



ELECTION MONITOR

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for Free Elections
(NAMFREL)

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Winning candidates defy law

The Philippine Center for Investigative Journalism ([PCIJ](http://www.pcij.org)) came out this week with an in-depth report on the non-submission to the Comelec by candidates in the May 2010 elections of Statements of Election Contributions and Expenditures (SECEs), as required by law. "If laws on campaign finance were enforced to the letter, (many winning candidates) should not be occupying their seats right now," says PCIJ.

According to Section 14 of [Republic Act No. 7166](#) (An Act Providing for Synchronized National and Local Elections and for Electoral Reforms):

"Statement of Contributions and Expenditures: Effect of Failure to File Statement. - Every candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

No person elected to any public offices shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

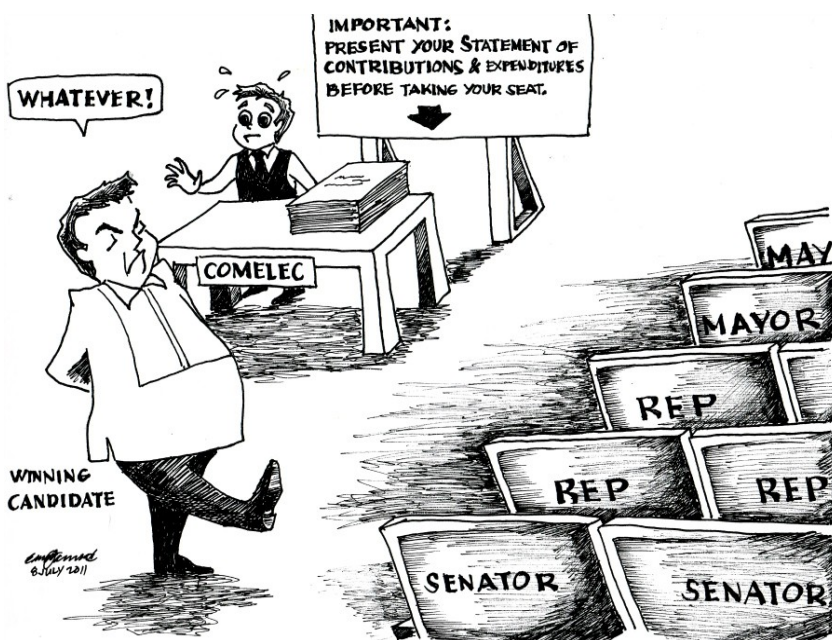
The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statement required herein within the period prescribed by this Act."

According to the report, the Commission on Elections (Comelec) has identified one presidential candidate and one vice-presidential candidate, nine senatorial candidates, 36 party-list groups and 70 political parties as having failed to submit their SECEs. The list doesn't include yet those who ran for local positions; the roster of names of local candidates, according to the report, runs 457 pages.

Some of the parties and candidates highlighted in the report as having not complied with the law are:

- United Opposition (UNO) Party that supported Vice President Binay during his campaign - have not submitted their SECE, though Binay submitted his already in June 2010; UNO was one of two registered political parties that nominated Binay, but there is contention whether UNO participated during the campaign, hence the non-submission of a SECE

- Partido ng Masang Pilipino (PMP) - though candidates it fielded -- like Senators Enrile and Estrada -- have already submitted their individual SECEs, the party has not
- Kilusang Bagong Lipunan (KBL) - the party claims that the Comelec never required it to submit an SECE



because the poll body considers KBL as a "penniless" party

- Bangon Pilipinas of presidential candidate Bro. Eddie Villanueva - the party submitted an SECE that covered contributions received by all its candidates, but did not identify the amount received per candidate, which is required by law

However, a good portion of the PCIJ report focused on the excess campaign contributions received by President Aquino, and what was done with the money, per Malacañang. According to the report, President Aquino had nearly Php 37 million in excess campaign funds. Though the PCIJ hailed Aquino's filing of his SECE and disclosing the amount -- "a unitary exemplary act that all other candidates for national office in the May 2010 elections failed to emulate" -- it also said that Aquino "has not followed it up with a full disclosure of what he did with the money." The report said the amount was initially earmarked for donation to charity, as advised by his fund-raisers, but this did not happen. Instead, according to Malacañang:

- "Out of the Php 36,930,018.19 (excess campaign donations), Php18,356,859.88 was remitted to the Bureau of Internal Revenue (BIR) representing 5% creditable withholding income tax on election related purchases"
- "The campaign also spent around Php 4,000,000.00 for the printing of sample ballots that were distributed nationwide before the elections. This expenditure was not included in the SECE because under Section 101(k) of the Omnibus Election Code, the cost of printing sample ballots shall not be taken into account in determining the amount of expenditures which a candidate may lawfully incur in connection with his candidacy."
- "The rest of the excess campaign funds were actually returned to some of the donors who made substantial contributions to the campaign." Malacañang provided a list containing the names of three donors to whom a portion of their contribution was returned.

In its report, the PCIJ raises concern regarding the computation as well as the legal basis for the amount Malacañang claimed was turned over to the BIR. It also highlights in the report the question of which donor should any excess contributions be returned to, which means that the income tax return of Aquino and of said contributors for the election year would have to be amended. The PCIJ also says that one of the contributors have not received the amount that Malacañang said was returned. "The implications are bad: It's either Aquino had under-reported his expenses in his Comelec report, or he had under-declared the withholding tax he remitted to the BIR," the PCIJ report reads.

The report comes in the thick of controversy surrounding the investigations on anomalous disbursement of intelligence funds of the Philippine Charity Sweepstakes (PCSO) during the Arroyo administration; records show that the amount of intelligence funds held by PCSO nearly doubled in 2010, an election year, from Php 90 million from the previous year to Php 160 million. It is suspected that money from PCSO, as well as other government agencies like PhilHealth, was used by the former administration for election campaign. The money from PCSO was also reportedly used in buying expensive vehicles given to Catholic bishops who were perceived to be close to former President Arroyo.

The PCIJ report highlights the need to take seriously the stipulations of the law with regard campaign expenditures; the need to have a clarification as to what exactly has to be done with excess campaign contributions instead of being treated or viewed as income; and for the government, specifically the Comelec, to have the teeth to go after violators. The Comelec's new Campaign Finance Steering Committee has their work cut out for them.

Read the PCIJ report.

Part 1: <http://bit.ly/mUDOHh>

Part 2: <http://bit.ly/osRPIX>

ARMM polls postponement remains challenged

The Supreme Court (SC) required the Office of the President (OP) and the Commission on Elections (Comelec) to comment within 10 days on the oppositions challenging Republic Act 10153, a law postponing the August 8, 2011 elections in the Autonomous Region in Muslim Mindanao (ARMM).

Last week, House Minority Leader Rep. Edcel C. Lagman filed a petition contending the RA 10153 by enumerating certain infirmities in the law that postponed the ARMM polls. He cited that the law “violated and vitiated all the built-in safeguards of autonomy of ARMM.” Lagman’s petition also said that the law “violated the constitutional guaranty of elective officials in the ARMM” and it is an “unconstitutional expansion of the limited power of the President” of the ARMM’s general supervision. The representative from Albay further added that the law deprives ARMM constituents of their autonomy.

He also questioned the validity of the enactment of the law since the Senate was not able to gather a two-thirds vote for the bill’s passage.

Election lawyer Romulo Macalintal, in his petition, argued that ARMM’s autonomy is neglected by postponing the ARMM elections to synchronize it with the 2013 national and local elections. He also said in his petition that the appointment of officers-in-charge is unconstitutional, as the will-be officers-in-charge of the ARMM were not duly elected by the voters but were picked by the President in exchange of their loyalty.

Macalintal further added that “the new law still needs approval by the ARMM voters in a plebiscite,” therefore it is not effective yet.

A group of Muslim leaders and prominent politicians in Mindanao also filed a petition before the SC urging the high court to issue a temporary restraining order against the implementation of the postponement law. Among those who joined the group are former Tawi-Tawi governor Almarin Centi Tillah, Prof. Datu Casan Condong Cana and PDP Laban president Aquilino “Koko” Pimentel III. The group alleged that RA 10153 “is an encroachment of the political autonomy of the ARMM,” and this has violated provisions in the constitution that limits the President’s power to mere general supervision, and disallows the chief executive to have control over the ARMM.

The three petitions that were filed separately before the SC urged the high court to issue a temporary restraining order to stop the implementation of the law postponing the ARMM elections. The SC gave the OP and the Comelec a non-extendible period of ten days to give their comment on the petitions intended to allow the elections in the ARMM to push through in August this year.

(Various news sources)

Atienza urges for continuation of ballot revision

Losing Manila mayoralty candidate Lito Atienza asked the Commission on Elections (COMELEC) to continue revising more ballots in connection with the protest he filed against incumbent mayor Alfredo Lim. Atienza, through his counsel Romulo Macalintal, said that the initial revisions done earlier this year on contested ballots from 200 precincts yielded substantial findings for them to urge the COMELEC to continue with the revision of the remaining 1,221 precincts.

Atienza said that some irregularities were enumerated in their findings after the revision of the 20 percent pilot precincts, and this strongly indicates that more incidents of irregularities could be revealed once the remaining 80 per cent of the ballots are subjected to revisions. He cited one precinct where all 614 ballots were not signed by the chairman of the Board of Election Tellers (BET) as required by law. In three barangays in Manila (Barangays 125, 198 and 796), the signatures on the ballots did not match the specimen signatures of the chairman or any member of the BET. These were some of the alleged irregularities in local election for Mayor of Manila.

In March 2011, the COMELEC granted the petition of Atienza to manually revise the ballots from 200 precincts. Almost two months after the revision, Mayor Alfredo Lim was proclaimed winner.

(Various news sources)

ANFREL: Peaceful and orderly Thai election

The Asian Network for Free Elections, which deployed more than 60 long- and short-term observers from 20 countries throughout Thailand to observe the July 3 parliamentary election, hailed the conduct of the election as peaceful and orderly. In a statement, ANFREL chair and Head of Mission Damaso G. Magbual said, “The

election period, in particular Election Day on July 3rd, was managed well and without any major incident which would call into question the election's results. Where problems and complaints exist, ANFREL encourages the ECT (Election Commission of Thailand) and all involved stakeholders to thoroughly investigate these cases and administer justice in a professional, objective, and timely manner." ANFREL also said that the ECT "performed admirably to manage a process that has produced election results that generally seem to reflect the will of the people." The Thai military generally acted professionally and neutrally throughout the election period, according to ANFREL, and it also commended Thai Prime Minister Abhisit Vejjajiva and the Democrat Party for accepting the election results and conceding defeat to the Pheu Thai party. The party's standard bearer, Yingluck Shinawatra (sister of deposed Prime Minister Thaksin Shinawatra) emerged victorious after the polls.

ANFREL, however, decried the numerous allegations of vote buying, as well as incidences of electoral violence and intimidation. "Vote buying and the detrimental effect of money politics remains a long term challenge for Thailand," according to ANFREL.

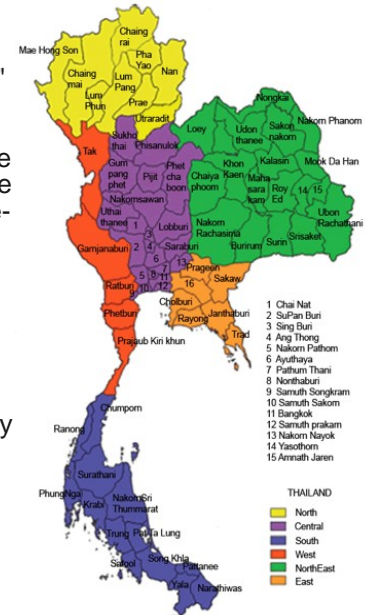
The organization also called attention to the use of 2007's non-resident advance voter list as basis for this year's advance voting, held on June 26. The use of the old list, as well as the ECT's failure to sufficiently inform voters of the need to re-register, "disenfranchised between 500,000 and 1 million people." According to ANFREL, the ECT also printed too many excess ballots (12% instead of the law-mandated 7%) and was unable to sufficiently explain why.

ANFREL observers also noted that village leaders (phuyaibahn) worked or congregated at polling stations on election day. "In many countries within Asia, village chiefs are kept from working at polling stations because the enormous influence they command can unfairly sway voters," explained Mr. Magbual. They also observed that many phuyaibahns compromised neutrality by working for political parties.

ANFREL also noted the lack of local observers and party agents in the polling stations, and encouraged political parties "to play a more active and constructive role in strengthening the democratic process by engaging in more observation during the elections."

Read ANFREL's Press statement here: <http://bit.ly/oiG8Y9>

Read ANFREL's Preliminary report (with recommendations) here: <http://bit.ly/pL3Wwe>



Electoral violence in Asia



The United Nations Development Programme (UNDP) has recently released a report entitled "Understanding Electoral Violence in Asia," focusing on the nature of electoral violence in the region, as well as the factors that prevent or perpetuate it. The report presents analysis of case studies commissioned by UNDP in seven countries: Bangladesh, India, Indonesia, Nepal, Pakistan, Thailand, and the Philippines.

In the report, electoral violence is defined as:

"Any acts or threats of coercion, intimidation, or physical harm perpetrated to affect an electoral process, or that arise in the context of electoral competition. When perpetrated to affect an electoral process, violence may be employed to influence the process of elections — such as efforts to delay, disrupt or derail a poll — or to influence the outcomes: the determination of winners in competitive races for political office, or securing the approval or disapproval of referendum questions."

The report dissects the causes and enablers of electoral violence in the region, and identifies the actors vital to its prevention or perpetuation: electoral management bodies, political parties, political party supporters, law enforcement agencies & security forces, illicit armed groups, extremist groups, and youth & student movements.

The UNDP has also identified factors that could prevent electoral violence: institutional design, the legal system, electoral dispute resolution, election observation & monitoring, among others.

For the Philippines, the report calls attention to the country's weak party system, "that favours political dynasties composed of families and close allies. Parties are often reduced to coalitions of prevailing elites instead of

offering inclusive, responsive and responsible representation of civic interests. Unable to command party discipline, leaders and government functionaries are induced to gather legislative and local support through patronage, privilege, pork barrelling and other forms of rent-seeking that can easily spill over into electoral violence." The report also calls attention to the proliferation of hired thugs and private armies responsible for killings, physical attacks, and intimidation, and the ways by which the government tries to prevent further violence by identifying election hot spots and imposing gun ban.

The paper presents the following recommendations for the Philippines:

- There is a need to professionalize Comelec by removing political appointees, raising salaries, promoting staffers on merit and training Comelec personnel.
- Comelec should be given the necessary capability to enforce election laws and prosecute violators.
- The government should ensure that the perpetrators of electoral violence are brought to justice, be they civilians, politicians or government authorities.
- The government must take proactive steps to dismantle and disarm the private militias that proliferate across the country.
- The government should implement measures to improve governance and reduce graft and corruption at all levels. Much electoral violence is rooted in struggles for illegal racketeering and patronage opportunities to which government offices provide access.
- The House Bill 3655, An Act Strengthening the Political Party System, Appropriating Funds Therefor, and for other Purposes, should be passed immediately to make political parties more competitive and robust.
- Once the bill is passed, the Commission on Audit should examine the financial reports of the accredited parties on their use of state subsidies

According to UNDP, cases of electoral violence cited in the report (which includes the Maguindanao massacre of 2009), "serve as reminders that in order for elections to be successful and non-violent, the goal of democratic development must go beyond the electoral event. Instead, seeing elections as a test of democratic development, rather than a goal in themselves, provides a better conceptualization of the processes that are needed to ensure free, fair and peaceful elections."

Read the UNDP report here: <http://bit.ly/nlGdJj>

GALLERY



NAMFREL volunteers who serve as team leaders for the NAMFREL-Department of Health Medicine Monitoring Project, at the quarterly meeting held on July 2 at the NAMFREL headquarters in Mandaluyong City.



Panel of guests answer questions at the launch of the book "Ambition, Destiny, Victory: Stories from a Presidential Election" at the Ateneo de Manila University on July 6. Learn more about the book here: <http://on.fb.me/quQgKv>

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