to the next national election in 2007.

Electoral and Legal Framework

- 1) Consolidate relevant election legislation.** All relevant electoral laws, other than Constitutional provisions, should be consolidated in a new Omnibus Election Code.
- 2) Consider desynchronizing local and national elections.** Increased financing by national campaigns at the local level raised the likelihood of violence during the

election period. Desynchronizing the elections would put less pressure on security forces and political actors as outside pressures would be diminished.

- 3) **Strengthen Rule of Law.** Hold political parties responsible for acts of violence directed at rival parties and prosecute all election-related crimes through a speedier adjudication process.

Electoral Administration

- 1) **Undertake a full management audit of COMELEC and implement recommendations.** The Senate and House of Representatives Committees on Suffrage and Electoral Reform should propose, as one of their earliest actions in the new Congress and in keeping with their oversight responsibilities, a full management audit of COMELEC, to be conducted on an independent basis and to which the Commission should voluntarily comply. Priority issues for the auditors should include examination of: the ‘Commissioner in Charge’ system of management, professional capabilities, and organizational structure; staffing needs, human resource practices, and training and professional development programs; standardized operating policies and procedures; election budgeting and financing; and internal managerial and administrative firewalls.
- 2) **Improve the nomination process for COMELEC commissioners.** Establish professional standards and eligibility criteria for nominees to COMELEC. Open up the nomination process to allow for greater public scrutiny and input by stakeholders.
- 3) **Modernization of the voting process.** COMELEC should effectively use the time between elections and renew the process of modernization. This would include a concerted effort to review and improve the voters list. With this modernization program, COMELEC should institute a rigorous training program for its staff on any new election related equipment and procedures. COMELEC should conduct this effort in cooperation with the Congress to ensure appropriated funding.
- 4) **Reform the role of Congress in the canvassing system.** Create a standing set of rules for its responsibilities in the canvass and the procedures for carrying out the canvass.
- 5) **Establish a more efficient system to address the adjudication of complaints.** Streamline and consolidate the jurisdiction for dispute resolution. At a minimum, COMELEC should be relieved of initial jurisdiction. Local or regional courts could assume greater responsibilities. The establishment of a specific “electoral court” might also be considered. Introduce measures to penalize or discourage frivolous complaints. And, develop a greater range of sanctions to ensure that tribunals apply penalties that are proportional to the offense. Related to this, the significant intermingling of the criminal and electoral law should be re-considered as part of the electoral reform agenda. Establishing a more efficient system to address complaints would serve to remove a perception of bias and would increase public confidence in COMELEC.

- 6) **Ensure the transparency of results reporting, election monitoring, and parallel vote counting activities.** Transparency of the election results must be ensured by publicly posting a copy of the precinct Election Return outside the precinct door and on the Internet.
- 7) **Improve the electoral security situation.** COMELEC needs to exercise its extraordinary powers over the police and armed forces to ensure stability over the election period.

Political Parties

- 1) **Strengthen political parties.** Political parties should represent the citizens' interests. Without representative political parties, the citizens do not have an organized vehicle to have their concerns heard at a national level. An appropriate role for a credible opposition in the legislative branch should be cultivated. Engaging the opposition in the governing process would motivate them to engage in a more responsible and democratic manner. Political parties should develop meaningful political identities, policy-based platforms, and agendas; internal democratic structures; a reliable core of supporters and leaders; the ability to raise funds to support party activities. Parties and candidates that demonstrated innovative approaches in gaining broad grassroots support should receive support and encouragement.
- 2) **Strengthen and enforce political party and campaign finance laws.** Political representatives in Congress should renew their efforts to pass legislation governing political parties and campaign financing. Public financing of political parties and electoral campaigns should be considered. To enhance the ethical behavior of political actors, a debate must be initiated and new rules on the financing of parties should be introduced. Several options to consider include: imposing a ceiling spending limit; partially or fully reimbursing the expenses of approved candidates; requiring that all public and private sources of election financing be made public. Anti-dynasty laws should be considered.
- 3) **Re-evaluate the Party List System.** The party list system in its current state does not appear to benefit those marginalized groups originally intended as its beneficiaries. Electoral officials as well as political party leaders should re-evaluate the system, its original intent and current operation.

Civil Society

- 1) **Civil society groups should adopt more transparent reporting guidelines.** Civil society organizations involved in the electoral process should communicate reporting practices in a transparent manner so as to maintain full public credibility.

- 2) Consider and test current and new parallel vote tabulation approaches.** Civil society organizations should seek to test current and new technologies, especially in regard to the Quick Count, before employing them on Election Day. Regardless of whether or not automation is officially introduced into the electoral system, it will be important to support parallel vote tabulation by a third party to ensure electoral credibility in the Philippines. Domestic monitoring groups should also consider independent vote verification techniques and quick count methodologies based on statistically valid samples of randomly selected and representative polling stations across the country. Employing a parallel count methodology that is based upon statistically meaningful samples could address the need for more timely results and could contribute to greater confidence in the election system.

No election is entirely free of problems and this election is certainly no exception. Efforts to improve election administration are needed, but so too are other measures designed to ensure that safeguards are in place to identify and remedy problems and abuses when they occur. In this regard, political parties, civil society organizations, the news media and judiciary play significant roles. If the public does not have confidence in these institutions, the public's confidence in elections, and eventually in democracy itself, may also wane.

National Democratic Institute for International Affairs

NDI is a nonprofit organization working to strengthen and expand democracy worldwide. Calling on a global network of volunteer experts, NDI provides practical assistance to civic and political leaders advancing democratic values, practices and institutions. NDI works with democrats in every region of the world to build political and civic organizations, safeguard elections, and promote citizen participation, openness and accountability in government.

Build Political and Civic Organizations: NDI helps build the stable, broad-based and well-organized institutions that form the foundation of a strong civic culture. Democracy depends on these mediating institutions—the voice of an informed citizenry, which link citizens to their government and to one another by providing avenues for participation in public policy.

Safeguard Elections: NDI promotes open and democratic elections. Political parties and governments have asked NDI to study electoral codes and to recommend improvements. The Institute also provides technical assistance for political parties and civic groups to conduct voter education campaigns and to organize election monitoring programs. NDI is a world leader in election monitoring, having organized international delegations to monitor elections in dozens of countries, helping to ensure that polling results reflect the will of the people.

Promote Openness and Accountability: NDI responds to requests from leaders of government, parliament, political parties and civic groups seeking advice on matters from legislative procedures to constituent service to the balance of civil-military relations in a democracy. NDI works to build legislatures and local governments that are professional, accountable, open and responsive to their citizens.

International cooperation is key to promoting democracy effectively and efficiently. It also conveys a deeper message to new and emerging democracies that while autocracies are inherently isolated and fearful of the outside world, democracies can count on international allies and an active support system. Headquartered in Washington D.C., with field offices in every region of the world, NDI complements the skills of its staff by enlisting volunteer experts from around the world, many of whom are veterans of democratic struggles in their own countries and share valuable perspectives on democratic development.

NDI in the Philippines

NDI co-sponsored with the International Republican Institute an international delegation that observed the historic 1986 snap elections in the Philippines. The Institute returned in 1987 for the legislative elections bringing a group of democratic activists from countries in transition to observe the election monitoring work of NAMFREL. Following those elections, representatives from NAMFREL participated in NDI programs in Africa, Asia, Eastern Europe and Latin America, assisting the Institute's efforts to help create and develop similar domestic monitoring campaigns in these regions. In 1989, NDI prepared a book, *Reforming the Philippine Electoral Process: Developments 1986-88*, of lessons learned from the Philippine electoral experience of 1986-1988.

In 2003, the Institute, through the support of the United States Agency for International Development, initiated a program to help promote democratic governance of the police and enhance community-police relations in the Autonomous Region of Muslim Mindanao (ARMM). Currently, NDI has an all-Filipino staffed field office in Cotabato City.

APPENDICES