

More than 500 election cases face dismissal by Comelec by the end of the year

The Commission on Elections (Comelec) posted on their website on November 9 a Notice to the Public signed by Law Department director Atty. Esmeralda Ladra, which states:

"Please be advised that the records of the cases listed hereunder are no longer available at the Law Department. Hence, all parties concerned and/or their counsel may file their manifestation of intention to actively pursue the case and submit copies of all their pleadings and evidence filed with the Investigating Officer for purposes of reconstitution on or before December 31, 2011 at the Investigations and Prosecution Division, Law Department, Commission on Elections, 8th Floor, Palacio del Gobernador Bldg., Intramuros, Manila from 8:00 o'clock in the morning to 5:00 o'clock in the afternoon.

Failure of the parties or of their counsel to do so, their cases shall be deemed ABANDONED and consequently, will be DISMISSED."

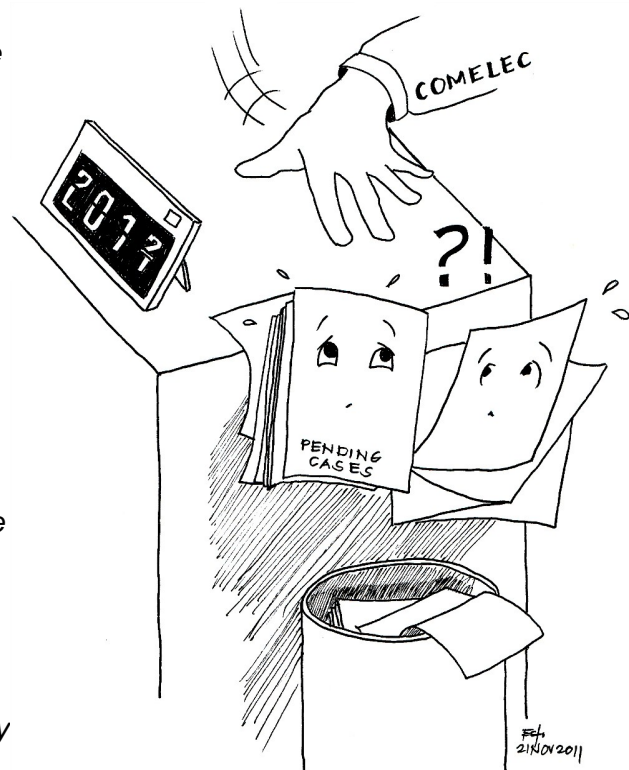
The Notice lists down more than 500 election cases:

- 380 cases as of August 2011 under the heading *"Inventory of Election Offense Cases pending Preliminary Investigation (1997-2000) - Only the case number is known to the Law Department and investigating officers no longer connected with the Commission"*

- 35 cases as of August 2011 under the heading *"Inventory of Administrative Cases pending Investigation (1997-2006) for Reconstitution - Records in the Law Department were burned down with the Comelec Main Bldg. in March 2007 / Field Officers and some of the investigating officers are no longer connected with the Commission"*

- 131 cases as of August 2011 under the heading *"Inventory of Election Offense Cases pending Preliminary Investigation (1997-2006) for Reconstitution - Records in the Law Department were burned down with the Comelec Main Bldg. in March 2007 / Field Officers and some of the investigating officers are no longer connected with the Commission"*

- 13 cases as of August 2011 under the heading *"Inventory of Administrative Cases (1997-2007) - Only Case Number known to the Law Department and the Investigating Officers no longer connected with the Commission"*



The sheer number of cases with records lost in a fire and some other reasons indicate that the Comelec may need to improve their record-keeping and archiving efforts at the least. One of these cases up for dismissal due to lost records was one filed on May 6, 1998 by the Comelec against "Joseph Estrada et al." Another case, filed on January 6, 1999, listed "Atty. Ray Sumalipao, et al" as respondent. The case was assigned to former Comelec commissioner Atty. Virgilio Garcillano for investigation.

Sources inside the Comelec said in many of the cases, the complainants simply "lost interest" in pursuing the case. On the list however, more than 50 of the cases have the Commission on Elections listed as Complainant, and in many instances, the respondents are Comelec employees. In 2003, at least five cases were filed by Comelec against several Boards of Canvassers. As they are on this list, it means that these cases against Comelec personnel have not been properly investigated or resolved.

The complete list of cases facing dismissal is available here: <http://bit.ly/u9yuCG>

Comelec files electoral sabotage case against Arroyo, et al

Voting five out of seven, the Commission on Elections (COMELEC) filed on November 18 an electoral sabotage case against former president Gloria Macapagal-Arroyo in connection with the 2007 senatorial elections. Two commissioners, Lucenito Tagle and Armando Velasco abstained, as they said they had not yet read the resolution.

The case was filed after the fact finding committee of the Department of Justice (DOJ)-Comelec panel on the 2004 and 2007 poll fraud wrapped up its preliminary investigation and found probable cause on the subject.

The Comelec included former Maguindanao governor Andal Ampatuan, Sr., former Comelec chairman Benjamin Abalos, Sr., and former election supervisor Lintang Bedol as respondents in the case. Former First Gentleman Jose Miguel Arroyo was excluded due to lack of sufficient evidence. Ampatuan is currently detained for alleged involvement in the 2009 "Maguindanao Massacre" while Bedol is under Comelec-DOJ custody.

The case was filed at the Pasay City Regional Trial Court (RTC) Branch 112 under Judge Jesus Mupas. The Pasay RTC later issued a warrant of arrest against former President Gloria Macapagal-Arroyo. No bail can be posted for the electoral sabotage case thereby upholding the court to issue a hold departure order against Arroyo. The Pasay RTC has also issued a warrant of arrest for Bedol and Ampatuan Sr.

It will be recalled that on November 15, the Supreme Court, voting 8-5, issued a temporary restraining order (TRO) against DOJ circular No. 41, which gives the Department the authority to issue a hold departure order (HDO) against persons who have pending criminal case.

Voting with the same number, the Supreme Court dismissed the motion for reconsideration filed by Solicitor General Jose Cadiz against the TRO. The Court also sought a comment from DOJ Secretary Leila de Lima on why she should not be cited in contempt for disregarding the TRO and disrespect for the Court.

The Supreme Court also granted the motion filed by the solicitor general for an oral argument of the case. It will be held on Tuesday, November 22.

The issuance of the Pasay RTC of arrest warrant and a hold departure order prevented respondent Arroyo from leaving the country to seek medical treatment abroad. On the same day, Arroyo was served a warrant of arrest. She is currently under "hospital arrest" at St. Luke's Medical Center in Taguig City.

Abalos, who said that the charges filed against him by the Comelec were "very shocking," was also reportedly rushed to a hospital after an illness he had suffered a few years ago "came back" upon learning of the electoral sabotage charges that are non-bailable.

Roundup of several election cases in connection with the May 2010 elections

Retrieval of Taguig ballots ordered

The Commission on Elections (Comelec) First Division set anew the retrieval of ballot boxes in connection with the election protest filed by losing candidate and former Supreme Court Justice Dante Tinga of Taguig City. The protest was filed against the winner, Mayor Ma. Laarni Cayetano. In the resolution issued by the Comelec First Division, the retrieval of the ballot boxes is set from November 22 to November 25, 2011. The previous dates set for the retrieval, through a resolution issued on September 30, were October 27 and 28, and November 2 and 3.

Initially, the protest was handled by the Second Division that ordered the retrieval of the ballots. The case was then transferred to the First Division after Cayetano cited through her motion for reconsideration that the members of the Second Division were biased against her. The September 30 resolution was contested by Cayetano's camp by filing a second motion for reconsideration. The Comelec then ruled that the mayor's motion was just a "rehash" of her arguments that were already acted on or resolved by the poll body, hence her plea was denied for lack of merit.

Tinga, who lost by 2,420 votes to Cayetano, asked the poll body to conduct a recount through his protest. Some 43 ballot boxes will be reviewed by batches within four days after they are retrieved. The review will be conducted in the Project Management Office of the Comelec in Intramuros, Manila.

Verification of protest signatures given a "go" signal

On October 4, 2011, the Presidential Electoral Tribunal (PET) authorized the Comelec to use official documents in the protest case between 2010 Vice Presidential candidates Manuel Roxas and Jejomar Binay, in verifying the signatures attached to the recall petition cases filed against Samar Governor Sharee Ann Tan and her brother Vice-Governor Stephen James Tan. Samar Comelec Provincial Office was permitted to refer to the Book of Voters, Voter's Registration Records and Election Day Computerized Voters' List for the verification process.

For the recall petition to prosper, at least 45,000 verified signatures, or 10% of the voting population of Samar, have to be presented. 73, 889 signatures were attached to the protest against Gov. Tan, while 73,250 have signed for the petition against Vice-Gov. Tan. In the recall petitions filed, the Tan siblings are being criticized for alleged incompetence.

The verification of signatures was originally set from August 29 to September 20, 2011, but the PET caused the Comelec to withdraw its order since the documents that will be used for the verification were then being referred to for the election protest filed by then vice-presidential candidate and now Department of Transportation and Communications (DOTC) Secretary Manuel Roxas II against incumbent vice-president Jejomar Binay. The province of Samar was also one of the areas included in the petition.

Imus election result reversed by court

After ballots were reviewed, a court in Imus, Cavite annulled the result of the May 2010 elections where Homer Saquilayan was proclaimed as the mayor. Imus Regional Trial Court (RTC) Branch 22 declared Emmanuel Maliksi as the mayor through a 269-page decision.

Judge Cesar Mangrobang signed the decision which "annulled and set aside" the election and proclamation of Saquilayan and also issued an order to the latter to "cease and desist" from carrying

out his duties and responsibilities as town mayor.

The review showed that Maliksi had a margin of 665 votes over Saquilayan. Copies of the court decision, which was signed by Judge Mangrobang on November 15, was sent to both parties.

The Imus RTC ordered the review following the protest filed by Maliksi against Saquilayan. The court's decision to have the ballots recounted affirmed the Comelec's earlier decision granting Maliksi's petition.

Recall petitions in Pangasinan

The recall petitions that were filed against the vice mayor and four councilors of Bani, Pangasinan was approved by the Comelec. The poll body said that the petitions were able to gather a sufficient number of petitioners.

Marcelo Tugas, Chairman of Barangay Garreta, filed the petitions against Vice Mayor Filipina Rivera and Councilors Rosalinda Acenas, Ruben Ampler, Tamerlane Olores and Cothera Gwen. He cited that the people in their town have lost confidence in the leadership of the respondents.

Bani mayor Marcelo Navarro said that he is supporting the petition because the respondents are opposing the approval of programs and projects for the town. Among the projects that were blocked were the construction of a public market and a cemetery. Navarro was also reported as claiming that he was reaching out to the vice mayor and the councilors but they refused.

Initially, the petitions were backed by around 7,532 signatures of registered voters. After verification, the number of signatures decreased to 6,796, still an ample number that comprises 24.89% of the total number of registered voters in Bani, which is 27,304. The Comelec requires at least 20% of the registered voters of the town to sign the petition.

(Various news sources)

Comelec employees want raise to "fight temptations"

In connection with a recent proposal by Bureau of Customs chief Rufino Biazon for a "10-percent to 15-percent" raise in benefits for Customs employees to help them avoid "everyday temptations," a group of Comelec employees similarly want a wage increase. Armando Mallorca, convener of the Comelec Wage Fight Alliance (CWFA), said that a higher pay "may [also] help Comelec employees fight temptations" especially during election period.

The group said that Comelec employees' wages are not at par with those received by workers in other constitutional bodies and government agencies. "Considering the extremely high cost of living nowadays and in light of the fact that the present Salary Standardization Law simply is not enough to tide our families through these very tough times, Comelec employees, too, deserve a just and appropriate pay," Mallorca said in a statement.

(Source: PDI)

Egypt to go to polls, a revolution continues

by Paolo B. Maligaya, NAMFREL Senior Operations Associate

On November 28, Egypt will go to the polls to elect members of the lower house of parliament, the first such electoral exercise in the country since the end of the 30-year presidency of Hosni Mubarak, forced to resign in February during the Egypt uprisings which started in January 2011. The Egyptian

revolution followed similar protests in Tunisia; these uprisings as well as those in neighboring countries similarly calling for the end of the respective regimes in power, were later dubbed the "Arab Spring."

While the election in Tunisia, held on October 24, was hailed as orderly and peaceful, the lead-up to the Egyptian parliamentary elections has been characterized by mistrust and confusion. After Mubarak's resignation, Egypt has been under the Supreme Council of the Armed Forces (SCAF), essentially a military junta, which suspended the constitution, dissolved both houses of parliament, and who said they would rule for only six months prior to holding of elections. After several changes in dates, the SCAF finally announced that the election for People's Assembly (members of the lower house of parliament) would take place in three stages between November 28 and January 10; the election for Shura Council (upper house), also in three stages, between January 29 and March 11; and finally, a presidential election, in a date still to be determined. The Parliament will be tasked to draft a new constitution for Egypt. A Supreme Electoral Commission (SEC), composed of judges -- said to include Mubarak appointees -- will administer the elections; more than 9,000 judges will supervise the polls, with at least one judge to be assigned in each polling station. In July, during the presentation of a new election law, the military rulers said they will not allow foreign observers to monitor the election, saying "we reject anything that affects our sovereignty." Even local monitors reportedly will be granted limited privileges. The decision was swiftly criticized by Egyptian activists and international governments and organizations. The chairman of the SEC later stated that international monitors and the media would be welcome to "follow" -- rather than officially "observe" -- the parliamentary election. Much later, only one foreign organization, The Carter Center, reportedly was granted access to "witness" the election. In comparison, Tunisia allowed hundreds of foreign observers and thousands of local observers to monitor the October polls.

The Egyptian election process is complicated:

- The elections for People's Assembly will be done in three stages for all of Egypt's 27 governorates: polling on November 28, run off on December 5 in 9 governorates (including Cairo and Alexandria); polling on December 14, run off on December 21 in another 9 governorates; and polling on January 3, run off on January 10 in the 9 remaining governorates
- 498 seats will compose the People's Assembly, 10 of which will be appointed by the SCAF
- The new election system divides the country into 129 People's Assembly constituencies. Each constituency will have between two and 12 seats.
- Of the 498 seats for lower house, 332 from 46 constituencies will be elected via proportional representation list system. The 50 or so political parties contesting the election would have a list of candidates for each constituency, and must include at least one female candidate. However, these lists are closed to the public. Half of these political parties were formed only this year, and most of those in existence prior to 2011 were largely unknown to most Egyptians.
- Of the 498 seats, 166 from 83 constituencies will be elected via individual candidacy system (first-past-the-post); almost 6,600 candidates are contesting these 166 seats
- The Shura Council elections, starting in late January, will also be done in three stages.
- The run-off elections will be held in constituencies where none of the candidates got more than 50% of the total votes

The country's military rulers cited security concerns and the country's large number of voters as the reasons for coming up with the system. Most Egyptians however are confused with the new system, that some are saying the people will just likely vote for the people or organizations they voted for in the past (specifically, members of Mubarak's now defunct National Democratic Party that used to dominate elections by landslide margins), meaning there will not be much change after the revolution. In a welcome change, Egyptians will now be able to use their identity cards to be able to vote, unlike during Mubarak's time when citizens had to obtain special voting cards from police stations. More than

50 million people are eligible to vote in the upcoming elections. Voting will also be done in Egypt's different embassies and consulates around the world.

Analysts have grouped the different political parties in Egypt into four categories: Islamists, leftists, liberals, and revolutionary youth parties. There are also independent candidates running as individuals. Among the different categories, the Islamists have benefited from the Egypt uprisings as they were banned and jailed during the Mubarak regime. Among the Islamists, the Muslim Brotherhood, formed in 1927, is pegged to dominate the polls. Though conservative, they are said to be moderate compared with other Islamic parties contesting the election. Among the liberals, the New Wafd Party enjoys the most support based on surveys.

The campaign period officially started on November 2. Almost immediately, news of "vote traders" surfaced, of people buying and selling votes for a price. Islamists were accused of giving away food or selling goods at half-price in Cairo. Under the SEC's regulations, election offenders face imprisonment of up to 15 years, and a fine of up to 200,000 EGP (more than US\$ 33,000). The SEC has also set a ceiling of 500,000 EGP on campaign expenditures for independent candidates, and 1 million EGP for party lists.

The transparency of the coming elections is also being questioned, as Egyptian NGOs will not be allowed to intervene if there are cases of fraud. Also, because of the current electoral system, many people up to now do not know who are running in their constituencies.

Many are not confident about the upcoming polls, saying that the present system shows that the new military rulers are reluctant to hand over power to democratically-elected leaders, as they keep delaying the hand-over of power to democratically-elected civilians. The military has also been violent to peaceful protesters, causing protesters to fight back; many have died and have been injured in violent clashes between the military/police and civilians even after Mubarak's ouster.

Many are still hopeful though that the upcoming parliamentary elections will be successful. The Arab world is looking at Egypt and taking its cue, its citizens continue to inspire neighbors hoping for revolutions in their own backyards. They do not want Tunisia to be a fluke. Can democracy truly work in their context, they want to find out. The longer the military clings to power though, or the longer the vestiges of the Mubarak regime remain visible, the more they risk the rise of extremists that Mubarak successfully stamped out during his regime, gaining support among citizens who are similarly voicing out against the current leadership. The country may also be losing an opportunity for unity made possible by the events in January; already, people are taking sides as diverse groups have sprang up, gained prominence, and started to quarrel in the aftermath of the uprisings.

The revolution is not over. It has just begun, and Egyptians want it sustained. There are still people in Tahrir Square because they want change, and so far they are not seeing it. They want the military rulers to immediately move towards the transition of power. The conduct of timely, transparent, free and fair elections, actively participated in by Egyptian citizens who have been waiting for this time for more than 30 years, could hopefully, finally lead to that.

GALLERY



The Comelec En Banc prepares for a candle-lighting ceremony during the Integrity Summit for Election Administrators & Stakeholders held on November 16 at the Comelec. The summit aims to strengthen the commitment of the Commission and its employees on the value of integrity and accountability. The summit is part of a continuing activity to implement Comelec's strategic plan for 2011-2016 in partnership with stakeholders like NAMFREL. Read the Comelec's Integrity Pledge here: <http://bit.ly/rJ3Tpg>



COMELEC employees and election stakeholders at the Integrity Summit.



On November 6, 2011, the Department of Budget and Management (DBM) with the support of the USAID conducted a partners Forum on Advancing Government - Citizen Constructive Engagement in Budgeting. Namfrel and its chapters were tapped to participate in consultations to help craft has the 2012 national budget as well as those of the national agencies such as the Department of Education (DepEd), and the Department of Health (DOH).

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