

Challenges in Campaign Finance Monitoring & Enforcement in the 2013 Elections

by **Eric Jude O. Alvia**, Secretary General, NAMFREL

Monitoring election contributions and expenditure has been given emphasis by the Comelec in the 2013 Philippine mid-term elections to improve opportunities and chance for candidates with limited resources for a successful campaign. However, enforcement of and compliance to these regulations were muted due to a combination of resource constraints of Comelec, unclear implementing rules, and existing election rules & regulations which contradict the spirit of campaign finance laws.

On one hand, expenses are controlled, with each candidate and political party having to abide by spending caps. On the other hand, contributions are monitored to ensure that public funds are not utilized especially by incumbents to undue advantage. Another intended goal is to stem corruption by ensuring that illicit sources of funds are not used for campaign purposes.

The main tool employed by Comelec requires all candidates and political parties to submit financial reports not more than 30 days after the elections as required by the election code. This is easier imposed than complied with.

Definition of candidates: the crux of the problem

The primary weakness of enforcement and compliance stems from the definition of candidates being considered as such only at the start of the election campaign period and not upon filing as ruled by the Supreme Court in the Comelec vs. Penera case.

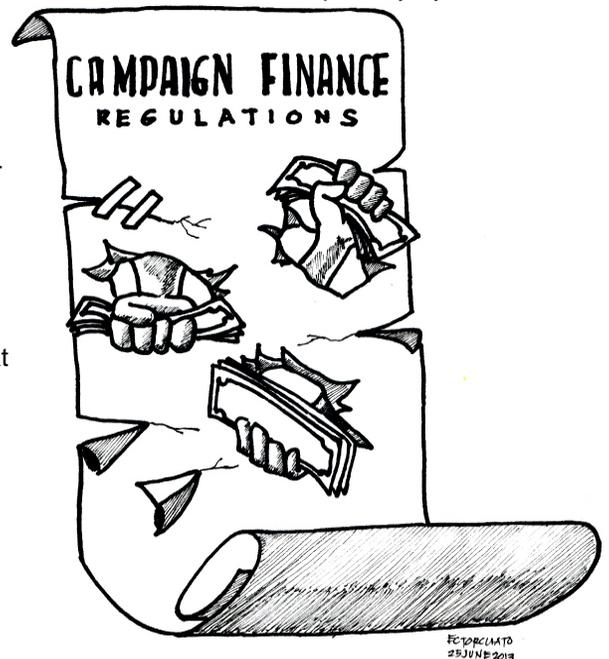
This interpretation runs counter to Comelec's earlier view that officials who file their candidacy for re-election or another post has already declared his intention to run. Since the definition of a candidate would only take effect once the campaign period sets in, then the official cannot be considered a candidate yet.

This also undermines the rule by providing feedback to prospective contributors to donate for the candidates' campaign. The consideration period also complicates contribution and expenditure reporting. Given this definition, they may not declare contributions prior to the election period and these are not considered an election offense. However, incumbents who do so may be charged with bribery.

Premature campaigning & its effects

This unclear definition has resulted in early campaigning leading to the practice of front loading expenses prior to the start of the campaign period (Jan. 13). These premature election activities (campaigning, contribution and spending) effectively negate the gains to be made for an inclusive and competitive environment during the election campaigning.

Also, an unintended effect of putting an early cap resulted to campaigns becoming more expensive for a prospective candidate. Observers also have attributed a surge in vote buying in past elections as a deflected effect of imposing spending restrictions early on. The weeks preceding election day are viewed by most candidates as "catch-up days" who are lagging behind formal and informal surveys.



Unclear definition favors incumbents and/or the resource-laden

The loophole in the definition of a candidate also raised concerns and even some accusations that the Priority Development Assistance Fund (PDAF) and conditional cash transfer (CCT) program were used to favor local incumbents backed by the administration party.

To quell these concerns and in observance of the election ban, government agencies such as the DSWD suspended the distribution of cash under the program and resumed only after the campaign period. On the other hand, to prevent the abuse of the PDAF, prohibitions to procurement; construction and appointments activities prior to and during the campaign period was strictly observed.

In another instance, given that a sizeable amount of campaign funds are spent on advertising placements with broadcast media, Comelec's initial tack to enforce expenditure cap was to impose the 20-minute limit on political ads of candidates. However, the high courts ruling ordered Comelec to revert to the airtime limits (120 minutes/180 minutes per station, for candidates or registered political parties for a National Elective Position and 60 minutes/ 90 minutes airtime limit, per station for a Local Elective Position,) imposed on candidates during the 2010 elections. This resulted in a surge in broadcast advertising spending approaching election day.

Inconsistent enforcement diminishes impact

Another challenge is Comelec's limits to enforce penalties on campaign finance violators. Comelec has a memorandum of agreement with the Department of Interior and Local Government (DILG), which prohibits local officials from assuming office without submitting their expense reports. However, it has no power to compel the Senate or the House to bar non-compliant officials from taking their posts.

Non-enforcement of campaign finance rules in 2010 also undermined the public's confidence of Comelec's resolve with the absence of a 2010 SOCE compliance report. Candidates who have not filed statement of contributions and expenditures (SOCEs) in two elections will be disqualified from running for public office in succeeding elections.

In past elections, Comelec had been lax and lenient in implementing campaign finance regulations. Comelec's sudden strictness this year is still shrouded with doubt and questions from political parties and candidates on the resolve of the poll body to enforce these regulations. Some have even scoffed at its capability to mete out penalties whether to those remiss in submitting the proper SOCE's or violations to spending caps.

Recommendations

A further review of existing campaign finance law and its implementing regulations is needed to clarify the definition and reconcile the disparate and inconsistent rules and regulations. In addition, more innovative legislation has to be crafted related to campaign contribution regulations, state-support on election finance and strengthening the political party system.

To increase its effectiveness to monitor and improve enforcement, resources have to be allocated to improve the capability of the Comelec's Campaign Finance Unit and a multi-sectoral and multi-agency task force has to be set up to support the Unit in its tasks.

As previously suggested by NAMFREL, periodic electronic report submissions and outsourcing the task of auditing the SOCE to private auditors could also ensure the quality and accuracy of reports filed before the Comelec.

Incomplete reporting by the Comelec

by **Telibert C. Laoc**, Member, NAMFREL National Council
International Elections Specialist

At this link you will find the National Board of Canvassers' resolution 10-13 of June 5, 2013 officially proclaiming the results of the senatorial race:

http://www.comelec.gov.ph/uploads/Elections/2013natloc/res/nboc_res_001013.pdf

A few questions begged to be asked:

1. How many established and clustered precincts did these results come from?

2. What is the total number of voters who voted?
3. Of this number (in 2), how many voted for senators?
4. What is the average number of candidates voted?
5. How many over-voted for senators?
6. How many ballots were spoiled or uncounted (this is referred to as a spoiled ballot rate)?

In this day and age of technology and electronics in elections, the figures would certainly help:

- 1) enhance the credibility of the election by making the results audit-able;
- 2) inform the political parties, candidates, academe, and voter outreach programs about how might voters view the candidates and why voters do not (historically) vote for 12 senators; and
- 3) guide candidates who wish to lodge a protest if results could be overturned if over-voted, blank votes or undervoted, and rejected or spoiled ballots are reviewed.

For the May polls, there were 52,014,846 [<http://bit.ly/ZEd52D>, Comelec] voters, and 39,898,992 voted (turnout of 75.72 percent) [<http://bit.ly/15W1D7D>, Rappler]. The Comelec tallied the total valid votes for senators at 298,625,797. So the fill up rate is 7.6.

How would all the other contests -- party-list, district representatives to Congress, provincial governors, vice-governors, provincial councilors, mayors, vice-mayors, and local councilors -- look like if all the figures above were reported alongside the results of the voting?

Comelec is remiss in their duty in reporting election results. Seriously, I think the Comelec needs to just be serious about their work. What do you think?

(Editor's note: This article originally appeared in Mr. Laoc's blog, <http://telibert.blogspot.com>)

Voting in Doha, Qatar

by **Maria Christina Pascual-Serfica**, NAMFREL Deputized Representative for Qatar

(Editor's note: These are excerpts from the observation reports of Ms. Pascual. The voting in Doha took place from April 13 to May 13, 2013 at the Philippine Embassy in Doha. There were 23,260 registered voters in Qatar, or 11% of the estimated 200,000 Filipinos in the country. Six special boards of election inspectors (SBEIs) were formed to accommodate the voters. The turnout was very low, at only 10%).

Voter turnout was low but this was to be expected according to Vice-Consul Melvin C. Almonte. They were expecting a better turnout on the 2nd weekend of the voting period. Vice-Consul Almonte also added that he knew that voters may find it a bit difficult to go the embassy since there is no public transportation available in that area. A voter may have to spend an average of QR50 (or around PhP550) for a 10-km roundtrip fare to go the embassy. Almonte said that he would be very happy if 10,000 voters would cast their votes by May 13.



In order to encourage a higher voter turnout among Filipinos whose residence/place of work are based outside of Doha, the embassy was arranging for the deployment of an SBEI team to oversee the field voting at Al Khor (located 50 km north of Doha).

Field voting was conducted on April 26 at the Catholic Church of Our Lady of the Rosary located 26 km away from the Philippine Embassy. One of the embassy staff noted that there was a good turnout of voters since the number of ballots cast was in the double-digits.

In random conversations with the Vice-Consul regarding the lack of interest among Filipinos to cast their votes, the following are some of the reasons which may have had an impact on the voter turnout:

- Voters are not that excited to vote for senators and party-list representatives. Filipinos are more inclined to vote during Presidential Elections.
- Filipina domestic helpers are usually not allowed by their employers to leave the house even on weekends. If

they have to go on errands to remit money to their families, go to the embassy to renew a passport or secure an overseas employment certificate, the employer usually goes with them. It's also possible that the employer might ignore their request to cast their vote at the embassy simply because they don't think that it's necessary or it's just a waste of time.

- It's not that easy to take a day off during weekdays to go the embassy especially among those working outside of Doha.

- It's too costly to go to the embassy if you're earning an average of QR3,000 per month (QR100/daily wage). Roundtrip fare for a private taxi would set you back between QR30 to QR100 depending on your location.

- Workers who are based in Ras Laffan, Al Khor, and Mesaieed (where the oil refineries are located) are usually ferried to the city every Friday so that they can do their shopping or just to laze around the city. However, the company buses have a very strict time schedule and if you miss it, you have to shell out money for the cab fare or hitch a ride back to your place of work which may be 50 to 100 km away from the capital. Given a choice of doing your chores or going to the embassy, people may opt to just skip voting altogether. An ideal solution to this problem would be to offer free shuttle services from the Central Bus Station (where most workers are dropped off) to the embassy. However, it would also be difficult for the embassy and for Filipino organizations to do this since the local police might misconstrue such service as an "illegal taxicab operation." There is a crackdown on private vehicles being used to ferry passengers and volunteers might face hefty fines or their driver's license might be revoked if caught by the local police.

(On April 27, Saturday) one voter became upset when he was told that he could only cast his vote but he could not collect his passport since all consular services are done during weekdays. He said that his employer would not allow him to take a day-off during weekdays as they are undermanned and he hoped that he could collect his passport and cast his vote at the same time. He pointed out that it was too costly for him to make two trips to the embassy. Recommendation: In a place like Doha, where most employees have a 6-day work week, maybe the embassy staff could give consideration to voters who would like to cast their votes and collect their passports at the same time. It would be especially helpful to voters who have to make a 50-100 km trip to the embassy. The embassy staff can do this on a case-to-case basis.

Information dissemination on the overseas absentee voting was mainly done through the Filipino organizations in Qatar. Meanwhile, voters relied on ABS-CBN's The Filipino Channel (TFC) for information on candidates. In my interviews with some of the voters, most of them claimed that their primary sources of information about the elections and candidates were TFC and Facebook posts of friends and relatives. Many were not familiar with the candidates especially those running for party-list representatives. A few voters were dismayed that the certified list of party-list candidates was several pages long and they only had to choose one candidate from the list. At least one voter admitted that he only chose from the first page of the candidates' list since he did not realize that the other pages also contained the names of the other party-list organizations.

A few voters asked the SBEIs which positions will be voted for. They were surprised to find out that they will only vote for 12 senators and 1 party-list representative. Some remarked "ay, walang local positions?"

One of the difficulties faced by the embassy personnel was the shortage of election paraphernalia supplied by Comelec. For example, the seals provided for the ballot boxes were insufficient. What the SBEI did was to use the original Comelec seal on the lid where the valid ballots were placed while a photocopy of the seal was just pasted on the lid where the spoiled ballots and ballot coupons were placed. The number of Certified List of Overseas Voters was also insufficient according to Vice Consul Almonguera. The embassy staff just downloaded the list of voters for Qatar as posted in the Comelec website.

Some voters were turned away since their names were not on the Certified List of Overseas Absentee Voters (CLOAV). There were cases where the voter registered at the POEA prior to his deployment to Qatar but his name was not included in the CLOAV.

Others mistakenly thought that they could cast their votes since they were already registered voters in the Philippines. It seems that they were not aware that they had to apply as an overseas absentee voter and that they had to request Comelec to transfer their voting records to Qatar.



Unlike in 2010 when the ballot boxes were transported to the Philippine School in Doha for the canvassing of

votes, this time the canvassing took place at the embassy's premises. The embassy just moved to a new and larger villa and there was sufficient space to count all the ballots for the 6 SBEIs.

On the first day of voting, five supporters of senatorial candidate Bro. Eddie Villanueva arrived at the embassy wearing shirts emblazoned with the words "Bro. Eddie Villanueva for Senator." Vice-Consul Almonguera immediately requested the group to remove/change their shirts before entering the polling station.

Two volunteers of the Kalinga Party-List were seen distributing campaign flyers to voters a few meters away from the embassy premises. I informed one of the embassy staff about the Kalinga Party List and I was surprised by his response. He said that they couldn't do anything about it since the volunteers were outside the embassy premises and technically speaking, they have no jurisdiction beyond the embassy's gates since that is already part of the State of Qatar.

(I personally observed on May 13) a volunteer from Kalinga Party List distributing flyers outside the embassy. He asked me whether I was going to vote, and handed me one of the flyers. I informed him that I was actually from Namfrel and I would note down his presence in my report. When I tried to take his photo, he hid behind the cabin of the embassy's security detail. A few minutes later, the Kalinga Party List volunteer finally left.



Election day at the Zamboanga City Reformatory Center

by **Perre Ian Dela Cruz**, Chairperson, NAMFREL-Zamboanga City

Right after I voted at West Central Elementary School, I immediately went to the Zamboanga City Reformatory Center to observe the process of election given to the registered detainees. The Local Comelec Office, District 1, Zamboanga City made a special arrangement with the BJMP-Zamboanga City in order for the registered detainees to shade their ballots inside the chapel of the said compound.

The election process started at 8:00 AM and ended at 11:00 AM. It was 11:15 AM when the team of Comelec-deputized BEI and BJMP Special BEI brought those said ballots to the West Central Elementary School because those detainees are registered voters of Barangay Zone I, with the Precinct Number 003A. The Local Comelec had registered 199

detainees, both male and female, and all of them participated in the election. Some of the detainees were assisted by the BJMP Special Election Team because they cannot read and write. There were pollwatchers from Adelante Zamboanga Movement and from LDP. The presence of local media ABS-CBN was also noted.

According to BJMP Wardress Inspector Fe Galvez, the election held inside the jail is memorable because it was the first time that the registered detainees were allowed to vote inside the jail.

Voters' Education: A challenging new experience for us

by **Bp. Benedicto S. Navarro**, Chairperson, NAMFREL-Marikina

It was no easy task, but we took the challenge. To even think of pulling the people out from what they have been used to doing for decades, in fact every election since the Philippines gained its independence and began exercising their right of suffrage, has been like fighting an invisible foe. But nevertheless, since we were given this task, then, we had to do it.

The first thing we did was to come up with the content of the Voter's Education program and how to execute it. We considered the uniqueness and demography of the people in our City so that the content of our Voter's Ed could be suited to their intellectual mind-set and needs.



We received the Manual for VotEd from the Namfrel Secretariat and gathered some other materials and came up with our own which we called "Electoral Community Forum." So that it would be more effective, we came up with a Tagalog version. We decided to limit the time of the entire seminar to two hours with this simple outline: What to do during Election Day; What not to do; What are the Basis in Selecting the Right Candidates; and, what is the PCOS machine and How to Use it. Then we selected from among ourselves who will talk on which topic, giving each speaker fifteen to twenty minutes to talk on his topic. To draw

crowds, we encouraged communities to participate by way of young people or children who formed themselves into dance groups or singing groups. Or, raffle something. We did everything just to draw a good crowd.

Our plan was to saturate the different Barangays with our message and the question was how to do it in the fastest way at the minimum of cost. Fortunately, one of our members own a Mobile Stage Truck and he offered us the use of it. Of course we grabbed the opportunity and made full use of it. Our organization included a Coordinator for each Barangay; we then asked each coordinator to organize for us community and sectoral forum in the different Barangays. In Marikina, we have sixteen Barangays, and we averaged two to three forums a day. We would position our Mobile Stage in strategic locations, like market places, basketball courts, in front of churches, squatters' areas, schools, etc. We even developed our own Election Song which we played before our forum to draw crowd; we encouraged the audience to learn the song, and we held a contest among the children in the audience that whoever could sing it would receive something, most of the time, candies.

We visited all sixteen Barangays; each visit we averaged reaching three to five hundred people. On May 11, two days before Election Day, from 3 in the afternoon to 10 in the evening, we held a Marikina-wide mobile voters education saturation campaign (18 stop-overs, 20 minutes teaching per stop over, average 555 people per stop-over or 10,000 people reached, not to mention our mobile announcements in between stop-overs covering an approximate audience of additional 30,000 people.

However, we have the following observations. We were informed that certain officials coerced and intimidated prospect attendees not to participate in the sessions. Voters' apathy or lack of interest among target participants were observed to be significant in numbers.

Traditional selection criteria in choosing candidates were observed based on popularity or celebrity status, affiliation, acquaintance, influence, coercion/intimidation, brainwashed block-voting, patronage, etc. Ignorance and poverty were used by the politicians to persuade them to sell their votes and/or offer them in-kind products, services, such as bags of rice and groceries and/or hiring them as watchers, volunteers and campaigners. Also observed were the use of government vehicles in transporting their supporters and campaign paraphernalia as well as the use of government facilities as venues for their campaign sorties, including the use of communication equipment for the same purposes, e.e. mobile phones, internet connection, landlines, computers, laptops, etc. and, the use of the more than 6,000 city employees as harassed and coerced campaigners in support of the administration party-candidates for electioneering purposes.



Photo: <https://www.facebook.com/C2G2MarikinaElectionWatch2013>

We plan to continue educating our people in-between elections. This is the only way, we believe, that graft and corruption can be curbed. An empowered, well-informed population can never be fooled, harassed or coerced by anybody.



Photo: <https://www.facebook.com/namfrel.misor>

expand my circle of friends, and gave me the opportunity to cross paths with some “extraordinary” people with different personalities most especially the people in (COGON) market where we had our first market campaign. I also learned many things such as how important a volunteer’s job is and how to work as a team. I felt more energetic, strong, and passionate when I participated in the NAMFREL team. Volunteering is a great way to discover oneself by cooperating with others. Thank you all for this experience. It was really a soul-lifting experience that I will never forget... God Bless!

My first NAMFREL volunteer engagement

by **Jenny Lim Rauto**, Lourdes College Student
NAMFREL Volunteer, Cagayan de Oro

Being a volunteer was quite a big challenge for me because in this team we experienced hardships. In spite of what we went through, still we faced them with patience and understanding. It was one of the most amazing experiences in my life. When I decided to volunteer I couldn’t imagine how grateful I would be that I was given the chance to be part of the team. Having the chance to be a NAMFREL 2013 volunteer was beyond words and an amazing opportunity for me. During our market campaign, I met different kinds of people who had different stands and ideas on current political issues. It was an opportunity for me to develop my leadership skills.

No words can explain how thankful I am to work in a team of such energetic, vigilant, and accommodating people coming together with the same passion. I felt like I found a new family. Being part of the NAMFREL team brought me a great challenge, helped me

When Principles No Longer Suffice: NAMFREL and the 2013 Elections in the Lens of an Intern

by **Ruth Genevieve A. Lumibao**, BS Political Science, UP Manila

(Editor's note: Ruth was one of NAMFREL's 8 interns from UP Manila for the 2013 elections. She was joined by Via Cabatu, Kristine Cardona, Joana Castro, Eliana Cortes, Fatima del Rosario, Karel Galang, and Roma Monzon.)

There is no greater volunteerism than that of protecting democracy itself.

As Political Science students, the main objective of the practicum was for us to see the dynamics of theory and practice. Our usual curriculum allowed 200 hours spent in either a government or non-government office, if not in a far-flung area for immersion trips.

Since it was election season, the Department of Social Sciences (DSS) of UP Manila preferred to have us spend the full 200 hours in a non-government organization or in an immersion. In the past academic years, the students were given a hundred hours for both government and non-government organizations. The feedback we received from the upper batch, however, was usually of warning rather than encouragement. We feared having to succumb into clerical work, or worse, being told to make coffee instead of reports.



Ruth (second row, first from right), with the other trainees and volunteers

“You will not be used as accessories. We will treat you as part of the staff,” Mr. Paolo Maligaya, NAMFREL Senior Operations Associate, told us during our orientation. We could only muster a sigh of relief.

And after that, what started as a practicum became pure volunteerism.

In the Spirit of Volunteerism

Our first NAMFREL experience was during the NAMFREL National Assembly in March 2013. The election season marked the commencement of NAMFREL’s six projects: Voters’ Education Program (VEP), Voters’ List Monitoring (VLM), Mobile Pollwatching (MPW), Logistics Tracking (LT), Electoral Finance (EF), and Random Manual Audit Monitoring (RMAM). Since there were eight of us in the practicum, three were assigned to the project teams, and the other five to the different regional desks. I was assigned to the Mobile Pollwatching project, which was under NAMFREL National Council member Mr. Dammy Magbual’s supervision. Thus, I was thrust not only in monitoring the project but also in sending memos and making statements. Although I was not directly in contact with NAMFREL’s chapters as much as the regional desk officers were, I had to make sure that their concerns were addressed adequately.

Our first day in the office marked our first meeting with Mr. Telibert Laoc, NAMFREL National Council member, now known to us for his favorite catch-phrase, “Your success is our success.” He did live up to it, anyway. If anything, we were treated as equals. Our opinions always counted, and our suggestions always mattered. Never could we find another organization that will treat novice election observers, rather trainees or interns, as important as NAMFREL did. After less than a week of being integrated in the office environment and work, we began our 8 a.m.-8 p.m. shift – not because it was required, but because we, ourselves, wanted to do so.

The workload increased exponentially. We did not complain because it was the first time that we felt what we were doing actually mattered – how a single unanswered phone call can discourage a chapter, how a simple encouraging memo can ignite the spirit of our field volunteers, and how a minimal mistake in reporting the details of an event can put disgrace upon NAMFREL’s reputation.

In the middle of our practicum, we realized that we were near to exceeding the required number of hours, and we were expecting a five-day shift on election week. But the requirement no longer applied. We continued our 8 a.m.-8 p.m. work hours, and we would even exceed until 10 p.m., up to the point that some of the staff already offered to transform our working area into a dormitory.

Even half-way through our practicum, we were no longer interns. Instead, we vowed to continue working, but now as volunteers. For all we knew, we were doing something that we learned to love in the span of less than a month. What we gained from it materially was not of any importance. All good things came afterward.

From Principles to Dynamics



We knew the basic principle of election: voting for people who will be vested with enormous powers to lead the country. By virtue of the elections, our political leaders become accountable to the populace. As such, it becomes the greatest foundation for good governance. The principles were very clear; the dynamics, however, were yet to be identified.

We knew how the elections worked in face value. Whatever happens beyond the surface are mere accounts that we could read or hear elsewhere. But to verify information and to be in contact with NAMFREL’s local chapters enabled us to have a clearer image of what really happens during elections. It is to our utmost dismay to find that the very foundation of our democracy can no longer be relied upon. But this does not mean that we should lose faith in the system. Rather, it is NAMFREL’s duty to ensure that it will be improved.

Vote buying, electoral violence, use of government resources, threat and intimidation, biased media reports,

private armies – we can learn all these through the news. But what would it feel like if you talked to someone from Mindanao, reporting to the National Headquarters, in the middle of a cross-fire? What would it feel like if you talked to someone who is reporting about vote buying activities, but reminds you to keep his/her anonymity for safety reasons? What if you learned that field volunteers already fear for their safety because candidates can identify if they are members of NAMFREL?

The volunteers knew the risks that their job entailed. They knew the sacrifices they were about to make. But as Mr. Lester Toribio, chair of NAMFREL Manila chapter said in one of our meetings, “Kung hindi tayo, sino?”

The election was both important and vulnerable, and it always will be – that is why election watchdogs exist.

The 2013 Elections was the best stage to observe the interplay of civil society, government, and COMELEC. NAMFREL may have exposed truths about the unreliability of PCOS machines, but it was never our intention to defame the elections. In fact, it was our intention to make them more transparent and reliable. We may have exposed realities of vote buying activities in almost every part of the Philippines, but it was never our intention to dispense the importance of voting.

NAMFREL may have exposed many truths and realities to the point of risking its accreditation, but never did it waver from its mandate.

As UP students, we have always been reminded to give back to the country. When and in what manner was up to our discretion. NAMFREL provided us that opportunity. It was an office, with a network of field volunteers that we gradually learned to treat as our family.

To the local chapters who may have wondered who we were in the beginning, we have offered you our time and dedication, and it would be more than an honor to know if we have done justice to your sacrifices.

To the National Headquarters, we express our gratitude for accommodating us, for treating us as a real staff, and for trusting us in handling the big responsibility of monitoring the projects and communicating with the local chapters. Although you may repeatedly tell us that we have been a big help, I believe that the favor is still ours to return. We owe you our experience, our knowledge, and our newfound opportunities.

We may have sacrificed sleep, and we may have acquired deeper eye bags for that matter. We may have had arguments with some local chapters, and we may have faltered a little. We may have been drained of energy and we may have struggled. But we have stood our ground. All this, motivated by a simple question:

“Kung hindi tayo, sino?”

Now, 2016 awaits.

Election in Malaysia

by **Damaso G. Magbual**, Member, NAMFREL National Council
Chairperson, Asian Network for Free Elections (ANFREL)

A round table discussion on three recent elections in Asia was organized by the Philippine Center for Islam and Democracy (PCID) in UP Diliman on May 31. These elections were held in Pakistan, Malaysia and the Philippines (with emphasis on the Autonomous Region in Muslim Mindanao - ARMM). Mr. Raveendran Nair of the Malaysian Embassy in Manila gave a report on the last election better referred to by the media and the political contestants as General Election 2013. Mr. Nair gave a brief presentation on the election process as well as the results. There was hardly any room for disagreement on what was presented.

It was reported that of the 222 seats up for grabs, the ruling party (UMNO) got 133 while the opposition (Pakatan Rakyat) received 89. Mr. Nair did not find it significant to mention



that while the ruling party was allotted 60% of the seats in parliament, it received only 46.6% of the popular vote. He did mention though that Malaysia's system is first-past-the post in single member constituencies. But how does the proportion of seat allocation relate with the mantra, "one person, one vote, equal value"?

Civil Society Organizations in Malaysia involved with monitoring elections have long brought out the issue of "border realignment, delimitation, demarcation but this was met with deafening silence by the ruling party" said a local election observer. In the delimitation of constituencies, urban areas that normally vote for the opposition have three to four times more voters per constituency than the rural areas which normally vote for the ruling party. Hence, the disparity in the seat allocation vis-à-vis the popular vote.

Malaysia has laws similar to the decrees of Marcos during martial law in the Philippines. These laws restrict basic freedoms such as the freedom of assembly and freedom of speech, both necessary for a candidate to get his message to the voter. To mention a few,

1. The Police Act of 1967 provides the police with powers of issuing licenses (permits) with respect to public gatherings and may impose conditions they deem necessary. The permit has to be applied for 14 days before the event. (Mr. Nair claimed that three days is sufficient but the law says otherwise). Here, an assembly in excess of more than five people is deemed an illegal assembly. Further, while it takes 14 days to apply for a permit, in the last election, the campaign period lasted only 14 days.

2. The Sedition Act of 1948 has a very broad definition of what constitutes "seditious tendencies" on issues relating to the Malay language, rights of Malays, Malay rulers, religion, etc. This law has been conveniently used to harass members of the opposition.

3. The Internal Security Act (ISA) of 1960 which was repealed in June 2012 with what is referred to now as SOSMA, Security Offences (Special Measure) Act, and the Peaceful Assembly Act (PAA) have been dubbed by the opposition as the "same dog as the ISA with a different collar". These two laws allow the arrest of any person suspected of threatening the national security of Malaysia.

There are other laws such as the Official Secret Act of 1972 that restricts divulging information to the public.

The mainstream media of Malaysia is unabashedly biased in favour of the ruling party. Hence, the opposition has to rely on social media to get its message across to the voters.

The process may appear to be free and fair but the "rules of the game" do not promote a "level playing field".

Winning the war against democracy

by **Amina Rasul**, Member, NAMFREL National Council
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A month has passed since the May 13 midterm elections in the Philippines. While the elections were orderly and peaceful, there have been many reported incidents that have marred the electoral process. For instance, as NAMFREL and other watchdogs had warned, a significant number of PCOS machines malfunctioned. COMELEC Chair Brillantes has said, "we may not pay the entire amount if we can show that the problems and defects were from Smartmatic." 258 out of the 78,000 PCOS machines used in the polls bogged down. The report of the Random Manual Audit (RMA), which should have been done on election night, has not been released yet even though the sample of 234 precincts is a small one. Fears, that the results may be "massaged", are not allayed by the non-reporting of the RMA results. However, the automated counting system has made wholesale cheating more difficult, particularly the "dagdag-bawas" (adding-subtracting votes from the official tallies) that used to plague the counting of votes.

The decades old problems of crowded classrooms and securing the secrecy of the ballot remain headaches. Turn out among the Philippines' 52 million voters was around 75%. Armed groups still harassed voters in the declared hot-spots, vote-buying remained rampant in many areas.

At the national level, we saw a loose pro-government alliance win enough seats to continue dominating both houses. Despite the reported incidents, most of the electoral results including the national senatorial elections are not being contested. Thus, it can be said that the Philippine elections went relatively well. However, this observation does not negate the need to improve the conduct of our elections, to safeguard the will of the people and the democratic process. Perhaps, we can look to our neighboring countries experiences and gain insights.

The Pakistan elections of May 11 were clearly the triumph of the forces of democracy, in spite of the violence that marred the electoral process.



Ms. Rasul (4th from left) with international election observers from ANFREL and NDI

I was part of the leadership group of the joint election observation mission of the National Democratic Institute (NDI) and the Asian Network for Free Elections (ANFREL). The leadership delegation, led by former Prime Minister of Norway Kjell Magne Bondevik, included former Minister of Justice of Ireland Nora Owen, former U.S. congressman for Missouri Russ Carnahan, NDI's Vice President Shari Bryan and NDI Director for Asia Programs Peter Manikas. I represented NAMFREL and ANFREL.

The mission consisted of 48 observers from 18 countries. From ANFREL, the countries included Indonesia, Malaysia, Thailand, Sri Lanka, Bangladesh, Nepal, and the Philippines. Our observers were deployed to Islamabad and three provinces - Punjab, Sindh and the

Khyber Pakhtunkhwa (KPK). Due to security concerns, we were unable to directly observe the process in Balochistan and the Federally Administered Tribal Areas (FATA). However, we were able to meet with candidates, parties and nongovernmental organizations in those areas. Hour long conference calls were organized with leaders who could not be in Islamabad due to their campaign.

After five days observing the elections in Pakistan, I can safely say that the process was a momentous victory of the people's political will against extremist groups that warred against democracy. The elections also resulted in several historic firsts. Allow me to relate what I had observed.

While Islamabad was free from electoral violence, the tension level was high due to daily news about bombings, assassinations and constant threats from the Pakistan Taliban (Tehrik-i-Taliban Pakistan). These did not deter the people, particularly the young and women, from campaigning. On Election Day, Pakistani youth and women showed up in record numbers, defying the threats made by the Taliban.

The Pakistan Taliban had targeted political parties associated with the previous government: the Pakistan People's Party (PPP) and its main coalition partners, the Muttahida Qaumi Movement (MQM) and the Awami National Party (ANP). President Asif Ali Zardari, the husband of the late Benazir Bhutto who was assassinated on December 27, 2007, leads PPP. The United Nations (UN) recorded 196 deaths due to election-related violence, including at least seven candidates, from March 16, when the National Assembly was dissolved, until May 7. The Taliban had distributed a written threat against all individuals intending to vote, stating that elections were un-Islamic. The Taliban threat and the campaign violence resulted to low turnout in the conflict-affected areas of Balochistan and FATA.

At stake were 272 general seats in the National Assembly as well 60 seats reserved for women, and ten seats reserved for non-Muslims. At the provincial level, 577 general seats were contested in the four Provincial Assemblies together with 128 seats reserved for women, and 23 seats reserved for non-Muslims.

The 2013 elections have set the stage for the country's first transfer of power from one democratically elected government to the next. This will be the first time, after 6 decades, that an administration will have completed its term of office and will be succeeded through a democratic electoral process.. Tens of millions of Pakistanis participated and expressed their support for the democratic process by voting despite the threats of the Taliban. The Election Commission of Pakistan (ECP) estimated voter turnout around 60 percent.

The Pakistani voters' courage and resolve, particularly the young and the women, reminded me of the political will of our own nation during the campaign and election of our icon of democracy, the late former President Corazon C. Aquino. As our NDI-ANFREL statement noted, "in casting their ballots despite the mounting violence was a victory for democracy and the people of Pakistan."

I was amazed by the number of women who ran for office, in spite of the Taliban threat against women candidates and voters. A total of 456 women ran for seats in the National Assembly and Provincial Assemblies, which is more than twice as many women candidates from the 2008 general elections. This included the lone female candidate in FATA. Though numerically higher, women candidates constituted only 2.9 percent of the total number of candidates running for general seats.

For the first time in their history, a woman ran for a seat in the conflict-affected area of FATA. Nusrat Begum, the first female parliamentary candidate from that tribal region, knew fully well the overwhelming obstacles she had to face.. Ubiquitously accompanied by her son or another male family member, Begum campaigned "to give women their rights, the rights that they deserve." Even though she eventually lost by a huge margin, Begum made her presence felt in a Taliban-dominated region.

More parties and candidates participated in these elections than in the previous general elections. In Balochistan, parties that boycotted the 2008 elections reentered the electoral process and, for the first time in the nation's history, political parties fielded candidates in FATA.

A crucial factor in the success of the electoral process has been the cooperation of the government and the political parties to improve the legal framework for the elections. Their cooperation resulted in the selection of a Chief Election Commissioner (CEC), a unanimous choice of the parties, and the establishment of a framework for designating national and provincial caretaker governments. The Election Commission of Pakistan (ECP), even as it has been criticized for its actions (or inaction) on several matters including the electoral violence, did enjoy a high-level of public confidence. The ECP cleaned the voters' list and developed a database of voters, which could be accessed by mobile phone to provide the voter information on their assigned precincts. This innovation is certainly worth emulating by the Philippine COMELEC. Perhaps Globe and SMART can consider following the example of the Pakistani telephone companies, providing free-of-charge SMS for the voters. I was particularly impressed by the excitement and will of the young Pakistanis. In one polling station where I was observing the canvass and taking pictures, a young man asked us to take his photo. He was a watcher for the PTI, the party of Pakistani cricket legend Imran Khan who has attracted the young by his campaign of "Change" (ala Obama). I thought that was a strange request, as election agents normally don't want their photos taken by observers. The young man said he wanted proof of his participation in an election that he believed would change Pakistan for the better.

To him and the millions who braved the threat against their lives, I pay tribute. The Pakistani people have spoken. I can only pray that their political will remains strong and constant, as the electoral process is only the first step on the difficult road to democracy.

On June 6, a smooth and peaceful democratic transition transpired from President Zardari to Nawaz Sharif. As Zardari the oath of the office of Prime Minister to Sharif, the Pakistani people can only hope that reforms will take place to strengthen the democracy they had worked so hard for.

If the Pakistani people will stay united behind their proposed reform of the political institutions, then they will have proved Aristotle right when he said, "In a democracy the poor will have more power than the rich, because there are more of them, and the will of the majority is supreme."

If not, and if reforms do not take root, then Bertrand Russell will be proved correct when he observed, "Democracy is the process by which people choose the man who'll get the blame."

(Read the preliminary statement of the joint NDI-ANFREL international election observation mission to Pakistan here: <http://bit.ly/11Xx2yg>)

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