



## **NATIONAL CITIZENS' MOVEMENT FOR FREE ELECTIONS (NAMFREL)**

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### **NAMFREL Report on the Observation of the 2022 Maguindanao Plebiscite October 17, 2022**

#### **Introduction**

Republic Act No. 11550 (R.A. 11550) provides for the charter of the new provinces of Maguindanao del Norte and Maguindanao del Sur, which shall be created from the existing province of Maguindanao.

Section 48 of R.A. 11550 mandates the conduct of a plebiscite to ratify the creation of the new provinces upon approval by majority of the votes cast by the voters of the Maguindanao as provided for by law. The same provision mandates the holding of the plebiscite within ninety (90) days from the date of the effectivity of R.A. 11550.

R.A. 11550 was signed into law on May 27, 2021. It was published in the Official Gazette volume 117 number 23 (June 7, 2021) page 6102 (from <https://issuances-library.senate.gov.ph/legislative%2Bissuances/Republic%20Act%20No.%2011550>). Section 57 states that the law shall take effect 15 days after its publication in the Official Gazette or in a newspaper of general circulation. Hence, the effectivity date of R.A. 11550 was 15 days from June 7, 2021, or June 22, 2021.

Following the mandate of Section 48 of R.A. 11550, the date set for the plebiscite should have been on September 20, 2021.

On August 18, 2021, the Commission on Elections (COMELEC) promulgated Resolution No. 10716 with the title, *"In The Matter Of Suspending The Conduct Of All Pending Plebiscites In Preparation For The Conduct Of The May 9, 2022 National And Local Elections"*. Citing that COMELEC was already in the midst of preparing for the May 9, 2022 National and Local Elections, COMELEC resolved:

*"NOW THEREFORE, after due deliberation, so as not to derail the preparations for the May 9, 2022 National and Local Elections, the Commission En Banc, by virtue of the powers vested in it by the Constitution, the Omnibus Election Code, and other election laws, hereby RESOLVE, as it hereby RESOLVES to suspend the conduct of all plebiscites, and schedule the holding of said plebiscites within four (4) months from the end of the election period for the May 9, 2022 National and Local Elections."*

On June 22, 2022, COMELEC promulgated Resolution No. 10797 with the title, *"In The Matter Of Setting The Date Of The Plebiscite To Ratify The Division Of The Province Of Maguindanao Into Two (2) Provinces, Namely: Maguindanao Del Norte And Maguindanao Del Sur, In Accordance With Republic Act No. 11550 And Prescribing The Calendar Of Activities And Periods Of Certain Prohibited Acts In Connection With The Said Plebiscite"*. COMELEC resolved:

*"NOW, Therefore, the Commission on Elections hereby sets the date of the plebiscite to ratify the division of the Province of Maguindanao into two (2) provinces namely Maguindanao del Norte and Maguindanao del Sur, on September 17, 2022;"*

The decision to divide Maguindanao would involve its 36 municipalities, with 818,790 registered voters in 487 barangays, voting in 1,669 clustered precincts within 467 voting centers. The plebiscite had an 86.93% turnout, with 711,767 registered voters who voted. (Information on registered voters and turnout from <https://comelec.gov.ph/?r=References/Announcements/19Sept2022pr>).

NAMFREL set out to participate in the September 17 plebiscite not only to assist the COMELEC in ensuring that the Plebiscite would be transparent and credible, but also to help COMELEC achieve its goal of ensuring that Philippine electoral processes are safe from COVID-19. Participation in the plebiscite would be an opportunity for NAMFREL to be able to formulate recommendations based on actual on-the-ground observations to help COMELEC improve forthcoming electoral processes, especially in the areas of conducting the different procedures, and in ensuring that voters, election staff, and other stakeholders are adequately protected health-wise.

### **NAMFREL Accreditation**

On August 26, 2022, NAMFREL filed its Petition for Accreditation as COMELEC citizen's arm, not only for the Maguindanao Plebiscite but also for the December 5, 2022 Barangay and Sangguniang Kabataan Elections (BSKE). On September 6, 2022, NAMFREL filed before the COMELEC a Motion to Admit Supplemental Petition as citizen's arm for all electoral exercises, including special elections, plebiscites, initiatives, referendums, and recall elections (but not including regular elections), until the May 12, 2025 National and Local Elections, subject to the availability of resources, manpower, and reasonable time to organize and deploy.

COMELEC heard NAMFREL's Petition for Accreditation on September 13, 2022. A day later, COMELEC granted NAMFREL the Accreditation as citizen's arm for all electoral exercises, including special elections, plebiscites, initiatives, referendums, and recall elections (but not including regular elections).

NAMFREL applied/prayed to be authorized to do the following, among others, for all electoral exercises, including the Maguindanao Plebiscite:

- To provide informational assistance to the voters;
- To observe the activities during the electoral exercise period, including but not limited to the delivery and reception of materials; barangay assemblies, fora or "pulong pulongs"; and other information and campaign activities;
- To observe the activities on voting day;
- To assist the COMELEC in ensuring that the BSKE would be transparent and credible;
- To perform all other activities as the COMELEC may deem necessary.

### **NAMFREL Maguindanao organization**

NAMFREL's Maguindanao provincial chapter was the one tasked to carry out NAMFREL's activities related to the Plebiscite, from coordinating with the COMELEC provincial office, to recruitment of observers, distribution of observation materials, and doing the observation proper. NAMFREL Maguindanao is headed by a chairperson, and supported by a provincial council.

Almost a hundred NAMFREL observers were involved in monitoring the Maguindanao Plebiscite on plebiscite day, consisting of NAMFREL municipal coordinators, voting center observers, NAMFREL Maguindanao and Cotabato City officers, staff and volunteers, as well as representatives from NAMFREL National HQ in Manila, headed by National Chairperson Angel S. Avera, Jr., who were in Maguindanao from September 15 to 20, not only to observe plebiscite day but also to meet with stakeholders and other interlocutors.

## **NAMFREL Observation**

NAMFREL observers were grouped into mobile teams who went around the different municipalities to observe in the voting centers.

NAMFREL observers were guided by forms prepared by NAMFREL HQ in accordance with internationally accepted standards on election observation. NAMFREL observed the different processes on plebiscite day: opening, voting, closing, counting, and canvassing. The observers also had separate observation forms for the voting center and its immediate environment, for campaign-related activities, and for election-related incidents.

During the observation, aside from looking at the transparency and credibility of the process, NAMFREL put focus on highlighting the effectiveness of the implementation of COMELEC's anti-COVID protocols, to be able to identify areas that could be further strengthened, and to recommend measures to help ensure that forthcoming elections and electoral exercises will be conducted in a safe manner. Questions on the forms related to procedures and anti-COVID protocols were based on COMELEC published guidelines for the Maguindanao Plebiscite, as contained in COMELEC Resolution No. 10816.

### Pre-Plebiscite

In the run-up to plebiscite day, NAMFREL municipal coordinators reported that there were few meetings held in the province to inform people about the plebiscite. They were mostly initiated by barangay officials and community leaders under the direction of the mayors, encouraging people to vote YES for the division of the province. Influential families, provincial and regional officials were reported to be pushing for a YES vote, and there were also tarpaulins placed along major roads encouraging people to do so. Many billboards featured photos of political parties endorsing the YES vote. The NAMFREL coordinators also noted that there was very little or no information available on the impact of the YES or NO vote.

## **Findings**

### Plebiscite day processes and procedures

NAMFREL volunteers reported that in general, the conduct of the voting process for the plebiscite was smooth and peaceful, with most polling places opening on time, and with election paraphernalia and members of the different Plebiscite Committees (PlebCom) complete in most polling places observed. NAMFREL volunteers described the plebiscite as smooth, organized, and peaceful, with no untoward incidents observed.

The morning's activities were characterized by a visibly low turnout of voters. In Buluan, observers reported that voters came in trickles during the first half hour of voting. PlebCom

members said that the low turnout could be attributed to Saturday (the day of the plebiscite) being market day, and that residents performed their Saturday chores first. The PlebComs said they expect the voters to arrive at midmorning or even after lunch.

By midmorning, between 10 a.m. and 10:30 a.m., NAMFREL observers noted that people began to turn up in the voting centers. In a voting center in Talitay municipality, the NAMFREL team deployed there said that up to 80% of registered voters had already voted when they arrived. A volunteer deployed in a voting center in Talayan municipality was also informed that 80% of registered voters there had already voted. PlebCom data showed a voter turnout at sixty percent (60%) to eighty percent (80%) around this time. The reasons provided for the high turnout in the first three hours of the voting period were: 1) the voters were farmers who start their day early thus they proceeded to their assigned voting precincts to cast their vote early, and 2) some voters opted not to vote late as they are concerned for their safety and security.

Security remains an issue in many parts of Maguindanao. In Talitay, the NAMFREL team reported that they were informed that some voters stayed home because they did not feel safe enough to go out and vote. However, the principal at a voting center there remarked that the plebiscite had been very peaceful compared to regular elections, which the principal said were characterized by security-related incidents.

Inside voting centers and polling places, NAMFREL volunteers reported that it took voters 5 to 10 minutes to get their precinct numbers and sequence numbers from the voter assistance desks, and less than 10 minutes on average to go through the voting process, with many observers also reporting that voters took less than 5 minutes to vote.

Most observers noted that in general, secrecy of the vote was maintained inside polling places. However, in a polling place in Datu Odin Sinsuat, a NAMFREL volunteer noted that a voter took a photo of his filled-out ballot, but he was not reprimanded by the PlebCom.

NAMFREL volunteers also noted that during voting, the ballot box in some polling places was open, or fastened with just a plastic seal.

Only a few observations submitted noted the existence of an Emergency Accessible Polling Place (EAPP) and Voter Assistance Desks (VAD) inside the voting center. Volunteers also noted that only about half of polling places observed had express lanes for senior citizens, PWDs, and the pregnant.

During the counting process, almost all observations noted that watchers and members of the public had an unimpeded view of the ballots as the results were being read. Observers also noted that they also had an unimpeded view of the election returns and tally sheets while counting was ongoing.

Outside municipal canvassing centers during the turnover of plebiscite returns and election paraphernalia, such as in Datu Odin Sinsuat, volunteers observed that some PlebComs opted to complete the administrative tasks of completing and signing the reports and sealing the reports and results of the voting in respective envelopes while seated on the ground in an open area at the compound of the municipal hall, since they did not want to be left at the voting centers or finish the tasks as darkness started to set in.

During the provincial canvassing which took place at the Provincial Capitol in Buluan, NAMFREL noted the regularity of execution (the required markings and signatures) on each envelope containing the Municipal Certificate of Canvass of Votes (MCOCV) before opening

and the MCOCV itself. Where there were found to be missing information or signatures, the Election Officer of the concerned municipality was summoned to explain the lapse and to make the necessary entries. The canvassing process was completed at around 2:17 p.m. on September 18 followed by the proclamation of the results. The conduct of canvassing by the Provincial Plebiscite Board of Canvassers was performed smoothly and in an organized manner consistent with the provisions of COMELEC Resolution No. 10816. There were no untoward incidents reported that would have resulted in the suspension of the proceedings.

### Adherence to anti-Covid protocols

With regard to COVID-related protocols, NAMFREL volunteers reported that on average, only 10 voters were allowed inside a polling place at any given time. COVID-related protocols were not consistently enforced and followed, especially the prescribed 1-meter physical distancing and the proper wearing of face masks. Observers also noted that only about half of the voting centers they visited had an Isolation Polling Place (IPP), and that not all voting centers observed had medical personnel present.

During the municipal canvassing process, COVID-related protocols, especially the prescribed 1-meter physical distancing and the proper wearing of face masks, were also not properly enforced and followed, according to NAMFREL volunteers. In Datu Odin Sinsuat, the turnover of the Plebiscite Returns to the Reception and Custody Group was also done at a small building with very little space. PlebComs crowded the site resulting in a total breakdown of Covid-19 protocols.

### **Other observations and issues**

Volunteers also heard from some PlebCom members that they were hoping that their honorarium will not be subjected to VAT, since some of them had started as early as 1AM on plebiscite day to retrieve the election paraphernalia from the municipal treasurer's office, travel to their respective voting centers (some at quite a distance), perform their tasks on plebiscite day, deliver and turn over the election results to COMELEC and other election paraphernalia to the municipal treasurer's office.

After plebiscite day, some parties expressed concern that the high voter turnout may not be true, citing that there might have been vote buying prior to the plebiscite. There were also allegations that ballots were filled out by a few people in favor of the YES vote inside polling places. These claims remain unsubstantiated. As for the large turnout of voters in the morning, as indicated by PlebCom records, the Provincial Election Supervisor countered that the main reason for early voting was that many of the voters were farmers.

### **Conclusions and Recommendations**

The conduct of the Maguindanao Plebiscite was generally peaceful with no untoward incidents reported. Operations were smooth and organized.

Information on why to vote YES was made available to the populace but there were no visible proponents for a NO vote.

However, owing to the limited number or absence of watchers and observers, including NAMFREL's, inside polling places, the votes of the people were largely unprotected.

To help further enhance preparations for the holding of future plebiscites and the 2023 Barangay and Sangguniang Kabataan Elections in a year's time, still amidst the COVID-19 pandemic, NAMFREL would like to offer the following recommendations to the Comelec:

1. To give opportunities to more people to be able to participate in plebiscites by considering the declaration of a Special Non-Working Holiday on plebiscite day, in adjacent areas not covered by the plebiscite, but where residents of municipalities involved in a plebiscite could be working or studying. NAMFREL volunteers cited Cotabato City in this case, where many Maguindanao residents are working or studying and may not have been able to participate in the Plebiscite.

Alternatively, COMELEC may consider adopting internet voting and other technologies that would allow voters similarly situated to participate in similar plebiscites. If a law is necessary, NAMFREL would be ready to support such law.

2. To provide more opportunities for people to know more about the issues surrounding plebiscites not only by conducting -- or requiring barangays to conduct -- more "pulong-pulong" or orientations, but also ensuring that proponents or champions of both the YES and NO votes, including subject matter experts, are invited and given equal time to discuss their stance for people to understand more what they are voting for.

NAMFREL also recommends that any such orientations pertaining to plebiscites that would politically divide or merge areas/territories should include ample discussion on possible repercussions on indigenous peoples and other vulnerable sectors living in the concerned areas.

3. To include barangay officials in orientations and coordination activities about plebiscites and other electoral exercises, to increase their awareness or remind them of what they should and cannot do during these exercises. Some NAMFREL volunteers reported being prevented at first from entering voting centers -- and even questioned -- by barangay officials, who were not aware of the role of citizens' arms.

4. Ensure the consistency in implementation of anti-COVID measures. COMELEC should target 100% adherence, because a slight lapse could mean infection, especially in areas where vaccination rates are low. A commitment to 100% safety and protection would also further encourage the electorate to go out and participate in COMELEC's forthcoming electoral exercises, such as the resumption of voter registration and other upcoming plebiscites. ###