



# POP 2010

Poolitikang Pinoy 2010

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## Beyond Poll Watching

# The COMELEC and the 2010 Elections: What you need to know

A 1940 amendment to the 1935 Constitution created the Commission on Elections (COMELEC) to primarily conduct and supervise elections in the country. It also has quasi-judicial functions, meaning it has responsibilities and powers resembling those of a court of law or judge and is able to remedy a situation or impose legal penalties on a person or organization. In this case, it is the COMELEC that hears cases of electoral protest in the whole country, **except** those of the House of Representatives, Senate, Vice-President and President.

COMELEC is a busy office supervising the national elections, which happen every three years, presidential elections every six, and *barangay* elections also every three years. Since 2000, there had only been four non-election years — in fact, almost every year is an election year in the Philippines. Just last year we had the 2008 ARMM elections, which pilot-tested the automated counting machines and were proven to be successful after results were announced in two days. In less than a year, we will have the 2010 national elections, where we will elect a President, Vice President, and 12 senators, apart from the local officials. Next year is an election milestone, with the COMELEC gearing towards a fully-automated national election, where, ideally, electoral fraud is less likely and results will be announced sooner.

While we may all be familiar with the COMELEC, little is known about its internal structures and responsibilities. Here are some of the things you need to know about COMELEC, especially if you are a voter who is interested in monitoring the performance of COMELEC and ensuring that it does its job well.

## HOW TO REGISTER

**Are you or will you be 18 years old on May 10, 2010? A Filipino citizen? First time voter?** If you answered yes to all these, then you are eligible to vote for the 2010 elections!

Bring a valid ID (with address and signature), a photocopy of your birth certificate and a ballpen, and go to the COMELEC office\* at your city/municipal hall.

Registration is FREE, and it only takes 5-10 minutes to take your picture, get your signature and take your fingerprints. After registering, you will be given a stub that you will need in order to vote for the 2010 elections. The worst day to register, of course, is the deadline on October 31, 2009.

\*All COMELEC offices are open from 8:00am – 5:00pm, Mondays to Saturdays, including holidays.

## Who heads the COMELEC?

The COMELEC is headed by a seven-person group called the *en banc*, who are individually identified as commissioners, and are headed by a Chairperson. The law dictates that a person, once appointed as commissioner, can only serve the Commission for a term of seven years.

Given this, the Chairperson is always a new face in the *en banc*; once one is appointed commissioner, he can never be Chairperson and vice versa.



The current Chair of the COMELEC is Jose Armando Melo, a former Associate Justice of the Supreme Court, who assumed office in March 2008, just before the ARMM elections. With him in the *en banc* are six other lawyers, one of whom is a Muslim recently appointed to the post. The Chair and the rest of the Commissioners can be removed from office only by impeachment, and are provided with salaries fixed by the law, which shall not be decreased during their term of office.

## How is COMELEC organized?

The COMELEC has ten departments at the national level, one of which is the Education and Information Department (EID), which takes charge of voters' education and information campaigns about elections. The director, James Jimenez, is also the official spokesperson of the COMELEC. All public information comes from this department.

The COMELEC also has regional, provincial and city/municipality offices that take care of all affairs and functions at the local level. The COMELEC office in your city/municipal hall is where you should go to register or to inquire about the elections, as well as to claim your Voter's ID. The Voter's ID may be a useful ID for everyone because it is government-issued and is valid for almost all government and non-government transactions.

Your city/municipal election officer (EO) supervises the registration of voters and the conduct of elections in your locality. He/she is responsible in keeping and updating the voter registration files. If you lost your voter's ID, the EO is the one who issues the replacement ID. Heading all election officers in the province is a Provincial Election Supervisor.

### What does the COMELEC do apart from conducting elections?

#### Quasi-judicial functions

The COMELEC hears and decides on all kinds of electoral protest, and investigates cases of electoral fraud and cheating. When, for example, a candidate claims that he was cheated during the elections and files a formal complaint, it is the *en banc* who hears and decides on his/her case, and may impose sanctions to the guilty party.

#### Voters' Registration

Only registered voters can vote during elections, which means that voter registration is a crucial step in the election process. It is also the task of the COMELEC to facilitate the registration of voters and issue the Voter's IDs. Once you are registered, the COMELEC officer puts your name in the database of eligible voters. Come election day, you should find your name in voters list of your election precinct and you present your Voter's ID for verification.

The COMELEC website will help you locate your precinct through the PRECINCT FINDER. Just go online and visit [http://www.comelec.gov.ph/findprecinct\\_/findprecinct.aspx](http://www.comelec.gov.ph/findprecinct_/findprecinct.aspx).

#### Voters' Education

The COMELEC also conducts information campaigns regarding the elections and election-related activities, such as voters' registration. Information provided by the COMELEC include answers to frequently asked questions (when to register, how to register, etc.), candidate profiles, schedule of political debates, and schedule of training seminars on voting for teachers, pollwatchers and the general public. For the 2010 elections, voters' registration has become especially significant because of the automation and there is a greater need to orient the public to what to expect during Election Day and how to go about the voting process.

**MYTH:** COMELEC does nothing when it is not an election year.

**FACT:** During non-election years, the COMELEC is busy with voters' registration and education, which includes the promotion and advertising of registration schedules and deadlines. It also updates and cleans the voters' list and does trainings for teachers and pollwatchers, procures election equipment and supplies, and processes/issues voters' IDs.

#### Procurement of Supplies and Equipment

One of the major functions of the COMELEC is to purchase supplies and equipment for the elections and other related activities. The most (in)famous of all COMELEC procurements is the purchase of the automated vote-counting machines, pegged at PhP 11.3 billion. Smartmatic, a multi-national company specializing on electoral technologies, recently won the bid at a little more than PhP 7 billion, and will supply the machines that will be used during the 2010 elections. The COMELEC also procures machines for the printing of ballots and various supplies used during election day (e.g. indelible ink, paper, ballpens, etc.)

The COMELEC has a lot on its hands at the moment, as we begin our

countdown to May 2010. We, too, have a lot to do in order to ensure that next year's elections are clean, honest and truly democratic. All first-time voters should register soon, if not now. The exercise of our right to vote does not just happen on election day. We exercise this right when we keep ourselves informed on what's happening in the country, the critical issues affecting the nation and our people, who are those running for office, and most importantly, who can potentially address these issues and protect our long-cherished democracy.

## Editor's Note

### More Citizen Participation, Greater Chance of Correcting the Elections

Other than voting, poll watching is a popular engagement of citizens during elections. It's a non-partisan engagement that ensures the sanctity of the ballot and protects the integrity of the electoral exercise. The National Citizens' Movement for Free Elections (NAMFREL) and the Parish Pastoral Council for Responsible Voting (PPCRV) were successfully able to mobilize thousands of citizens to man the precincts and monitor the conduct of elections for several elections now since post-World War II.

We need more of this active citizenship during elections. We need more citizens engaging and using various forms and approaches for electoral participation. Citizen participation promotes transparency and accountability in the electoral process. Given the limitations and flaws of elections in the country, citizen participation in various forms may also serve as a correcting mechanism that can protect and advance the true will of the people.

This issue of PoP 2010 introduces other possible areas for citizen engagement during elections. We argue that for citizen participation to have a greater chance of correcting our systematically flawed elections, citizens must do more and go beyond voting and poll watching.

The first segment, Beyond Poll Watching, briefly presents a profile of the Commission on Elections (COMELEC), particularly its functions and organization. The article hints what citizens can check in the administration of elections, which is a crucial factor that affects the outcome of elections. Experience in the past showed that a lot of problems during elections are attributable, not so much to external variables such as violence, vote-buying or violations of electoral laws, but to errors and lapses in how the elections are managed by COMELEC. Knowing is the first step to action. If citizens know what to expect from the COMELEC, it can facilitate their engagement with the COMELEC to ensure the efficient and effective performance of the Commission's functions.

The Ateneo School of Government (ASoG) has started this kind of non-partisan electoral engagement with the Comelec BudgetWatch. This project looks into the performance of the COMELEC as the country's electoral management body by monitoring its budget process. The pilot run showed that there is a disconnection between the performance targets and budgeting of COMELEC. By tracking the preparation and authorization of the Commission's 2009 budget, it also showed that the COMELEC's independence is sometimes compromised as it goes through the budget process and seeks approval from the Department of Budget and Management (DBM) and Congress. This paved the way for ASoG's engagement with the COMELEC.

The second segment, Let's Party, presents the Party-List System (PLS). The PLS is a breakthrough mechanism that addresses the political marginalization of groups that provide an alternative paradigm for politics and governance. Based on the deliberation of the 1986 Constitutional Commission (ConCom), it serves as an incubator for the birth of real party system in the Philippines. To legitimize and reaffirm this intent of the Constitution, it is crucial that more citizens are aware of the PLS and participate in it. Given the controversies hounding the PLS, there is also a call for the reform communities to clarify the intent of PLS and introduce the necessary reforms.

## Let's Party!

# The Party List System

After 19 years of authoritarian rule under former President Ferdinand Marcos, democracy was restored in the Philippines after the People Power Revolution of 1986. In the same year, a Constitutional Commission (Con Com) was convened by the newly installed Revolutionary Government of President Corazon Aquino to draft a new Constitution that would embody the collective aspirations of the Filipino people in the democracy they have won. The 1987 Constitution was the product of the Con Com deliberations.

The Legislative Department, composed of the Senate and the House of Representatives (HoR) abolished by Marcos, was reinstated by the 1987 Constitution to perform law-making and oversight functions. This body serves an important role in giving voice to the people by articulating their needs and prioritizing them in the laws and policies that the Executive branch would then carry out. Senators are elected at large in nationwide polls, whereas members of the HoR are elected from legislative districts apportioned among the provinces, cities and Metropolitan Manila.

The Party List System (PLS) was also incorporated in the 1987 Constitution to enable segments of society who were traditionally excluded from the political process to represent the interests of marginalized and underrepresented sectors in the HoR. The PLS is a mechanism of proportional representation, where the percentage of votes cast for a party or group (in this case a party list group) determines the party/ group's number of seats (or Representatives) in the HoR. Mechanisms such as the PLS provide avenues for genuine representation of the people's interest in a government which was accustomed to patronage and transactional politics during the Marcos regime.

The PLS also occupies a special role in the legislature, for it was instituted as a social justice tool to democratize politics. As stated by a renowned Constitutionalist, Joaquin Bernas, "The party list system has for its objective the equalization of political power. In other words, in order that political power will not be concentrated in two parties, we are attempting to introduce a party list system in order to distribute political power among various parties. But the distribution of political power is very much dependent, we might say essentially dependent, on the distribution of economic power, and the effective distribution of economic power would take quite a while..." (Transcript of the Constitutional Commission, 11 August 1986).

### PLS 101

Instead of individuals, the Party-List System Act (RA 7941) allows only representatives of national, regional and sectoral parties or organizations of coalitions registered with the Commission on Elections (COMELEC) to participate in the PLS. Any organized group of persons may register as a party, organization or coalition with the COMELEC 90 days before election day by submitting a petition verified by their president or secretary. A copy of the group's constitution, by-laws, platform or program of government, list of officers and coalition agreement (for coalitions) should be attached to this petition. The COMELEC will then resolve to accept or decline the petition after publishing the same in at least 2 newspapers of national circulation 15 days after it was received. The Supreme Court (SC) rules that those intending to join the PLS should:

1. Comply with the requirements of RA 7941;
2. Represent marginalized and underrepresented sectors,
3. Be able to contribute to the formulation and enactment of appropriate legislation,
4. Not represent a religious sect or denomination, and
5. Not (in any manner or form) be assisted by the government.

The COMELEC has the right to remove or cancel the registration of a group applying to participate in the PLS after due deliberation, on the following grounds:

1. *If it is a religious sect or denomination, or association organized for religious purposes;*
2. *If it advocates violence or unlawful means to advance its goals;*
3. *If it is a foreign party or organization;*
4. *If it is receiving any form of support (directly or indirectly) from any foreign entity for partisan election purposes;*
5. *If it violates or fails to comply with laws, rules or regulations relating to elections;*
6. *If it declares untruthful statements in its petition;*
7. *If it has ceased to exist for at least 1 year; or*
8. *If it fails to participate in the last 2 preceding elections or fails to obtain at least 2% of the votes cast under the party-list system in the 2 preceding elections for the constituency in which it has registered.*

### Sectoral Parties, Political Parties and Coalitions

The law defined sectoral parties as organized groups of citizens bound together by similar physical attributes or characteristics, or by employment, interests or concerns and whose principal advocacy pertains to the special interests and concerns of the following basic sectors:

1. *Labor*
2. *Fisherfolk*
3. *Peasant*
4. *Women*
5. *Youth*
6. *Urban Poor*
7. *Indigenous cultural communities*
8. *Overseas workers*
9. *Veterans*
10. *Professionals*
11. *Handicapped and*
12. *Elderly*

On the other hand, *political parties* were described in RA 7941 as organized groups of qualified voters pursuing the same ideology, political ideas and principles for the general conduct of government that may be national or regional in scope. Lastly, *coalitions* were characterized as an aggregation of duly-registered national, regional, sectoral parties or organizations for political and/or election-related purposes.

Since the 1998 elections, where 13 Party-List groups won PLS seats, the PLS have slowly gained ground in the HoR. In 2001, 12 PL groups successfully gained seats in the Lower House while in the succeeding 2004 and 2007 elections, PL seats were granted to 16 and 14 PL groups, respectively.

### Voting for Party List Representatives

On election day, voters are entitled to one vote for their representative in the HoR (i.e., congressman representing their legislative district) and one vote for the party, organization or coalition that they want to be given party-list seats in the HoR. Voting for the PLS is conducted at large (not by sector and not by legislative district), so all the votes casted for a party-list group will be tallied on a nationwide basis, whereas votes for legislative district representatives or congressmen will be tallied per locality.

### The Law and its Mathematical Interpretation: Allocating Seats for PLS Representatives

In addition to the basic rules laid by the Constitution and RA 7941, party-

list seats are allocated based on four parameters provided by the SC ruling in “Veterans Federation Party vs. COMELEC” (October 2000) or the Veterans rule. These inviolable tenets are:

1. **The 20% allocation**—the combined number of all party-list representatives shall not go over 20% of the total number of HoR members (including those elected under the PLS);
2. **The 2% threshold**—only parties garnering a minimum of 2% of the total valid votes cast for the PLS are ‘qualified’ to have 1 seat in the HoR;
3. **The 3-seat limit**—each qualified party, regardless of the number of votes obtained, is entitled to a maximum of 3 seats, that is, 1 ‘qualifying’ seat and 2 additional seats; and
4. **Proportional Representation**—the additional seats which a party is entitled to shall be computed ‘in proportion to their total number of votes.

Given the above, PLS seats to be allotted to parties is given by:

$$\frac{\text{Number of seats available to legislative districts}}{.80} \times .20 = \text{Number of seats available to party-list representatives}$$

However, the allocation of additional seats under the second and fourth Veterans parameter is proving to be rather tricky. Chief Justice Artemio Panganiban devised a methodology that, in his opinion reconciles the issue. Under the so called “Panganiban formula”, determining the additional seats to be given to a party list can be determined by:

$$\text{Additional seats for a concerned party} = \frac{\text{Number of votes of concerned party}}{\text{Number of votes of first party}} \times \text{Number of additional seats allocated to first party}$$

Under this methodology, Chief Justice Pangabinan explains that the first step is to determine the additional seats to be given to the party that receives the highest number of votes in the PLS ranking. If the topnotcher or “first party” gets 4% or more but less than 6% of the total votes cast for the PLS, it gets an additional seat. On the other hand, if the first party receives 6% or higher of the total votes, it is given the maximum 2 additional seats.

The additional seats to be given to the rest of the qualified party list groups (i.e., those who garnered at least 2% of the total votes cast for the party list roster) can be “proportionately” computed by dividing the number of votes of the concerned party by the number of votes the first party received, multiplied by the number of seats allocated to the topnotcher.

### New SC ruling on PL seat allocation

The computation for seat allocation in the PLS has relied on the Veterans principle and the Panganiban formula, but the Supreme Court, on a ruling released last April 21, 2009, effectively revised some elements of the Veterans rule and even declared the 2% threshold in the distribution of additional seats as unconstitutional. The SC ruling maintained that the Veterans rule interprets the clause “in proportion to their total number of votes” to be in proportion to the votes of the first party. The decision further states that in computing the allocation of additional seats, the application of the 2% threshold presents an unwarranted obstacle in the attainment of the permissive ceiling of 20% of the members of the HoR that should comprise the total number of party-list representatives as mandated by the Constitution. Fr. Joaquin Bernas, S.J., renowned constitutionalist and member of the Con Com that drafted the 1987 Constitution, maintains that the main difference in the Veterans formula and the recent SC ruling lie in the characterization of the 20% share of PL seats in congress. The former considered the 20% allocation stated in the Constitution as a mere ceiling whereas the latter deems that all the seats have to be allocated. The latter, in his opinion, is more in keeping with the goal of broader democratization for which the PLS was instituted. Justice Carpio who wrote the SC decision, proceeds to outline the new

steps in allocating seats for party-list representatives:

1. *The parties, organizations and coalitions shall be ranked from the highest to lowest based on the number of votes received during the elections.*
2. *The parties, organizations, and coalitions receiving at least 2% of the total votes cast for the PLS shall be entitled 1 guaranteed seat each.*
3. *Those garnering sufficient number of votes, according to the ranking in paragraph 1, shall be entitled to additional seats in proportion to their total number of votes until all the additional seats are allocated.*
4. *Each party, organization or coalition shall be entitled to not more than 3 seats*

The SC decision effectively added 32 party-list seats in the current composition of the HoR, increasing the Lower House membership from 238 representatives to 270. Among the newly proclaimed party-list groups were Uni Mad, ABS, Kakusa, Kabataan, Aba-Ako, Senior Citizens, AT, VFP, Alliance for Nationalism and Democracy, Banat, Ang Kasangga, Bantay, Abakada, 1-Utak, and Trade Union Congress of the Philippines. Meanwhile, party-list groups that were given additional seats in Congress include Buhay, Bayan Muna, Cibac, APEC, Advocacy for Teacher Empowerment Through Action, Cooperation and Harmony Towards Education Reforms, Akbayan, Alagad, Coop-Natcco, Butil, ARC, Anakpawis, Amin, Abono, Gabriela, Yacap, Agap, and An Waray.

The allotment of the maximum number of seats under the Constitution to party-lists (i.e., 20% of the total membership of HoR Representatives) is supposed to strengthen the PLS as a tool for proportional representation and in addressing political modernization. However, the low turnout in PLS votes during elections, presents a challenge. In 2004, for example, only 12.7 million out of the 43.23 million registered voters - a mere 29.5% - voted for their PL representative. This number increased slightly in the 2007 elections, where PL votes totaled 15.7 million, but this still represents a minority of the registered voters. Another challenge is that information about the Party-List and its significance in deepening democracy has not been communicated effectively to majority of Filipinos. In the 2004 elections, for example, there is data which show that 54% of Filipinos do not know about the PLS.

In the end, for the Philippine-style PLS to really work as a counterforce against traditional politicians in the country, the electorate has to elect party-list representatives with the platform and ideology that would carry and enable the reforms needed by their sector. An important first step towards this end is to inform the electorate of the PLS and its goals.

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