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**An Institution Reformed and Deformed:
The Commission on Elections from Aquino to Arroyo**

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ABBREVIATIONS

AFP	Armed Forces of the Philippines
ARMM	Autonomous Region of Muslim Mindanao
BEI	Board of Election Inspectors
BP	Batasang Pambansa
CA	Commission on Appointments
CBCP	Catholic Bishops Conference of the Philippines
Con-Con	Constitutional Convention
COMELEC	Commission on Elections
DILG	Department of Interior Local Government
DLGCD	Department of Local Government and Community Development
EDSA	Epifanio De Los Santos Avenue
IBP	Interim Batasang Pambansa
IFES	International Foundation for Election Systems
IPER	Institute for Political and Economic Reform
KBL	Kilusang Bagong Lipunan (New Society Movement)
LAKAS-NUCD	Lakas (Power)-National Union of Christian Democrats
LAMMP	Laban ng Makabayang Masang Pilipino (Struggle of the Nationalist Pilipino Masses)
LP	Liberal Party
NAMFREL	National Movement for Free Elections
NDI	National Democratic Institute
NPC	Nationalist People's Coalition
PC	Philippine Constabulary
PD	Presidential Decree
PES	Provincial Election Supervisor
PNP	Philippine National Police
PVL	Philippine Veteran's League
RAM	Reformed Armed Forces Movement
RED	Regional Director
SWS	Social Weather Station
UP	University of the Philippines
USAID	United States Agency for International Development

TABLE OF CONTENTS

	Page
Acknowledgements	i
About the Author	iii
Abbreviations	iv
Chapter 1 Considering Election Commissions	1
Election Administration and Democracy Studies.....	1
Philippine Elections and COMELEC.....	2
A Three-Pronged Pathology	3
Chapter 2 COMELEC Under the Aquino Administration : 1986-1992	4
The 1986 Elections.....	4
Rebuilding COMELEC.....	6
Challenges: Too Much, Too Soon.....	11
The 1992 Elections: Hits and Misses.....	13
Chapter 3 Under the Ramos Administration : 1992-1998	20
Apathetic Appointments?	20
Bernardo Pardo At the Helm	21
1995 : Dagdag-Bawas (Vote Shaving-Adding).....	22
Chapter 4 The COMELEC with Erap	25
1998: Estrada and COMELEC.....	25
The Tancangco Appointment	26
The Modernization Program	29
Chapter 5 The Merging and Mounting of Pathologies : COMELEC from 2001 to 2007	31
The GMA appointees.....	32
Benjamin Abalos.....	32
Garcillano and Barcelona: Entrepreneurial Bureaucrats.....	36
2005 Revelations : Hello Garci Scandal	38
The Role of the Commission on Appointments	39
Reward not Retribution: Loyalty Pays.....	40
Problems in Election Administration.....	41
Commissioner-In-Charge System.....	42

Elections and a Fire	44
Conclusion.....	48
Chapter 6 Conclusion and Policy Recommendations.....	50
Decades of Institutional Deform.....	50
Multi-pronged Reform Efforts.....	51
Future Research.....	53
References.....	55

Chapter 1

Considering Election Commissions

Election Administration and Democracy Studies

Scholarship on democratization and election studies tends to focus on reforms in electoral rules or the re-engineering of electoral systems. Very little discussion has been generated on the tedious, unwieldy, and at times, corrupt, election administrations in countries aspiring to be democratic. This is so despite international election monitoring groups becoming common fixtures in polling stations.¹ Sustainable electoral reform must include the institution mandated to serve the public with impartiality in election administration. According to Larry Diamond, “elections are only democratic if they are truly free and fair....[They require] a fair and neutral electoral administration, a widely credible system of dispute resolution, balanced access to mass media and independent vote monitoring.”² Election studies needs to give attention to the long-term role of election administration in ensuring credible, clean elections. The credibility of election administration has an enormous influence in determining the quality of any democracy.

Election administration commonly remains separated from the study of political institutions, state capacity, or patronage politics. Part of the reason is the divide between democracy promotion practitioners who have extensive field experience and academic specialists. According to Carothers, “many democracy promoters are temperamentally resistant to critical reflection....missionary zeal pervades the field. Democracy groups are not motivated to share their knowledge and best ideas....little systematic learning has been added to the field from outside the circle of practitioners.”³ On other hand, political scientists interested in democratization have shown little interest in democracy promotion and aid, and in very practical fields such as election administration. Thomas Carothers offers an explanation, “to the extent they are aware of it, and [political scientists] tend to see it as a practical domain that poses few theoretical questions of the sort that motivate scholarly inquiry.”⁴ This study hopes to bridge that gap.

Through my examination of the Commission on Elections (COMELEC) in the Philippines, I am seeking to reduce the divide between the study of election administration

¹ Eric Bjornlund, *Beyond Free and Fair : Monitoring Elections and Building Democracy* (Washington, D.C.: Woodrow Wilson Center Press, 2004).

² Larry Jay Diamond, "The Democratic Rollback: The Resurgence of the Predatory State," *Foreign Affairs* 87, no. 2 (2008). p.4

³ Thomas Carothers, *Aiding Democracy Abroad : The Learning Curve* (Washington, D.C.: Carnegie Endowment for International Peace, 1999). p.9

⁴ Ibid.

and its impact on democratization. By looking at the post-Marcos institutional history of the COMELEC, this study demonstrates that theoretical insights can be gained from the analysis of election administration. This study of the COMELEC has also attempted to fill a larger void that political scientists and practitioners, including public administration scholars, may have unconsciously created. According to Paul Hutchcroft, “political scientists rarely devote much attention to bureaucratic structures, and public administration specialists all too often ignore the larger political and structural contexts in which their subject agencies are situated.”⁵

The National Democratic Institute (NDI) along with the International Foundation for Election Systems (IFES) evaluated the quality of election administration in the Philippines in the 2004 elections and subsequently set up local offices. IFES and NDI funded training programs from the commissioner level to COMELEC field officers have since been conducted. Election commissions can serve as lens through which we can see how some electoral democracies undergo the “painful dilemma of making procedural fairness work.”⁶ The case of the Commission on Elections illustrates that democracy is “an on-going project.”⁷ COMELEC has been plagued by external and internal clientelism and organization inefficiency. Given the institutional vulnerabilities and weakness of the organization, it is in fact impressive that it manages to pull off elections even in difficult circumstances.

Philippine Elections and COMELEC

Elections are central in a state, such as the Philippines, where the “access to the state apparatus remains the major avenue to private accumulation, and the quest for rent-seeking opportunities continues to bring a stampede of favored elites and would-be favored elites to the gates of the presidential palace.”⁸ The centrality of elections in Philippine politics puts the spotlight on the Commission on Elections (COMELEC), tasked with delivering fair democratic outcomes to both voters and candidates. Using an institutional historical analysis, this study argues that while COMELEC was vested with independence and autonomy as a constitutional commission, it was never empowered to realistically deliver its mandate. This provides an explanation why the COMELEC, despite having a long electoral experience, exhibits very little evidence of strong procedural norms that could

⁵ Paul Hutchcroft, "The Politics of Privilege: Assessing the Impact of Rents, Corruption, and Clientelism on Third World Development," *Political Studies* 45 (1997). p.644

⁶ Edward Friedman, "The Painful Gradualness of Democratization:Proceduralism as a Necessarily Discontinuous Revolution," in *Democracy and Its Limits*, ed. Howard Handelman and Mark A. Tessler (University of Notre Dame, 1999).

⁷ Ibid. p.337

⁸ Paul Hutchcroft, "Oligarchs and Cronies in the Philippine State: The Politics of Patrimonial Plunder," *World Politics* 43 (1991). p.414-415

insulate an election commission from the interference of politicians. The COMELEC has always been a weak institution. To lament that the COMELEC has lost credibility is to unfairly assume that the commission had a period of relative glory days in its history. In the course of this study, it has become clear that the commission suffers from elite capture and the lack of capacity has hounded and pounded the commission resulting in a credibility deficit.

A Three-Pronged Pathology

The COMELEC has long suffered from a three-pronged pathology. First is an externally motivated clientelistic relationship. The patron is a member of the political-economic elite and the goal is commonly to seek assistance from clients within COMELEC in order to promote advantageous electoral outcomes. The second pathology is an internal clientelistic relationship. The patron is inside the bureaucracy and his or her clients occupy subordinate positions within that bureaucracy. The goal is commonly personal and career enrichment using bureaucratic network and expertise. The third pathology that plagues the COMELEC is organizational inefficiency and lack of capacity. While the COMELEC is labeled as a constitutional commission and brings with it images of independence and autonomy, it is also a bureaucracy. It functions and acts as one. In sum, two forms of state capture as well as a lack of state capacity characterizes the three pathologies within the COMELEC. The commission is not just a pawn of elites but it is also able to act out of its own interests.

Out of these three pathologies, the most damaging is externally motivated clientelism, which clearly shows the absence of neutrality and impartiality---two elements crucial in a commission and bureaucracy that is in charge of election administration. This pathology negatively synergizes with the second pathology, the two feeding on each other. COMELEC appointments at the commissioner level have a seven year term according to the current laws. The bureaucracy persists beyond regimes and terms of commissioner appointments. The appointive commissioner is able to tap into an embedded network of bureaucrats who have the expertise to pad votes for candidates and shave votes from other candidates. The delivery of fraudulent votes is made possible by an effective network of entrepreneurial bureaucrats within the commission who have the expertise and knowledge to pull off the manipulation of votes. The fact that the commission relies on a large number of deputized officials on election day to exercise election administration and enforce election rules not only adds to the unwieldy nature of election management but also makes the process vulnerable to capture at different points. As this study concludes, the commission has experienced clientelism at varying levels throughout its history. Only in one period, under the presidency of Corazon Aquino (1986-1992), was there a conscious effort to insulate the COMELEC from clientelistic tendencies.

Chapter 2

COMELEC Under the Aquino Administration: 1986-1992

When Corazon Aquino took her oath of office at the Club Filipino as the 11th president of the Republic of the Philippines, there were loud cheers and applause. The euphoria was coupled by a nervous tentativeness. Shortly after, Ferdinand Marcos was likewise sworn in as president of the Republic in February 25, 1986 in Malacañang, the presidential palace. That these two proclamations almost occurred simultaneously illustrate the low credibility of the Commission on Elections. The dismissive and cynical attitude towards the poll results announced by the COMELEC came from years of witnessing the electoral body repeatedly used as part of the Marcos machine.

This chapter will cover COMELEC under Corazon Aquino (1986-1992). Perhaps, among all Philippine presidents, it is Corazon Aquino who was serious about reforming the commission. With no desire or prospects for re-election and with her immense popularity, Aquino had no interest to meddle with the COMELEC. While she had shortcomings as an executive, Aquino's legacy must include the strengthening of the COMELEC under her term. However, elections immediately after the people power revolt did not give the COMELEC the luxury of time to re-organize and reform its structure and organization. Instead, it was immediately thrust into the limelight with the responsibility of election administration and the herculean task of managing the logistics of a Philippine election system that remained fully manual.

The 1986 Elections

Despite allegations of electoral fraud, the pro-Marcos legislature, the Batasang Pambansa (BP), continued to canvass votes and declared Marcos the winner on February 15, 1986. The COMELEC's official count had lost such credibility with the public that a citizens' group, the National Movement for Free Elections (NAMFREL), became the alternative source of information regarding the presidential race. The public saw with its own eyes--and through the fearless broadcasting of local and foreign media--the electoral violence, rampant ballot snatching, voter intimidation, and delays in counting votes. The election was highly contested by an aging dictator desperate to hold on to power and a widow turned presidential candidate who was galvanizing the opposition and gaining the sympathy of voters, international observers, the press, and a dictatorship-weary Filipino people eager for change. The February 9 walk-out of computer tabulators hired by the COMELEC for its Quick Count was a pivotal moment.⁹ According to a report by foreign

⁹ Marilies Von Brevern, "Faces of Manila : Thirty Authentic Filipino Lifestories," M. von Brevern, Monina

observers from the National Democratic Institute, “to the surprise of many, some of the worst problems, including the intimidation of poll watchers and voters by gun wielding thugs, occurred in the Metro Manila region, where much of the international media was based.”¹⁰ The NAMFREL President, Jose Concepcion, issued a statement after Marcos was proclaimed by the Batasang Pambansa: “never has a more vigilant populace witnessed a more pervasive travesty upon the sanctity of the ballot in our history.”¹¹ The Catholic Bishops Conference of the Philippines (CBCP) issued a post-election statement in February 13, 1986 that the elections, “[were] unparalleled in the fraudulence of their conduct.”¹²

The massive fraud and disenfranchisement in the elections was expected. What was unexpected was the effective boycott campaign against companies owned by Marcos cronies that was launched by Aquino. The civil disobedience campaign was immediately felt, “a day after the announcement, the stock exchange experienced a massive slump...the banks in the list registered bank runs and other crony firms which felt they would be next in the escalating campaign felt nervous.”¹³ On February 22, a coup was launched by Defense Minister Juan Ponce Enrile, General Fidel V. Ramos and a group of mid-level officers who were leaders of the Reformed Armed Forces Movement (RAM). The break of top Marcos allies in the Armed Forces emboldened people to go to Camp Crame to support the coup plotters. Manila Archbishop Jaime Cardinal Sin, a very political and outspoken anti-Marcos prelate, went on the radio to tell the people to support the rebellion by holding vigil in front of the camp. The public support was unprecedented. RAM leaders “expected a hundred thousand. But the magnitude of the crowds and the reversal of roles—that of unarmed citizens protecting armed soldiers—went beyond their wildest expectations....without massive non-violent civilian support, the Marcos troops would have annihilated the grossly outnumbered reformists. Without civilians chanting in the millions, ‘Cory! Cory!’ Enrile and his men would not have seen their original plan through.”¹⁴ Events unfolded hastily, leading to the eventual ouster and exile of Ferdinand Marcos—and Corazon Aquino’s accession to power through the 1986 EDSA People Power Revolution. Aquino thus became the 11th president of the Philippines. In 1986, after the EDSA revolution, there was an atmosphere of change and reform. Corazon Aquino may have had missteps as president but she is the only president

A. Mercado and Francisco S. Tatad, *People Power : The Philippine Revolution of 1986, an Eyewitness History* (Manila, Philippines: James B. Reuter, S.J., Foundation, 1986).

¹⁰ NDI National Democratic Institute for International Affairs, "Reforming the Philippine Electoral Process: Developments 1986-1988," (Washington, D.C.: National Democratic Institute for International Affairs, 1991).

¹¹ Ibid.

¹² Reynaldo Cardinal Vidal, "Post-Election Statement," (Catholic Bishops Conference of the Philippines, 1986).

¹³ Gemma Nemenzo Almendral, "The Fall of the Regime," in *Dictatorship and Revolution: Roots of People Power*, ed. Petronilo Bn Daroy (Manila: Conspectus Foundation, 1988). p.209

¹⁴ Ibid. p.212

who seriously undertook reforms to strengthen the COMELEC's capacity as a constitutional commission. According to former COMELEC Commissioner Christian Monsod, "it was only Corazon Aquino who was concerned about institution-building of the commission."¹⁵

Rebuilding COMELEC

Marcos and Aquino have very little in common. Mr. Marcos, a lawyer by training, was a skilled politician who rose rapidly in stature from Congress to the Senate and eventually to the highest office in the land. Skilled maneuvering allowed Marcos to remain in power for twenty years. Mrs. Aquino referred to herself as a "simple housewife," but was in fact far from being a typical Filipina housewife. Corazon Aquino hails from the prominent Cojuangco family in Tarlac. As the wife of exiled, opposition leader Senator Benigno Aquino, it is fair to say that she enjoyed access to front-row seats in the Philippine political arena. What Mr. Marcos and Mrs. Aquino had in common was an acute sense of the importance of legitimacy. For Marcos, there was a constant need to prove through staged elections and plebiscites that he was constitutionally-mandated president. However, as constitutional commissioner Joaquin Bernas notes, "Ironically, Mr. Marcos himself set the stage for his de-legitimization when, in a fit of hubris, he submitted his presidency to the judgment of the ballot in 1986."¹⁶ When Corazon Aquino came into power she sought legitimization through the plebiscite for the ratification of the 1986 constitution, the 1987 senatorial and congressional elections and the 1988 local elections.

The desire for change was brought about by the people power revolution that toppled a twenty-year dictatorship was a wave that engulfed the entire country. In the view of many, anything associated with Marcos rule had to be removed or reformed. Part of the sweeping changes under the "Freedom Constitution" was the removal of duly elected local government officials who were affiliated with the Marcoses or with Marcos's political party, the Kilusang Bagong Lipunan (KBL). Civil Service Commissioner Patricia Sto. Tomas referred to this as an unsettling moment for the bureaucracy as the government set out to "de-Marcosify" public offices, at times without "proof of misdeeds."¹⁷ Civil Service Commissioner Sto. Tomas observed that agency performance levels were low and personnel included those who were under-qualified. According to her, "the Civil Service Commission recognized full well that there were a lot of the misfits in the bureaucracy's ranks who

¹⁵ Alecks Pabico, "The Comelec's Fall from Grace," *I-Report: Philippine Center for Investigative Journalism* 2005.

¹⁶ Vitug, "Ballots and Bullets: The Military in Elections."

¹⁷ Jose Veloso Abueva and Emerlinda R. Roman, *The Post-Edsa Constitutional Commissions, 1986-1992: Self-Assessments and External Views and Assessments*, U.P. Public Lectures on the Aquino Administration and the Post-Edsa Government, 1986-1992 ; (Diliman, Quezon City: University of the Philippines Press, 1999).

deserved to be thrown out” and that “the bureaucracy had long been derided as the employer of last resort, the dustbin for those who cannot make it to the private sector.”¹⁸ While acknowledging that claims of poor performance and abuses of power were present within the bureaucracy after years of patronage under Marcos, Sto. Tomas also acknowledged that in some cases, “the re-organization was just a convenient excuse and cover for the exercise of patronage [under the Aquino administration]. Life was breathed into the adage ‘to the victor belongs the spoils’, the spoils in this case being government jobs [sic].”¹⁹

Civil servants were not the only one subject to this organizational overhaul. The Ministry of Local Government, under Aquilino Pimentel Jr., armed with an executive order from Malacañang, appointed “Officers-in-Charge” (OIC) to take over local government offices. Elections for local government were supposed to take place in May 1986 but this was delayed for one year pending the ratification of the constitution. The Aquino government’s intention to weaken the political machine of the KBL and Marcos allies in the countryside resulted in a power and legitimacy struggle. It made sense to postpone the local elections in May 1986 so soon after the February People Power Revolution. Realistically, the COMELEC did not have the credibility to pull off an election after being discredited by the February 1986 elections. The arbitrary removal and replacement of local officials who were elected in the 1982 elections caused a lot of resentment and confusion among local government units. It was perhaps due to the intense popularity of Corazon Aquino and the overwhelming desire for change that not many protested the appointment of OIC’s. One of the few dissenters was her vice-president, Salvador Laurel.²⁰ In March 25, 1986, when Cory Aquino read Proclamation No. 3 on national television, she effectively abolished the 1973 constitution, the legislative assembly (Batasang Pambansa), and all national and local elective positions.²¹ For Laurel, this was Cory Aquino’s first misstep as Chief Executive. Aquino’s vice-president recalled:

I could not at first believe what I heard. Cory had unilaterally decided to set up a revolutionary government! It was her first big blunder...If her avowed objective was to achieve political stability at the earliest date, she should have repealed only the Marcos amendments, particularly Amendment No. 6, which had perpetuated one-man rule. It was like burning a house just to kill a rat.²²

For Aquino supporters, they lauded the quick action of the president to undo twenty

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Salvador H. Laurel, *Neither Trumpets nor Drums : Summing up the Cory Government* ([Manila]: S.H. Laurel, 1992).

²¹ See appendix for copy of Proclamation 3.

²² Laurel, *Neither Trumpets nor Drums : Summing up the Cory Government*. p.59 Amendment number 6 gave Marcos decree-making and wide ranging power.

years of Marcos's tyrannical rule through puppet institutions. According to veteran journalist Napoleon G. Rama:

The clear mandate of the people was for change, and urgent change. The problem is that under the circumstances you cannot institute change without first dismantling and demolishing the entrenched apparatuses of dictatorship and removing the entrenched accomplices of the dictator....The hair-curling problems of the nation calls for quick, firm and tough decisions. And that is exactly what the President has done in decreeing the Proclamation.²³

The impact of Proclamation No. 3 on COMELEC included having the responsibility to administer a constitutional plebiscite and a national election. According to Article IX, section 2 of the 1987 Philippine Constitution, the Commission on Elections shall "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall."²⁴ Important steps were taken to resuscitate the ailing institution, including the appointment of very credible Commissioners. The first head of COMELEC after Aquino became president in 1986 was Ramon H. Felipe (1984-1988), a carry-over from the Marcos commission appointments. He served as COMELEC Chair from 1986 to 1988. Three COMELEC Chairmen then led the commission in its period of reform: Hilarion Davide (1988-1989), Haydee Yorac (1989-1991 as acting chairman)²⁵ and Christian Monsod (1991-1995). Their appointments were themselves a testimony that Aquino was serious about reforming the COMELEC. These three COMELEC Chairs had untainted reputation and were known for their integrity: Davide in the judiciary, Yorac as an academic and lawyer, and Monsod as a corporate lawyer and National Chairman of the National Movement for Free Elections (NAMFREL). COMELEC staff regard the years 1986-1992 as the commission's "glory days."

Hilarion Davide Jr. graduated from the University of the Philippines' College of Law in 1959. ²⁶ Immediately after finishing his law degree, he served as private secretary to the governor of Cebu. He was likewise a faculty member in the College of Law at Southwestern University, Cebu City. Davide was a delegate to the 1971 Constitutional Convention and served as a Representative and Minority Floor Leader in the Interim Batasang Pambansa (National Assembly) from 1978 to 1984. After the fall of Marcos, he served as a commissioner in the 1986 Constitutional Commission before being appointed as COMELEC chair in February 15, 1988.²⁷ He served less than one year as COMELEC Chair

²³ Napoleon Rama, "Cory's Proclamation Number 3," *Philippines Free Press*, April 19 1986.

²⁴ Defensor-Santiago, M. (2002). Politics and governance : with Philippine constitution. Quezon City, Philippines, Central Professional Books.

²⁵ Haydee Yorac served as commissioner from 1986-1995

²⁶ I-Site, "Supreme Court Database: Hilario Davide Jr.," (PCIJ).

²⁷ Ramon H. Felipe served as COMELEC Chair prior to Davide

before being appointed to head the presidential Fact Finding Commission to investigate the December 1989 coup d'état against Corazon Aquino's government. Aquino subsequently appointed him Associate Justice in the Supreme Court, in which capacity he served as a member of the Senate Electoral Tribunal.

The position of COMELEC Chair vacated by Davide after only eleven months was filled by the appointment of COMELEC Commissioner Haydee Yorac. After Yorac graduated from the UP College of Law in 1962, she served as a court researcher and later became a faculty member of the UP College of Law in 1975. In 1981, she earned a graduate degree in Public International Law from Yale University.²⁸ "As a young law instructor at her alma mater, she became politically active and opposed the Vietnam War. When Ferdinand Marcos declared martial law, she was jailed for over three months and, afterwards, moved to the forefront of the legal fight to restore democracy."²⁹ She had the reputation of fearlessness and outspokenness. As journalist Sheila Coronel put it:

You can't get one over Haydee. [Individuals and forces from across the political spectrum]...will tell you that Haydee had uncommon wisdom and uncommon sense. She had a razor-sharp intellect. She had a mind that was so clear because it was uncluttered by ambition or by lust for wealth or power. It was a mind that was free because it was not shackled to a personal, political or ideological agenda.³⁰

During her seven years in COMELEC (1986-1993), two of which were as acting chair, Yorac is credited with curbing election violence and implementing strictly the gun ban during elections while in the COMELEC. Her ability to enforce this law extended to warlord and violence ridden areas in the south of the Philippines. According to Yorac, "you go to Marawi [in Mindanao] and you see all the warlords. First they try to find a way to go around the rules...we found that in some areas, judges were afraid of them."³¹ By threatening disqualification, Yorac managed to quell election violence during her watch. Apart from her fearlessness to enforce the law, her reputation for incorruptibility was legendary. When asked if pressure was exerted on her during election season while she was working in COMELEC, Yorac responded: "There might have been pressure on other people but not on me. They know it is really counterproductive."³² After leaving COMELEC in 1995, Yorac

²⁸ "Citation for Haydee Yorac: Ramon Magsaysay Award Presentation Ceremonies," August 31 2004.

²⁹ Ibid.

³⁰ Sheila Coronel, "Telling the Truth and Getting Away with It," in *Inside PCIJ: Stories Behind Our Stories* (Manila: PCIJ, 2005).

³¹ Elsie Kalaw Santos, "Haydee Yorac: 'a Sucker for Helping the Country'," *Cyberdyaryo*, September 24 2005.

³² Dana Batnag, "The Enforcer: Comelec Commissioner Haydee Yorac," *Philippine Graphic*, April 27 1992.

moved on to serve as Chair of the National Unification Commission, tasked with negotiating peace with armed groups that threatened political stability.

Christian Monsod was appointed as COMELEC Chair in June 6, 1991. Prior to serving the COMELEC, he was the Secretary General of the National Movement for Free Elections and a member of the Davide Commission that investigated the 1989 coup against Corazon Aquino. Monsod served in various private positions such as Director of the Evelio Javier Foundation. He also served as Chief Executive Officer of a private group of companies.³³ Monsod's appointment was initially questioned by Renato Cayetano who argued that Monsod failed to meet the requirement of the law that the COMELEC Chair should have practiced law for ten years.³⁴ The Supreme Court ruled in favor of Monsod. Monsod's strength was his managerial and leadership skills. His affiliation with NAMFREL and reputation as a reformist gave COMELEC the much needed face of integrity and impartiality.

Apart from reforming the top leadership of COMELEC, the commission's bureaucracy was also revamped. According to Monsod, "COMELEC immediately took steps to purge the office of undesirable and unnecessary personnel."³⁵ The initiative to rid the COMELEC of those who engaged in electoral manipulation during the Marcos did not go unchallenged. Some lodged complaints with the Civil Service Commission. A few managed to return to COMELEC service. Among those known to be a COMELEC "operator" and to have engaged in election fraud during the Marcos years was Virgilio Garcillano. Relieved in 1986 after the people power revolution, Garcillano was reinstated in 1993.³⁶ As explained in another chapter, Garcillano would be later appointed COMELEC Commissioner under Gloria Macapagal-Arroyo. The apex of his notoriety would be in the 2004 elections when he was caught on tape speaking to Arroyo about her leading one million votes.

The revamp within the COMELEC during the Aquino years helped the tarnished image of the COMELEC. However, not everyone appointed as COMELEC Chairs Davide, Yorac and Monsod, served the entire seven-year term. Instead, Davide and Yorac's terms within the COMELEC were cut short. As noted above, Davide was appointed to head the Fact Finding Commission regarding the 1989 coup d'état and eventually put on the Supreme Court. Yorac was appointed to head the National Unification Commission. Only Monsod would serve out a full-term as Chairman. What could have been a long succession of reform-minded leaders within the COMELEC was interrupted. The COMELEC flourished during the Aquino years, but sustained reforms were hampered by these interruptions.

³³ ———, "Comelec's Dynamic Duo," *Philippine Graphic*, April 27 1992.

³⁴ G.R. No. 100113 September 3, 1991 RENATO CAYETANO vs. CHRISTIAN MONSOD

³⁵ Abueva and Roman, *The Post-Edsa Constitutional Commissions, 1986-1992 : Self-Assessments and External Views and Assessments*.

³⁶ Sheila Coronel, "Master Operator," *I-Report: Philippine Center for Investigative Journalism* 2005.

Challenges: Too Much, Too Soon

The number of elections immediately after the 1986 People Power Revolution likewise put a strain on COMELEC as it had to re-group quickly in order to administer the January 23, 1987 plebiscite for the ratification of the constitution. Less than a year after People Power ousted Marcos, a nationwide registration was conducted prior to the plebiscite. Soon after, the COMELEC launched another special registration nationwide as part of the preparations for the May 11, 1987 senatorial and congressional elections. In another eight months, the COMELEC administered the January 18, 1988 local elections. Barangay elections were subsequently held on March 28, 1989.

In the 1987 Congressional Election, with canvassing extending to two weeks in Caloocan City, everyone from the Board of Canvassers, to election lawyers and party watchers were already exhausted. The Election Registrar suggested that he bring home the statement of votes and canvass these in his home. This was a clear violation of COMELEC procedures. The registrar then proceeded to add votes to some of the candidates. "By the single stroke of a pen, 10 votes were added to previously single-digit votes, and 100 votes to double-digit ones. It was a classic case of vote padding and shaving or what is now commonly known as 'dagdag-bawas'."³⁷ The multiple elections immediately after the people power revolt did not give the COMELEC the luxury of time to re-organize and reform its structure and organization.

Commissioner Monsod not only got rid of staff that had questionable records but also managed the agency with the goal of improving both the personnel and the system itself. Among his goals were to "eliminate sources of or occasions for graft and corruption, adopt a policy of prudence and austerity in the expenditure of public funds and exert all efforts to change a tattered image [of the commission]".³⁸ Monsod was not the first, nor the last to describe the COMELEC as "tattered." The years of neglect and lack of professionalization during the twenty years of Marcos rule had taken its toll. One writes, "looking at the ramshackle Commissions on Elections building in Intramuros, Manila, one wonders if it is capable at all of enforcing [election] rules, not to mention the entire [election] code."³⁹ Marcos relied on the COMELEC as part of his machine yet kept it inept and backward to suit his purposes.

The Aquino government eventually showed cracks with the constant infighting within the president's cabinet and competition among different interests for greater influence. Despite this, the COMELEC's top leadership was insulated from partisanship and remained independent. Monsod's leadership and knack for management carried the COMELEC

³⁷ Yvonne T. Chua, "Black Magic," *Investigative Reporting Magazine*, January-June 1998. P.32

³⁸ Abueva and Roman, *The Post-Edsa Constitutional Commissions, 1986-1992 : Self-Assessments and External Views and Assessments*.

³⁹ Vitug, "Ballots and Bullets: The Military in Elections."

through the rough times of the Aquino administration.

Under Commissioner Davide, the COMELEC's "Rules of Procedure" were created along with other manuals to assist COMELEC staff in doing its work efficiently. From 1989 to 1991, Haydee Yorac reigned in election violence in far-flung areas and was responsible for clustering precincts for better election-day management.⁴⁰ Monsod carried out the most number of institutional reforms including planning and procedural management. Among the reforms he instituted were a ban on political advertisements, greater transparency in all major COMELEC processes (from pre-election to post-election), the creation of management information systems, and the strict audit of election materials.⁴¹ Under Section 85 of the Omnibus Election Code the terms and conditions for political advertisements considered unlawful were:

d) to show or display publicly any advertisement or propaganda for or against any candidate by means of cinematography, audio-visual units, or other screen projections except telecasts which may be allowed as hereinafter provided; and

e) for any radio broadcasting or television station to sell or give free of charge air time for campaign and other political purposes except as authorized in this code under the rules and regulations promulgated by the commission pursuant thereto.⁴²

The COMELEC assigned common areas for posters and billboards during the election campaign period. By law, the size of these posters was not to exceed two feet by three feet. Clear dates when these posters were allowed and were expected to be removed were specified by the Commission. Monsod is also credited with instituting personnel training and strategic planning in the COMELC. These small administrative details contribute to the larger image of COMELEC to the public. Candidates for public office often ignore election guidelines and regulations if they know they can get away with it. While COMELEC still fell far short of the ideal of enforcing the law fully, the mere impression that it was willing to enforce and penalize those who violate election law was already a positive step. The COMELEC sent a fairly strong message that they were proactive and were willing to charge disqualification for big infractions (such as the

⁴⁰ Elsie Kalaw-Santos, "Haydee Yorac: "A Sucker for Helping the Country."," *Cyberdyaryo* September 22, 2005(2005), Abueva and Roman, *The Post-Edsa Constitutional Commissions, 1986-1992 : Self-Assessments and External Views and Assessments*.

⁴¹ Abueva and Roman, *The Post-Edsa Constitutional Commissions, 1986-1992 : Self-Assessments and External Views and Assessments*.

⁴² Philippines. and Amado M. Calderon, *The Updated Omnibus Election Code of the Philippines (Batas Pambansa Blg. 881) : As Modified/Amended by R.A. Nos. 6636, 6646, 6734, 6766, 6679, 7166 & the 1987 Constitution and the New Comelec Rules of Procedures, Rules of the House of Representatives Electoral Tribunal, Rules of the Senate Electoral Tribunal* ([Philippines]: A.M. Calderon, 1992).

violation of the gun ban) and for small infractions (such as the regulation of campaign materials). Candidates realized that there is an election authority that they had to reckon with.

The COMELEC during the Aquino years was not without its share of critics. Many in the opposition alleged fraud in the national and local elections of 1987 and 1988 due to faulty and padded registration lists.⁴³ In as much as COMELEC leadership under the Aquino Administration was united in enforcing the laws and striving toward an untainted reputation, there remained questions about lawful campaign financing and fraudulent canvassing of votes in favor of certain candidates.

The 1992 Elections: Hits and Misses

Many hailed the 1992 national elections as clean and peaceful. More importantly, the election served as a smooth succession of power in the executive office. According to news reports after the elections, “based on the casualty count as of May 12, the 1992 local and national elections can be considered relatively peaceful and orderly.”⁴⁴ Compared to other recent elections such as the 1986 snap elections (with 95 killed), the 1987 elections (with 50 election related deaths), and the 1988 local elections (with 93 killed in election violence), the deaths in the 1992 elections was relatively low—particularly considering that it was a synchronized local and national election. The COMELEC was determined to implement the gun ban during the elections. Apart from the ban, the COMELEC was able to get the cooperation of the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) in disarming and disbanding private armies of warlord candidates. The proliferation of loose fire arms becomes problematic during elections when candidates and their private armies use these for intimidation of voters, Board of Election Inspectors, and rival candidates. According to Yorac, “so many high-powered firearms have been smuggled into the country since 1986. We have enough illegal arms in the country for two more armies. And I’m sure that these guns are going to be used in the coming [1992] elections.”⁴⁵ The PNP reported that it confiscated 2,024 firearms, and 896 explosive devices.⁴⁶ The PNP likewise reported that 2,099 were arrested for violations of election laws. 221 of those arrested were men in uniform. The cooperative interaction between the COMELEC and the law enforcement agencies was the key to the low incidence of election violence in 1992. Haydee Yorac was the COMELEC Commissioner in charge of implementing the gun ban.

⁴³ Francisco S. Tatad, "Philippine Report July 1987: Report on the May 11 Legislative Elections and Other Recent Developments in the Philippines and Their Implications for the Future of Philippine Democracy," in *GAD Executive Committee*, ed. Grand Alliance for Democracy (Manila: GAD Executive Committee, 1987).

⁴⁴ Manuel Almario, "Relatively Peaceful," *Philippine Graphic*, May 25 1992.

Note that there was no COMELEC Report for 1992.

⁴⁵ Vitug, "Ballots and Bullets: The Military in Elections." p.91

⁴⁶ Almario, "Relatively Peaceful." p.11

Her reputation for toughness and strict adherence to the law sent the signal to violators that disqualification from elections was not a mere threat. COMELEC Chair acknowledged that if there was any commissioner who could implement the gun ban, it was Haydee Yorac. According to Monsod, Yorac “is the only one who can do that job.”⁴⁷

The 1992 election was marred by vote-buying and allegations of fraud like dagdag-bawas (vote-padding and shaving). According to columnist Luis D. Beltran, “the COMELEC gun ban removed ‘guns’ from the triumvirate of ‘guns, goons, and gold’ which have ruled Philippine election for decades, but ‘gold seems to have taken up the slack of effectiveness lost in banishing terrorism. The charges of vote-buying and massive expenditure are heard all over the land and it appears that Greed has replaced Fear as a major factor in the outcome of any election in the future.”⁴⁸ Allegations of fraud marred the election of Aquino’s anointed successor, Fidel V. Ramos.⁴⁹ Ramos won with 24% of the votes in a race with six other presidential candidates. Presidential contender Miriam Defensor-Santiago trailed close with 20% of the votes. Santiago asserted that she was a victim of the “Sulu Hotel Operations” that manipulated the shaving and adding of votes to her disadvantage.⁵⁰ Named after the hotel where the post-election operation was supposedly carried out, the group was responsible for the “dirty election tricks” that sealed Ramos’s victory. In a December 14, 1993 letter by civic action group KILOBAYAN to the COMELEC, the group raised the issue of unauthorized government funds released for post-election operations to ensure the victory of the administration’s candidate, Fidel Ramos.⁵¹ A petition filed by KILOBAYAN showed evidence that 70 million pesos was released by the Department of Budget and Finance soon after the May 11, 1992 elections to a private entity called the Philippine Youth, Health and Sports and Development Foundation headed by veteran campaign strategist Ronaldo Puno. Philippine Star columnist Teodoro Benigno also alleged that Ronaldo Puno was a key member of the Sulo Hotel Operations.

Like most corruption and fraud cases, finding evidence to verify the activities of the widely-rumored Sulu Hotel Operations was impossible. Years later, in an interview with former Ramos political adviser Jose Almonte was asked about the difference between the election protest of Santiago in 1992 and the protest of the opposition against Arroyo in 2005. His reply: “there was no tape.”⁵² Almonte was referring to the lack of evidence in 1992

⁴⁷ Batnag, "The Enforcer: Comelec Commissioner Haydee Yorac." p.14

⁴⁸ Luis Beltran, "New Wisdom from the Elections," *Philippine Graphic*, June 1 1992.

⁴⁹ Carl H. Landé and Mickey Waxman, *Post-Marcos Politics : A Geographical and Statistical Analysis of the 1992 Presidential Election* (New York Singapore: St. Martin's press ; Institute of Southeast Asian Studies, 1996).

⁵⁰ Miriam Defensor-Santiago, *Cutting Edge : The Politics of Reform in the Philippines* (Metro Manila, Philippines: Woman Today Publications, 1994).

⁵¹ *G. R. No. 128054: Kilosbayan Versus Comelec*, (1997).

⁵² Belinda Olivares Cunnanan, "Fidel Ramos' Lead Recalled," *Philippine Star*, June 16, 2005 2005.

compared to the 2004 taped conversation of COMELEC Commissioner Garcillano and Gloria Arroyo. The case against Sulu Hotel Operators never flourished because of lack of evidence. Yet occasionally there are those who slip and acknowledge that they were part of the Sulu Hotel Operations.⁵³ Years later, a political operator who worked for the Ramos candidacy was interviewed by investigative journalist Ellen Tordesillas. In charge of special operations, his job was to “employ both legitimate and illegitimate means...it is a necessary evil in every campaign. The one who carries out special operations is referred to as a political operator. That’s what I am.”⁵⁴ The operator had this to say about the 1992 elections:

In 1992 we encouraged the candidacy of Imelda Marcos because she was taking the votes of Marcos loyalists from Cojuangco. Unknown to her, we provided the audience for her rallies to make her believe she had a large following. But I wasn’t part of the so-called Sulu Hotel Operations of Ronnie Puno that many believe was the dirty tricks department of Lakas (Ramos’s party) in the ’92 campaign. That was actually a post-election operation, although it existed before elections. It had a fifteen day lifetime that was spent waiting for the proclamation of the election winner.

The Sulu Hotel operators claim that they were instrumental in the victory of FVR, but I believe their role was more of ensuring that FVR accumulates a comfortable lead over Santiago (candidate Miriam Santiago).⁵⁵

The initial sigh of relief that the 1992 elections was peaceful and successful soon gave way to signs of yet another fraudulent elections. Editorials in the country’s top broad sheets alleged that wholesale fraud occurred. According to one such op-ed piece, “what we have in mind is the case of presidential bet Miriam Defensor-Santiago. Her complaint of alleged ‘wholesale electoral cheating’ should be given due course.”⁵⁶ Apart from Santiago’s protest that she was cheated in the 1992 elections, Landé points to the COMELEC’s shortcomings with regard to party accreditation. The lack of clear guidelines for party accreditation was the reason that the People’s Reform Party, the party of Ramos’ closest opponent, Miriam Defensor-Santiago, was only accredited the day before election. This not

⁵³ Blog of Warrior Lawyer, while responding to a post acknowledged that he was part of the Sulu Hotel Operations. The exchange were as follows:

Anonymous: “As her student in UP Law, how can you reconcile yourself with the fact that you participated in the 1992 Sulu Hotel Operations with Puno and Sumulong against your law teacher?”

Warrior Lawyer: You are right. My involvement with the Sulu Hotel special ops is inconsistent with my admiration for Senator Santiago. It’s a long story and has to do with conflicting personal loyalties.

⁵⁴ Ellen Tordesillas, “The Operator,” *The Investigative Reporting Magazine*, Jan-June 1998.

⁵⁵ *Ibid.* p.78

⁵⁶ Juan Dayang, “Editorial,” *Philippine Graphic*, June 1 1992.

only created confusion but also put her at a clear disadvantage. Another was the lack of enforcement in campaign finance made it possible for certain candidates with both public and private resources to engage in vote-buying and fraud. Some alleged that Ramos benefited from a release of the National Aid for Local Government Units (NALGU) for his campaign.⁵⁷ After Aquino publicly announced Ramos as her candidate, 100 million pesos was released to “select local officials.”⁵⁸ The money was meant for the Rebel Returnee Program of the government. According to someone who was in the Ramos campaign, “I had been told since that 200 million pesos of the funds intended for rebel returnees under the National Reconciliation and Development Project was used for an operation...”⁵⁹ In an interview with Carl Landé, former COMELEC Commissioner Haydee Yorac dismissed the allegations of Santiago that cheating cost her the presidency. A Senate investigation was initiated but nothing came of it. Many COMELEC Commissioners have in the past admitted and in the present agree that it is hard to tell what exactly goes on in the field during election day in the precincts and the canvassing centers. The COMELEC officials in the central office are dependent on the information passed on to them by the Provincial Election Supervisors and the Regional Election Directors. The apparent lack of coordination and disconnect between the COMELEC-central office and COMELEC-field offices becomes acute in the midst of chaos and confusion during election day. There are 3,000 permanent COMELEC field staff that oversees some 216,000 electoral precincts. These precincts need over 600,000 Board of Election Inspectors. 475,000 of these inspectors are deputized public school teachers.⁶⁰

Another factor that might have derailed the sustainability of COMELEC reforms during the Aquino years was the passing of the Synchronized Election Law in 1992.⁶¹ According to Republic Act 7166:

Section 1. *Statement of Policy.* - It is the policy of the State to synchronize elections so that there shall be simultaneous regular elections for national and local officials once every three (3) years.

Section 2. *Date of Elections.* - In accordance with the policy hereinbefore stated, there shall be an election for President, Vice-President, twenty-four (24) Senators, all elective Members of the House of Representatives, and all elective provincial, city and municipal officials on the second Monday of May, 1992.

⁵⁷ Landé and Waxman, *Post-Marcos Politics : A Geographical and Statistical Analysis of the 1992 Presidential Election.*

⁵⁸ Cecile Balgos, "Show Me the Money," *Investigative Reporting Magazine*, Jan-June 1998. p.28

⁵⁹ Tordesillas, "The Operator." p.78

⁶⁰ Beverly Hagerdon-Thakur Peter Erben, Craig Jenness, Ian Smith, "Cepps Philippines Election Observation Program Strengthening the Electoral Process," (Washington, D.C.: Consortium for Elections and Political Process Strengthening (IFES, NDI, IRI), 2004). P.16

⁶¹ Republic Act 7166. See Appendix.

Thereafter, the President and Vice-President shall be elected on the same day every six (6) years; while the Senators, elective Members of the House of Representatives and all elective provincial, city and municipal officials shall be elected on the same day every three (3) years, except that with respect to Senators, only twelve (12) shall be elected.

The 1992 general election was the first synchronized election post-Marcos as stipulated in the 1987 constitution.⁶² According to a former COMELEC official, the synchronization of elections was supposed to address the rising costs of holding elections. But consolidating elections still stretched government resources including the time and manpower provided by the many deputized agencies.⁶³ Anticipating problematic logistical issues, COMELEC supported a bill to postpone the implementation of a synchronized election. Governor Emilio Osmeña of Cebu, acting on behalf of the League of Governors, countered that this was unconstitutional.⁶⁴ Yet, according to Constitutional lawyer and Commissioner Joaquin Bernas, postponing the synchronization was not unconstitutional because while the constitution stated the synchronization of the terms of office, it left the synchronization of elections to Congress.⁶⁵

Synchronized elections made it problematic to monitor fraud given the combination of a purely manual voting system and write-in ballots. The COMELEC was inundated with challenging administrative and legal tasks immediately after 1986. Since the COMELEC carried out its tasks within a candidate-centered electoral arena and fierce winner-take all electoral arena in the early years of democratic transition, it had to fight to implement reforms at the same time that it had to guard the process from new tricks that politicians were using to undermine freer elections. On the administrative level, the synchronized elections heightened the already problematic logistical, procedural and organizational preparations for COMELEC to successfully pull-off an election. Public school teachers who served in the 1992 elections as members of the Board of Election Inspectors still cringe when they recall the chaos during election day. The delay in the distribution of election materials and poor election day management by COMELEC deputized officials was more pronounced given the increased number of candidates and positions at stake. Many teachers complained of having no rest for almost 48 hours straight from pre-election preparations to election day precinct counting.⁶⁶ As one observer put it, "it was exhausting just to watch the

⁶² Julio Teehankee, "Electoral Politics in the Philippines," in *Electoral Politics in Southeast and East Asia*, ed. Aurel Croissant (Singapore: Friedrich Ebert Stiftung, 2002).

⁶³ Interview BKG

⁶⁴ G.R. No. 100318 July 30, 1991 EMILIO M.R. OSMEÑA vs. COMMISSION ON ELECTION

⁶⁵ Joaquin G. Bernas, *The Intent of the 1986 Constitution Writers* (Manila, Philippines: Published & distributed by Rex Book Store, 1995).

⁶⁶ Carlos Conde, "Confusion in Metro Manila," *Philippine Graphic*, June 1 1992.

counting. A sabungan (cockfight) or mahjongan (gambling) in Tondo (a section of Manila) is the picture painted in the mind. Callers were shouting out different names...it was like the tower of Babel.”⁶⁷ According to one government employee, “I have been in government since 1959 and I have never experienced this kind of delay.”⁶⁸ The synchronization of elections, as COMELEC feared, had a multiplier effect on logistical issues come election day. Even COMELEC employees did not have answers regarding the delay. The experience of COMELEC in Makati was such that , “registrar Benjamin España said that his office could not do anything about the delay of the ballots and other materials because they were not responsible for the distribution of election materials. [It] was the job of the office of the municipal treasurer.”⁶⁹ Because the COMELEC depends on deputized government agencies, any shortcoming from these deputized agencies reflects badly on COMELEC. COMELEC as the lead agency is the face of election administration.

Nonetheless, despite allegations of fraud and inefficiency, for COMELEC Commissioner Christian Monsod insists that the 1992 elections were a success story of a reformed COMELEC bureaucracy:

In 1991, COMELEC people, many of them involved in electoral manipulation during the Marcos regime, asked to be given the chance to prove that they can deliver credible elections in the 1992 synchronized elections, and they kept their word. After the elections, the COMELEC central office had a net public approval rating of +64. More important the field organization which really delivers the elections had a net approval rating of +67, higher than central office. They were proud of themselves and, for a while, we believed that, in the little world of the COMELEC, it was possible to reform even the most damaged institutions.⁷⁰

Even with COMELEC’s “reformed bureaucracy” and able-leadership, largely hailed as independent and impartial, the heavy workload after 1986--a plebiscite and a total of four elections⁷¹--placed a lot of strain on a commission that was struggling to regain institutional credibility. The new political landscape after 1986 meant a whole slew of political actors and alliances were eager to either retain or take hold of power. Haydee Yorac admitted that the COMELEC was caught off guard by the violence and aggressive tactics used by candidates in the 1988 local elections, “many of us did not have a sense of the level of

⁶⁷ Ibid.

⁶⁸ Ibid. p. 43

⁶⁹ Ibid. Makati is the financial district in Metro Manila

⁷⁰ Manuel L. III Quezon, "Excerpt from Christian Monsod's Speech to the Association of Major Religious Superiors of the Philippines."

⁷¹ 1987 Congressional Elections, 1988 Local Elections, 1989 Barangay Elections, 1992 Synchronized National and Local Elections

violence and also cheating that was going to be used. We thought that the situation was still going to be much like 1987, but we were mistaken.”⁷²

COMELEC stagnated during the Marcos years. There was no impetus to modernize or to train COMELEC personnel for greater election administration instead it was used to engage in wholesale fraud to legitimize Marcos and his political party. Soon after 1986, the expectations for a clean COMELEC that can handle clean and honest election was high because of the air of reform and rebuilding. Given limited resources coupled with the crescendo for competitive electoral politics, too much was asked of COMELEC in such a short period. This explains why cheating, election fraud, violence and lack of management persisted in COMELEC despite the good leadership, and even perhaps good intentioned bureaucrats, found under the Aquino administration. If a tightly run COMELEC, as during Monsod’s time, still had to contend with fraud, attempts to cheat, and election violence, what more if the Commission does not have a good reputation. The momentum to cheat and violate the election code escalates when candidates sense that the COMELEC is not serious about enforcement. As Commissioner Yorac put it, “the COMELEC in a very real sense is at the core of the electoral exercises because they are the ones who administer the rules, they are the ones who draw up policy, and they are the ones who send signals to all the deputized agencies. You need a lot of respect, even fear of COMELEC.”⁷³

⁷² Batnag, "The Enforcer: Comelec Commissioner Haydee Yorac."

⁷³ Chua, "Black Magic." p.37

Chapter 3

Under the Ramos Administration: 1992-1998

The succession from Corazon Aquino to Fidel V. Ramos had been blemished by allegations of vote-shaving and padding that some thought cost rival candidate Miriam Defensor-Santiago the presidency. Fidel V. Ramos was proclaimed the winner in the 1992 presidential elections with 24% of the national vote. With an unprecedented seven presidential candidates vying for the post, Ramos won with a four percent lead from closest rival, Santiago. He adopted a strategy of coalition-building, putting together actors of different political colors into what he dubbed as the “rainbow coalition.” Apart from coalition-building, Ramos was keen to move the country towards economic development.

Apathetic Appointments?

If Aquino’s legacy in the COMELEC was the appointment of impartial, competent and honest Commissioners, the Ramos appointments prompted allegations of clientelism. At the very least, his appointments seemed apathetic. It did not register as purposeful appointments that were meant to strengthen the commission. His first appointments were Manolo B. Gorospe and Graduacion R. Claravall.⁷⁴ These commissioners were supposed to fill the positions vacated by Commissioners Haydee Yorac and Dario C. Rama (1986-1993). Commissioners Gorospe and Claravall were bypassed by the Commission on Appointments (CA) seven times until they were finally confirmed.⁷⁵ Because Ramos kept re-appointing Gorospe and Claravall, the process took an entire year before the Commission on Appointments confirmed them. Commissioner Claravall died in office and was unable to finish his term. Japal M. Guiani was appointed to replace him. He was a former Corporal in the Armed Forces of the Philippines who had served under Ramos’ uncle, Major Simeon Valdez.⁷⁶ Prior to his COMELEC appointment, Guiani was also a staff member of Ramos’ Presidential Peace Panel. Commissioner Manolo B. Gorospe was also a former member of the Armed Forces of the Philippines, rising to the rank of Colonel in Chief of Staff Fidel Ramos’s Office of Legal Counsel.⁷⁷ Commissioner Gorospe made the headlines after a female COMELEC Commissioner and staff member accused him of sexual harassment.⁷⁸

Subsequent Ramos appointees fared better with the Commission on Appointments.

⁷⁴ Manolo Gorospe was Commissioner from April 14, 1993 to February 14, 2000. Graduacion R. Claravall was Commissioner from April 12, 1993 to January 14, 1996.

⁷⁵ Pabico, "The Comelec's Fall from Grace."

⁷⁶ Luz Rimban, "Commissioner of Confusion," *The Investigative Reporting Magazine*, July-September 1997.

⁷⁷ Ibid.

⁷⁸ Pabico, "The Comelec's Fall from Grace."

The appointments of Teresita Dy-Liacco Flores and Bernardo Pardo sailed through the Commission on Appointments in just two days.⁷⁹ Commissioner Flores was a delegate to the 1971 Constitutional Commission and a Manila Regional Trial Court Judge from 1989 to 1995.⁸⁰ She was also engaged in private practice and the teaching of law. Bernardo Pardo was appointed to the COMELEC in February 17, 1995, just three months before the 1995 Congressional and Local elections. As explained later, it was an election that proved to be a crucial election for President Ramos.

Bernardo Pardo At the Helm

There were some camps who questioned Bernardo Pardo's qualification and impartiality. Pardo was poised to replace Commissioner Christian Monsod in 1995. Expectations were running high. At the onset, Pardo "himself admitted that he had no background on election law."⁸¹ He practiced law in Jose W. Diokno's law firm and followed him in the Solicitor General's Office. Pardo was serving in the Regional Trial Court Circuit when Ramos appointed him Associate Justice in the Court of Appeals.⁸² When Pardo was appointed as COMELEC Commissioner, former Senator Rene Saguisag was very vocal about his apprehensions. Saguisag brought up an incident in 1957 when Pardo, then a lawyer in Jose W. Diokno's firm was involved in the tampering of a court delivery receipt.⁸³ The Supreme Court ruled against Pardo and called the alteration of an official document a "suspicious irregularity."⁸⁴ When Saguisag dug up this issue against Pardo, many chose to ignore it and given the confirmation, members of the CA were not perturbed by Pardo's "youthful indiscretion." There were apprehensions in the appointment from within COMELEC. According to Haydee Yorac, Pardo was not the top choice recommended by Commissioner Monsod to replace him as COMELEC Chair. Those who worked with Pardo described him as strict and at times aloof. They referred to him as the "mestizo" because of his Spanish lineage and there were stories of how his temper flew, along with objects in the room. More crucial than his inability to control his temper, COMELEC career officials doubted his impartiality. In fact it was reported that "during his tenure Pardo was photographed with President Ramos while on a trip to Mindanao "flashing the Ramos's signature thumbs up sign."⁸⁵ But Pardo's loyalty was not limited to Ramos. In the 1998

⁷⁹ Lawyers League for Liberty Libertas, "A Study on the Appointments on the Commission on Elections," in *Transparency and Accountability Network: Comelec Appointments Watch* (2007).

⁸⁰ Manila Court of Appeals, Library

⁸¹ Pabico, "The Comelec's Fall from Grace."

⁸² Supreme Court Library, Padre Faura St. Manila

⁸³ Rimban, "Commissioner of Confusion." p.8

⁸⁴ Ibid.

⁸⁵ Pabico, "The Comelec's Fall from Grace."

elections, the COMELEC Chairman informed Estrada personally of his lead. According to Commissioner Monsod, “in effect, he told Estrada that he had been elected president.”⁸⁶ Not only was it out of the protocol but also a lack of prudence to provide a candidate with an unofficial count.

Among long-time COMELEC employees, Pardo is best known for opening the floodgates of politician-endorsed COMELEC applicants. Endorsements from mayors and congressmen were added to qualifications as a factor in hiring election officers.

A middle-level COMELEC official recalls Pardo going over applications of possible election officers, and asking the screening committee to get endorsements from the mayor. In fact, in one such discussion among the commissioners themselves...one of them was pushing for a candidate [for election officer] because ‘naipangako ko na’yan kay congressman (I’ve already promised that to a congressman).’⁸⁷

The practice quite obviously casts additional doubt on how independent the commission truly is. Pardo’s taking over from Monsod seemed like a major retrogression from the reforms that the Aquino COMELEC Commissioners tried to implement.

1995: Dagdag-Bawas (Vote Shaving-Adding)

According to Marites Vitug, “while espousing electoral reforms, [Ramos] made questionable appointments to the COMELEC and did little to dissuade his party mates and coalition partners from committing electoral chicanery during the 1995 congressional and local elections.”⁸⁸ The chicanery referred to here was a prominent case of vote shaving and padding, whose victims included Aquilino Pimentel Jr. a Senate candidate. The 1995 Senatorial elections gained notoriety because of the massive and sophisticated scale of vote-padding and vote-shaving. According to Rocamora, “as many as three Senators who won would not have won otherwise. One of those edged out of the winning slate was Aquilino Pimentel.”⁸⁹

The 1995 mid-term election was crucial for Fidel Ramos, providing opportunities to forge and firm up alliances in the legislature and in the provincial and local political arena. Less than three months before elections, Ramos appointed Bernardo Pardo as COMELEC

⁸⁶ Ibid.

⁸⁷ Rimban, "Commissioner of Confusion.", Pabico, "The Comelec's Fall from Grace."

⁸⁸ Chay Florentino Hofileña and Glenda M. Gloria, *Politik 94/00* ([Quezon City]: Ateneo Center for Social Policy & Public Affairs and the Jaime V. Ongpin Executive Education Program of the Ateneo School of Government, 2000).

⁸⁹ Joel Rocamora, "Philippine Political Parties, Electoral System and Political Reform," *Philippines International Review* 1, no. spring (1998).

Chair. Many questioned and were skeptical about the credibility of the elections,⁹⁰ Beginning with initial preparations; the COMELEC had been remiss in implementing strict rules during the registration of voters in December 1994. Journalists were critical of COMELEC laxness in voter's registration; to prove the point, respected journalist Luchi Cruz, along with other journalists, registered in different precincts. Instead of swift action to curb illegal registration and padded voter's list, COMELEC Chair Bernardo Pardo threatened Cruz with disenfranchisement.⁹¹ The strides made by Yorac, while she was COMELEC Commissioner, in Mindanao as far as peace and order was concerned dissipated as the 1995 elections drew near.

In Lanao del Sur, the mayor of Luma-Bayabao blocked the delivery of registration forms to precincts, except to his bailiwicks. In Poona Bayabao and Masiu in the same province, strongholds of incumbent mayors cornered forms in excess of their estimated number of voters. In Marawi City, voters' registration forms were snatched.⁹²

The gun ban during the campaign and election season was not as strictly enforced. This resulted in greater frequency of election violence in the Mindanao. In Mindanao alone, there were fifty people killed due to election related incidents. In 1995, Yorac observed COMELEC performance, this time as an outsider. She suggested that a breakdown in peace and order even prior to election days showed that candidates perceived COMELEC as "weak and lacking the will to prosecute disqualification cases."⁹³ COMELEC Chair Bernardo Pardo however, just days before election day, was very confident that the elections "will be credible, free, peaceful and orderly."⁹⁴ Pardo while talking about enforcing the gun ban strictly to the press and during joint press conferences with the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), seemed oblivious to charges that candidates belonging to Ramos' party have been trooping to the COMELEC Chair's office with armed guards in excess of what is allowed by the law.⁹⁵ When journalists asked if the candidate would be charged of violating the election code, Pardo famously remarked, "kayo pala ang nakakita, eh di kayo ang mag-file ng complaint" (Since you are the ones who saw it then file the complaint).⁹⁶ Cooperative interaction between COMELEC and the AFP and PNP is crucial to the success of curbing violence during elections yet in 1995, COMELEC Executive Director Resurreccion Borra admitted that these law enforcement

⁹⁰ Manuel Almario, "How Credible Are the Elections?," *Philippine Graphic*, May 15 1995.

⁹¹ Chua, "Black Magic." p.33

⁹² Ibid.

⁹³ Ibid. p.39

⁹⁴ Almario, "How Credible Are the Elections?." P.13

⁹⁵ Ibid. p.14

⁹⁶ Rimban, "Commissioner of Confusion." P.10

agencies have not been forthright with their reports on private armies, “first they numbered 11, then eight, now five...PNP personnel will be deployed in election hot spots for closer monitoring once we (PNP and COMELEC) agree on figures and specifics.”⁹⁷

Apart from not having a tight lid on election-related violence, the COMELEC was again hounded by issues of election fraud. Senator Pimentel introduced the term ‘dagdag-bawas’ (vote shaving and padding) to mainstream political discourse. What once was perhaps a term reserved only for those in the know, Pimentel exposed the nation to how wholesale cheating is conducted. According to Haydee Yorac, “dagdag-bawas” existed even before Pimentel’s exposé in 1995.

Aquilino Pimentel learned the hard way that the transfer of election documents to the canvassing center is when this “vintage Philippine election hocus-pocus” happens. Pimentel cites two cases where he was the obvious victim of vote padding and shaving. In Biñan, Laguna, “they were not even sensitive to mathematical accuracy...they were so in a hurry to prefixing the number 1 to Enrile’s votes that they forgot to synchronize the fraudulent count with total number of those who actually voted.”⁹⁸ In Bataan, Pimentel recounted how the vote padding and shaving was done with the connivance of members of the provincial board of canvassers that included the public school superintendent and provincial prosecutor with the help of the local COMELEC official.⁹⁹ The Senate Election Tribunal found evidence that Pimentel was a victim of vote shaving and padding. Pimentel filed criminal court cases against those who participated. After filing a protest with the COMELEC, a recount was conducted in 15% of all the precincts where Pimentel charged fraud occurred and at least two Senators who won should not have.¹⁰⁰ Pimentel was so convinced and persistent that he was cheated out of the 1995 senatorial elections that he pursued the filing and eventual imprisonment of an election registrar who took part in the vote-shaving and vote-padding operation in a Luzon town.¹⁰¹

Ramos’s appointment of Bernardo Pardo, Manolo Gorospe and Graduacion Claravall as COMELEC commissioners did not inspire the same independence, impartiality and competence as the Aquino appointments. A mere crack in COMELEC leadership is enough for candidates to exploit the situation in order to gain advantages on election day. The poor leadership of COMELEC set the tone for the 1995 fraud and for the increase in election violence. The mid-term election was a victory for Ramos with most of his endorsed candidates winning.

⁹⁷ Ariel Lacson, "The Curse of Political Violence," *Philippine Graphic*, March 20 1995. p.10

⁹⁸ Chua, "Black Magic." p.34

⁹⁹ Ibid.

¹⁰⁰ Rocamora, "Philippine Political Parties, Electoral System and Political Reform."

¹⁰¹ Lina Sagara-Reyes, "Double Registration: Plumping up the Fowl Called Voter's List," *Newsbreak*, May 23 2001.

Chapter 4 The COMELEC with Erap

1998: Estrada and COMELEC

In June 30, 1998, Joseph Ejercito Estrada became the 13th president of the Philippines. Running against nine other candidates under the party LAMMP-PMP (Laban ng Makabayang Masang Pilipino-Partido ng Masang Pilipino) the widely popular actor received 40% of the votes. Trailing behind Estrada with 15% of the votes was Jose De Venecia of the Lakas-NUCD (National Union of Christian Democrats) the party of President Ramos. The Lakas-NUCD candidate for vice-president, Gloria Macapagal-Arroyo, won with 49% of the votes. Halfway through the constitutionally mandated term, the actor-turned-politician's term was cut short after three years. Controversies hounded Estrada from gambling payoffs to mansions for his mistresses. These would eventually lead to his ouster in 2001 through a "people power."

Estrada was dubbed as the "nocturnal president." He was fond of having friends over to gamble and drink until early morning. These friends were labeled as the "midnight cabinet" because of their ability to persuade Estrada over policy, contracts, and even appointments.¹⁰² Far from having any official positions, the members of the "midnight cabinet" were "wheeler-dealers", "persistent hangers-on" who shared Estrada's fondness for "the pleasures of the good life---gambling, alcohol and women."¹⁰³ Among those counted as members of the "midnight cabinet" were Ilocos Representative Luis "Chavit" Singson, Caloocan Congressman Luis "Baby" Asistio, online Bingo operator Dante Tan, Chinese businessmen Lucio Co and William Gatchalian, real estate developer Jaime Dichaves, and businessman Mark Jimenez.¹⁰⁴ These were not the only people close to the ear of Estrada. Perhaps given his background in Metro Manila politics, a career that began as Mayor of San Juan, Estrada had multiples groups and factions close to him. To some extent, Estrada does seem to value advice from different people and factions. This also led to in-fighting, intrigues and turf wars. Some of the factions under the Estrada administration were: longtime Estrada associates, Zamora brothers Ronald and Manuel; the group of Presidential Management Staff Chief Leonor De Jesus; the group of Estrada campaign manager Robert Aventajado; Estrada companion Guia Gomez; and the "Greenhills Group" composed of Estrada's sisters, brother Paulino and brother in law Raul de Guzman.¹⁰⁵ The Estrada

¹⁰² Ellen Tordesillas, "The Nocturnal President," *Investigative Reporting Magazine*, October-December 1999.

¹⁰³ Ibid. p.7

¹⁰⁴ Ibid.

¹⁰⁵ Tordesillas, "The Nocturnal President." p. 9

administration was filled with indecisiveness and unpredictability due to the many interest groups that seem to have sway with the president. This same problem spilled over to the COMELEC during the brief Estrada tenure.

The Tancangco Appointment

Commissioner Luzviminda Tancangco was the first COMELEC appointee by Estrada.¹⁰⁶ A faculty member of the University of the Philippines College of Public Administration (UP CPA), Tancangco was a longtime associate of Estrada brother in law and UP CPA Dean Raul de Guzman. Commissioner Tancangco's appointment to the COMELEC was opposed by respected economist and pollster Mahar Mangahas. In his sworn statement addressed to Commission on Appointment Chair Aquilino Pimentel, Mangahas wrote:

Prof. Tancangco, of the UP College of Public Administration, became a public sensation after having announced to media, on March 10, 1991, that her study of the 1987 election had reached the conclusion that NAMFREL was responsible for 'wholesale fraud' in that election. NAMFREL immediately protested Prof. Tancangco's charge, which the mass media was playing up as the challenge of 'the UP study' to the credibility of NAMFREL.

Due to the gravity of the situation, the University of the Philippines took the unprecedented step of conducting a University Symposium, on April 3, 1991, to assess the Tancangco Report. Of the Symposium's four discussants invited by UP to assess the Report, three - namely demographics Professor Mercedes B. Concepcion, economics Dean José Encarnación, and myself - all declared that the Tancangco Report did not have logical basis for its conclusion.

Although there is no longer any doubt that the 1991 Tancangco study was totally mistaken in accusing NAMFREL of wholesale fraud, I am not aware that Prof. Tancangco has ever admitted to error. As long as she insists on her mistaken analysis of what constitutes election fraud, and on her mistaken attitude towards NAMFREL, then there is a very great danger that, if confirmed as a COMELEC commissioner, Prof. Tancangco will continue with her irresponsible penchant to see election fraud without logical evidence thereof, as well as find ways and means to block NAMFREL from continuing its universally-applauded critical role as a citizens' arm for helping to bring about clean elections in the Philippines.

¹⁰⁶ Libertas, "A Study on the Appointments on the Commission on Elections."

*Thus, given her demonstrated incompetence in prior election-research, and her unfounded prejudice towards NAMFREL, I think it is most unwise for the Commission on Appointments to confirm the appointment of Prof. Luz Tancangco as COMELEC Commissioner.*¹⁰⁷

The testimony caused Tancangco to be bypassed by the Commission on Appointments (CA). She was re-appointed and this time she was approved by the CA. According to Mangahas, “nomination and reappointment to the COMELEC was undoubtedly due to the influence of presidential brother-in-law Dr. Raul P. de Guzman, former dean of public administration at U.P., where she was a professor.”¹⁰⁸ She is described as “feisty” and “combative” and created tense situations with COMELEC Chair Demetriou and the latter’s successor, Alfredo Benipayo.¹⁰⁹

Estrada appointed only one COMELEC Chair during his tenure in Malacañang, Harriet Demetriou. Demetriou was affiliated with “Team Zamora,” a power bloc within Estrada clique composed of Ronaldo and Manuel Zamora.¹¹⁰ Ronaldo Zamora served as Executive Secretary to Estrada. Manuel Zamora was known as “Mr. Moneybag” during the Estrada presidential campaign.¹¹¹ Both are from San Juan, the same area where Estrada hails from and where he initially launched his career as the town mayor. While one might expect that the appointment of Commissioner Demetriou had shades of an externally motivated clientelistic relationship, she was in fact more than qualified for the job. The appointment of Demetriou was welcomed by many who felt that she was under utilized as Presidential Legal Adviser. “Demetriou’s talents and feistiness were, after all, being wasted in the position of legal adviser.”¹¹² Prior to her appointment in the presidential palace, she was a Justice of the Sandiganbayan, the anti-corruption court.¹¹³ The appointment of Demetriou was applauded by many because she was known not only for her legal skills but also for her courage. But while Demetriou might have been in the “inner circle” of Estrada and the capability to lead, she had to contend with another Estrada faction within the COMELEC.

The first tussle that COMELEC Chair Demetriou had with Commissioner Tancangco was in the interpretation of the party-list law. The 1998 elections included, for the first time, provision for the election of party-list members to the House of

¹⁰⁷ Mahar Mangahas, May 17 1999. Emphasis by the author.

¹⁰⁸ ———, “The Tancangco Persecution of Namfrel,” in *SWS* (2001).

¹⁰⁹ Newsbreak, “The Other Commissioners,” *Newsbreak*, January 5, 2004 2004.

¹¹⁰ Hofileña and Gloria, *Politik 94/00*.

¹¹¹ Sheila Coronel, “The “Pare” Principle,” *Investigative Reporting Magazine*, October-December 1998.

¹¹² Manuel L. III Quezon, “Tough Spot: Harriet Demetriou Is Named Head of the Comelec,” *Philippines Free Press*, January 23 1999.

¹¹³ A special court of the same rank as the Court of Appeals that deals with cases of graft and corruption of public officials.

Representatives.¹¹⁴ When Demetriou was appointed, Tancangco was acting COMELEC Chair since Bernardo Pardo was appointed to the Supreme Court by Joseph Estrada. When Demetriou began her stint as a COMELEC Chair she was faced with a legal problem caused by COMELEC. The initial fourteen successful party-list representatives ballooned with an additional 38 representatives when sectoral groups who did not reach the 2% threshold petitioned the COMELEC to let them gain a seat in the House. The COMELEC ruled in favor of those who petitioned but did not get the 2% vote requirement. The circumstances surrounding the COMELEC decision was not very clear, “the resolution allowing the proclamation of the 38 passed by a squeaker 3-2 vote, one commissioner was absent. The COMELEC said it disregarded the minimum-vote provision to allow the broadest representation of the party-list sectors and fill up the 50 seats allocated for them in Congress.”¹¹⁵ The law clearly stated that 20% of the total number of House of Representatives should come from sectoral groups. Then COMELEC Executive Director Resurreccion Borra was even quoted before the elections that meeting the 2% threshold was “a reasonable computation.”¹¹⁶

The public was likewise critical of the COMELEC decision. There was a lot of confusion about the party-list system and the COMELEC was blamed for not providing ample information dissemination. According to Ronaldo Llamas, president of the Akbayan political party, “I will not be surprised if people came to the polling booths on May 11 confused about the party-list system. COMELEC itself is!”¹¹⁷ According to a former COMELEC staff involved in the 1998 election, there was a “lack of understanding within COMELEC of the concept of party-list representation, coupled with the fact that the party list system, Philippine style, is quite unique. More basic is the fact that the concept of proportional representation is quite new to COMELEC.”¹¹⁸ The public perception that COMELEC was confused and was just learning the dynamics of the party-list system along with everyone else may have been true.

The post-election COMELEC decision put the Commission in a very bad light. It seemed it was flip-flopping on its own previous decisions and twisting the law to favor 38 sectoral groups. An editorial that was critical of COMELEC’s decision highlights the frustration of the public, “unless the Supreme Court stops them for good, a bunch of nobodies poised to take their seats in Congress as a result of a questionable decision by the

¹¹⁴ RA 7941 or the Party List System Act. The law states in Section 3 that the party list system is “a mechanism of proportional representation in the election of representatives to the House of Representatives from national, regional and sectoral parties or organizations or coalitions thereof registered with the Commission on Elections.”

¹¹⁵ JPS, “No, You Won’t Party Here,” *Philippines Free Press*, January 23 1999.

¹¹⁶ Vinia M Datinguino, “Into the Mainstream,” *Investigative Reporting Magazine*, January-June 1998.

p.64

¹¹⁷ Ibid. p. 63

¹¹⁸ Interview with GL.

COMELEC to parcel out the remaining unfilled seats for sectoral representatives...it seems unfair to parties that did garner the required number of votes for the COMELEC to apportion the additional seats...Harriet Demetriou assumes office as new COMELEC Chairman just when the commission has made a major, and muddle-headed decision.”¹¹⁹ Harriet Demetriou weathered this initial storm well. On October 6, 1998, the Supreme Court ruled in favor of the fourteen party-list representatives and against the 38. The latter were not allowed to take their seats in the House of Representatives.

The Modernization Program

Difficulty in election administration in the Philippines is exacerbated by the manual system of voting and counting. The country has had several attempts of modernizing the electoral proceedings. Charges of kick-back and graft are never far from any modernization talk in the Philippines. Tancangco’s influence in the COMELEC became more pronounced with the modernization project she initiated. The total cost of the modernization called the Voter Registration and Identification System (VRIS) was 6.5 billion pesos or US\$ 165 million.¹²⁰ Demetriou’s strength is in her legal skills, this somehow explains why the modernization project was placed under Tancangco, who was an expert in public administration. However, the huge cost of the project and the bidders involved placed suspicion on the impartiality of COMELEC. The vendors who were involved in this multi-billion project had links with close associates of President Estrada. For this Tancangco, who was closely associated with Estrada’s brother-in-law, faced an impeachment case filed by almost two hundred local and international civic-society organizations.¹²¹ Former NAMFREL Chairman Jose Concepcion does not have kind words for Tancangco as well, going as far as blaming Commissioner Tancangco for why the COMELEC is unable to carry out its mandate to carry out election administration with credibility.¹²² Veteran journalist Amado Doronila was critical about this modernization project and partly blamed Commissioner Demetriou for letting Tancangco take the lead. Groups critical of Commissioner Tancangco disagreed that modernization was the ultimate solution for election fraud. These groups challenged the "myth that modernization is the only solution for making Philippine election fraud-free.”¹²³

Harriet Demetriou was spared from the modernization project blowing up in the

¹¹⁹ Editorial, "A Muddle-Headed Decision," *Philippines Free Press*, January 23 1999. p.18

¹²⁰ In 2000, the dollar-peso exchange rate was 1:40.

¹²¹ Pabico, "The Comelec's Fall from Grace."

¹²² Jose Concepcion, "Who Messed up the Elections?," *Newsbreak*, June 6 2001.

¹²³ Amando Doronila, "Comelec Dragging Feet on Computerized Polls," *Philippine Daily Inquirer*, August 21 2000.

years to come. She submitted her resignation to Gloria Macapagal-Arroyo following the ouster of Estrada. Tancangco stayed on as commissioner. She was later labeled as a member of COMELEC's Gang of Four. The other three commissioners were Ralph Lantion (2000-2004), Rufino Javier (2000-2007), and Mehol Sadain (2000-2007). They were alleged to have "hawked a 500 million peso mapping project."¹²⁴ This is yet another manifestation of factionalism and jockeying for power within an institution. Tancangco's background in public administration could have contributed to the training and development of COMELEC staff. Instead the Commissioner engaged in internal politicking and served as client to Estrada allies by having biased decisions in favor of certain groups and pushing for expensive modernization projects that were meant to benefit vendors rather than voters. The COMELEC has experienced a prolonged period of reform. Instead reforms are followed by periods of regress, a step back from any progress previously made. Harriet Demetriou's case showed that good leadership is not enough. The cooperation of the commissioners and the rest of the organization were crucial.

¹²⁴ Juan Mercado, "Rare Consensus," *Philippine Daily Inquirer*, June 29, 2004.

Chapter 5

The Merging and Mounting of Pathologies: COMELEC from 2001 to 2007

The years following 2001 will go down in the history of the Philippines as a period of heightened political instability. Questions of legitimacy and credibility rocked the office of the executive branch, the Commission on Election, and long-time election watchdog National Movement for Free Election (NAMFREL). The coming to power of Gloria Macapagal-Arroyo in January 2001 was, in and of itself, highly contentious. The “People Power II” uprising that ousted President Estrada raised issues of constitutionality, and was considered by some to be a simple power grab. In the same way that Cory Aquino utilized the constitutional referendum immediately after the 1986 “people power” to show popular support and establish legitimacy, Arroyo was keen on using the May 2001 mid-term election as a legitimizing stamp. Arroyo needed the cachet of public approval in elections so she could convince the public of her legitimate place as president.

The 2004 presidential and 2007 mid-term elections involved unbridled fraud and violence. Legal limits to campaign spending could safely be ignored due to the lack of enforcement capability of the COMELEC. The manual nature of the election process continued to provide opportunities for unscrupulous election officials to take advantage of the disorder for an election outcome favorable for their candidate or “client.” The 1.2 million¹²⁵ people involved in election administration, from COMELEC officials to deputized government personnel and the large number of political party watchers creates a rather circus-like atmosphere in the polling precincts and canvassing centers.

In this chapter, we see a mounting and merging of pathologies within the Commission on Elections. Manifesting alongside the pathology of organizational inefficiency are two other pathologies, external and internally motivated clientelistic relationships. In the three elections between 2001 and 2007 we witness once again the impact of COMELEC colliding with other organizations manifesting their own pathologies. There is the complicity of the Commission on Appointments in all Arroyo appointments to the COMELEC and, for the first time, the alleged collusion of NAMFREL in the 2004 elections. Certain members of the Armed Forces of the Philippines have also been implicated to have participated in a partisan manner in 2004. The synergy of collusion among deputized agencies and a purportedly neutral election watchdog led the public to take a highly skeptical view of the 2007 elections.

Two weeks before the 2001 elections, Arroyo found herself in the palace besieged

¹²⁵ Christian Monsod, “Christian Monsod’s July 14, 2007 Presentation at the Forum for Simbahang Lingkod Ng Bayan,” (Quezon City: Voters for Clean Elections, 2007).

by a mob demanding her removal from office. What the press has dubbed as “seven days of rage” was a sign that Arroyo’s administration was far from being seen as rightful and legal by certain quarters of the population. As a product of people power herself, Arroyo knew that she had to turn to elections--the popular vote--to justify her rightful place in Malacañang. Since Arroyo assumed presidential power, the country witnessed a combination of executive blunder and plunder that manages to implicate the COMELEC or COMELEC personalities. These distract the COMELEC from the real function of the commission, effective and efficient election administration. A fair scorecard of the COMELEC during the Arroyo years must focus on the tasks that the public expected and expects from a Commission on Election as the body responsible for electoral management.

The GMA appointees

COMELEC appointees under the administration of Gloria Macapagal-Arroyo shows an appointment consisted of one former Associate Justice, a retired Sandiganbayan Justice, one career COMELEC official, a former Justice of the Court of Appeals. The most controversial appointments were that of a politician affiliated with the president’s political party and two commissioners who rose from the COMELEC ranks but known to be “operators.”¹²⁶ All three were appointed ad interim.¹²⁷ By “ad interim”, this means that all were appointed while Congress was in recess. A loophole in the law conveniently allows appointees to sit as commissioners and take office. The Commission on Appointments conducts appointment hearings once back in session.

The quality of leadership chosen and the process by which Arroyo was able to position these Commissioners with questionable credibility into a powerful constitutional commission casts a doubt on the level of independence and impartiality they are likely to bring into COMELEC. As we shall see, what is obvious is the reliability that comes with the president’s distribution of high-posts to trusted allies who can deliver favorable outcomes to their patron.

Benjamin Abalos

Benjamin Abalos was appointed as COMELEC Chair in January 5, 2002. The former mayor of Mandaluyong is a high ranking member of the LAKAS-NUCD political party, the same party of Arroyo. The clientelistic nature of the relationship, especially with COMELEC Chair Benjamin Abalos, was best articulated by his LAKAS-NUCD party members who described him as someone who “delivers the votes” and “will not betray the

¹²⁶ This study ends with the 2007 national elections. Subsequent appointees are not discussed.

¹²⁷ Libertas, "A Study on the Appointments on the Commission on Elections."

party.”¹²⁸ Benjamin Abalos joined the COMELEC as Chair when his predecessor, former Justice Alfredo Benipayo was bypassed by the Commission on Appointments and was not reappointed by President Arroyo.¹²⁹ Alfredo Benipayo was appointed ad interim and served for one year in the COMELEC. Many suggest that he had very little influence in the COMELEC even as he was Chair because he was successfully neutralized by the group of Commissioner Tancangco, also known as the “gang of four.” The “Gang of Four” was Commissioner Luzviminda Tancangco, Commissioner Ralph Lantion, Commissioner Rufino Javier, and Commissioner Mehol Sadain.

If there was anyone who could work within a highly politicized environment, it would be Benjamin Abalos. Abalos was a former mayor of Mandaluyong, a suburb in Metro Manila that has evolved into a financial and commercial area. He also served as Metro Manila Development Authority Chief. The appointment of Benjamin Abalos as the COMELEC Chair was not a welcome news for advocates of election reform. Many consider Abalos as patriarch of what is now evolving to be a political dynasty. His experience as a Metro Manila Mayor was not the only cause of dissatisfaction over his appointment as COMELEC Chair. It was the first time, since Marcos, that a politician was appointed in the commission. As a member of the national directorate of President Arroyo’s coalition party, LAKAS-NUCD, Abalos’ appointment was a cause for concern. Here was a politician and a party man. Since the post-Marcos years, the commission has had no politician and party member serve as COMELEC Chairman. The Philippines had its share of COMELEC commissioners with very clear party affiliations before that time. COMELEC Chair Leonardo Perez (1973-1980) was a member of the Kilusang Bagong Lipunan (KBL) and a trusted ally of Ferdinand Marcos is an example of both a party man and politician turned COMELEC Chair.

Suspicious that the term of Benjamin Abalos as COMELEC Chair would not provide the impartiality and independence expected from the commission were not unfounded. Abalos’ ties with Arroyo go back to the 1960’s when Abalos was appointed auxiliary judge of Pasay and Makati by then Philippine president Diosdado Macapagal, Gloria Macapagal-Arroyo’s father.¹³⁰ Instead, telltale signs of an externally motivated clientelistic relationship between Arroyo and Abalos started to unfold immediately after the Mandaluyong politician’s appointment. In a 2002 interview, Abalos recounted how he managed to get appointed as COMELEC Chair in discussions he had with the president’s husband, Jose Miguel “Mike” Arroyo. “[W]hile we were in Shanghai [playing golf],” Abalos explained, “Mike talked to me and told me, “would you consider if the President

¹²⁸ Mangahas, M. (2002) Abalos Brings the Party to the COMELEC. *PCIJ Stories Volume*, DOI:

¹²⁹ Alfredo Benipayo was appointed Solicitor General four months after he left the COMELEC. He is remembered for defending Proclamation 1017, Arroyo’s declaration of a state of emergency in February 24, 2006.

¹³⁰ Ibid.

would consider you for the position of COMELEC chairman?"¹³¹ After Abalos' appointment as COMELEC Commissioner, he organized a golf tournament in honor of First Gentleman Arroyo on his birthday at the Wack Wack Golf and Country Club. The obvious clientelistic relationship between the Arroyos and Abalos was apparent even before any election took place under Abalos' watch. Many know that Mike Arroyo is very much involved in his wife's government. Most of the time, these involvements are of a business nature, commissions, or plain pay-offs like the telecommunication National Broadband Network contract with the Chinese corporation ZTE.¹³²

Benjamin Abalos graduated law from the Manuel L. Quezon University in 1957. He loves to recount his "rags to riches" story by mentioning how he used to be a caddy at the exclusive Wack-Wack Golf and Country Club and eventually becoming Club President for four consecutive terms.¹³³ Abalos does not want people to forget where he is now, "how would you feel if you were in my shoes and found yourself playing golf with people you used to caddy for and always addressed as, Sir?"¹³⁴ But he is quick to point out that while he is a public servant, he is also a "fisherman." By this Abalos is referring to his flourishing aquaculture business. He happily regales people with stories of his fish and shrimp culture business and the profits one can make.

While he may have known how to steward resources in the private sector, during his term as COMELEC Chair, Abalos's management capabilities were criticized and questioned. COMELEC employees and election reform activists talked about petty abuses, from appropriating new vehicles to Commissioners to large sums of mishandled funds that could have been spent on automation costing the COMELEC a total of 2.3 Billion pesos. In 2002, when Benjamin Abalos took over as COMELEC Chair, his first week in office was punctuated by a one month incentive bonus to all 5,200 COMELEC employees that amounted to 52 million pesos.¹³⁵ His magnanimity did not end there. He authorized the acquisition of seven new official vehicles for all the commissioners costing 1.2 million pesos each.¹³⁶ These new vehicles would be the third official vehicle for some of the COMELEC Commissioners. Abalos held meetings in restaurants and in hotels that was a deviation from the previous norm of meetings in the commission's offices. The COMELEC Chair served his guests with the best that the restaurant offered. In addition, a monthly meeting of Commissioners and their staff was held out of town, in Abalos's rest house. The Abalos

¹³¹ Ibid.

¹³² In 2003 Mike Arroyo was investigated by the Senate for having an account, under the pseudonym Jose Pidal, that received jueteng money. Jueteng is an illegal numbers game in the Philippines. In 2007, the ZTE Broadband deal implicated Mike Arroyo along with Abalos in a \$100 million pay off.

¹³³ "Thank You President Abalos!," *Wack Wack*, March-April 2007. p.2

¹³⁴ Quijano de Manila, "Mandaluyong Makes Waves," *Philippine Graphic*, March 13 1995. p.14

¹³⁵ Malou Mangahas, "Abalos Brings the Party to the Comelec," *PCIJ Stories*(2002), <http://www.pcij.org/stories/abalos.html>.

¹³⁶ Ibid.

style is reminiscent of the way President Estrada, another Metro Manila politician turned national figure, conducted affairs. It can be deduced that this management style breeds internally motivated clientelistic relations. While there are COMELEC employees who were critical of the way Abalos was using COMELEC resources, there were those who found him generous and approachable--traits that are highly valued in a society that values reciprocity. By dispensing COMELEC resources, Abalos earned many loyal followers. In a briefing for foreign election observers in the 2007 elections, Abalos was introduced as the "father of COMELEC" and enthusiastically applauded by COMELEC employees even as the COMELEC Chair was almost one hour late for the briefing.

The COMELEC Chair's expenses seem petty considering that the failed 2003 Voter's ID validation cost the COMELEC 1 billion pesos and the 2004 Mega Pacific automation deal that the Supreme Court invalidated resulted in 1.3 billion pesos loss to the COMELEC. To date, the COMELEC has failed to recover from Mega Pacific any amount while the latter has never delivered its part of the contract. The mismanaged resources of COMELEC under Abalos drained Commission's coffers that had been built up under Commissioner Monsod.¹³⁷ These costly projects need to be examined. These are huge government contracts that cost the public millions of pesos. A study by the World Bank showed that in 1998 some 20% of government fund for projects were lost to kickbacks.¹³⁸ It is always suspicious when close associates of those in power corner government contracts. COMELEC's voter's ID validation project was awarded to Photokina in 2000, owned by the Chua family, which has ties to one of the Estrada wives. Abalos himself once acknowledged that he is godfather to two of the Chua children. In 2003, the COMELEC awarded Korean based Mega Pacific Consortium to provide for counting machines. In 2004, the Supreme Court decided against the 1.3 billion contract for violation of bidding rules and procedure.¹³⁹ On January 21, 2004, Senator Aquilino Pimentel filed criminal and administrative charges before the Ombudsman against COMELEC Chairman Abalos. Pimentel charged that Abalos acted with impropriety when he and his wife went to Seoul, Korea as guests of the Mega Pacific Company before the contract was awarded. "Pimentel said he received information that the Korean company paid for the plane tickets and hotel accommodations for the trip. However, Abalos claimed that the expenses for the trip were paid for out of the P1 million he won in a golf tournament in Wack Wack."¹⁴⁰ The mismanagement of resources and the awarding of contracts to favored companies reek of corruption. Internally motivated patrons, like Abalos, need to dispense favors in order to gain clientelistic ties from within the organization. The favors dispensed are loose change compared to what Abalos gets from his patrons.

¹³⁷ Pabico, A. P. (2005). *The Queen's Gambit. I Report*: 17.

¹³⁸ Vinay Bhargava, "Combating Corruption in the Philippines," (Manila: World Bank, 2000).

¹³⁹ TV GMA News, "Controversies Involving Benjamin Abalos," (2008), <http://www.gmanews.tv/story/79804/Controversies-involving-Benjamin-Abalos>.

¹⁴⁰ GMA News.TV, "Controversies Involving Benjamin Abalos," (2008).

Garcillano and Barcelona: Entrepreneurial Bureaucrats

The concern of electoral reform advocates mounted two years later, when Arroyo appointed Virgilio Garcillano and Manuel Barcelona as COMELEC Commissioners. Both Garcillano and Barcelona were career COMELEC election officials who were notorious for manipulating election results. Garcillano served as an election official during the time of Marcos, and retired from COMELEC in 2002 after serving as the regional director in Mindanao and Southern Luzon--both areas where election fraud is rampant.¹⁴¹ An example of an externally motivated clientelistic relationship, Garcillano was appointed despite having retired from the COMELEC in 2002 and notoriety for manipulating votes in Mindanao. In fact, he was known as the “master operator.” In the Philippines, bureaucrats see themselves as having a subordinate relationship with politicians. A public administrator/ a bureaucrat consider the politician as a dominant figure.¹⁴² Commissioner Garcillano shows how “entrepreneurial bureaucrats” can overcome traditional politician-bureaucrat relationships. As an expert and long-serving bureaucrat, Garcillano is able to “sell” his services to a patron or the highest bidder come election season.

Former COMELEC Chair Christian Monsod described Garcillano as someone who, “really knew the law and the process and he was very good at interpersonal relationships.”¹⁴³ Manuel Barcelona served in the Autonomous Region of Muslim Mindanao (ARMM), also a hotbed of election manipulation. Senator Aquilino Pimentel voiced his concern that Barcelona was likewise a member of “Gloria Bantay ng Bayan,” a group that supported the candidacy of Gloria Macapagal-Arroyo.¹⁴⁴ Because both were career COMELEC officials with extensive field experience, Garcillano and Barcelona knew people in strategic positions within COMELEC’s field and central offices. They also had a tainted reputation for vote padding and shaving, or what is locally known as “dagdag-bawas.” Soon both Garcillano and Barcelona displayed their partisanship. Just one week after their appointment, Garcillano and Barcelona filed a joint disqualification case in the Supreme Court against then presidential candidate Fernando Poe Jr., a very popular Filipino actor and good friend of former president Joseph Estrada.¹⁴⁵ Poe was running against Arroyo in the 2004 elections. Like Abalos, Commissioner Garcillano and Barcelona manifested a clientelistic relationship with President Arroyo by initiating the disqualification of Poe.

¹⁴¹ Pabico, A. P. (2005). The COMELEC's Fall from Grace. I Report The Queen's Gambit.

¹⁴² Jose Veloso Abueva, *Conditions of Administrative Development : Exploring Administrative Culture and Behavior in the Philippines* (Bloomington, Ind.: Comparative Administrative Group, American Society for Public Administration, 1966).

¹⁴³ Coronel, "Master Operator." p.19

¹⁴⁴ Patino Patino, "Re-Designing the Comelec," *Political Brief* 14, no. 1 (2007).

¹⁴⁵ Editorial (2004). Men On A Mission? Philippine Daily Inquirer. Manila.

Barely a week after they were sworn into office, Barcelona and Garcillano submitted their opinion on the disqualification case against presidential candidate and movie star Fernando Poe Jr. The two new election officials urged the Supreme Court to disqualify Poe on grounds that he was born illegitimate and therefore took his mother's American citizenship. Garcillano said it was 'a rule long settled by the Supreme Court that only legitimate children follow the citizenship of the father and that illegitimate children are under the parental authority of the mother and follow her nationality.' Barcelona said substantially the same thing. Since Poe was born illegitimate, 'he did not acquire the Filipino citizenship of his father.'¹⁴⁶

The case was eventually dismissed by the Supreme Court, which upheld the candidacy of Poe and declared that he is a natural-born Filipino.¹⁴⁷

Garcillano, more than Barcelona, is well-liked in COMELEC. When asked to describe Garcillano, COMELEC employees smile, almost wistfully, at how good natured the Commissioner is, and how generous and genuinely concerned he is with the well-being of COMELEC employees. When Garcillano was Regional Director for Northern Mindanao, he took his staff to trips abroad and organized sporting tournaments for them with prizes "solicited from politicians."¹⁴⁸ The implication of this is not lost on observers who have always questioned how impartial and independent the COMELEC is when the ties between politicians and the commission constantly emerge. Internally motivated clientelistic relationship is a combination of market and non-market ties. It is not enough to provide monetary gains or career advancement as a form of exchange for services. In this case the ties that bind bureaucrats to a higher ranking bureaucrat also involved informal ties.

Garcillano was also popular at the COMELEC head office in Intramuros. "Garcillano liked to drink and to socialize with COMELEC staff, and managed to cement friends with many of them during those drinking sessions."¹⁴⁹ By dispensing benefits to his staff in the COMELEC field offices and at the same time nurturing friendships in the COMELEC head office, Garcillano is engaged in an internal clientelistic relationship that comes handy when he asks for a reciprocal favor from staff members of the commission. The personal quality of the relationship between Commissioner Garcillano and COMELEC staff members strengthens their bond to the point that it can undermine formal rules and authority. Some COMELEC employees even address and refer to Garcillano as "tatay" or father. Commissioner Garcillano is viewed as a patron inside the COMELEC. For the rest of the public, as we shall see, he will always be remembered as "Garci."

¹⁴⁶ Editorial, "Men on a Mission?," *Philippine Daily Inquirer*, February 18, 2004.

¹⁴⁷ Federico Pascual, "Column: Everybody Must Bow to Supreme Court Decision on Poe," *Philippine Star*, March 4 2004.

¹⁴⁸ Coronel, "Master Operator." P.19

¹⁴⁹ Ibid.

2005 Revelations: Hello Garci Scandal

Suspicious that COMELEC Commissioners were appointed with the strategic purpose of ensuring the election of President Arroyo in the 2004 election came to a climax in June 2005 when a tape with the recorded conversation of President Arroyo and Commissioner Garcillano surfaced. The phone tapped conversation occurred during the height of the 2004 election with Arroyo's distinct voice asking a man referred to as "Garci" if she will "lead by more than 1 million" votes.¹⁵⁰ Within the same month, the president appeared on national television to apologize for her "lapsed judgment."¹⁵¹ While the president admitted it was her voice¹⁵², she never fully admitted complicity to cheating. She did admit to being "anxious to protect [her] votes." The uproar from this tape led to calls for Arroyo's resignation. The election that should have stamped her legitimate ascension to presidential power only led to a further legitimacy deficit. The COMELEC, on the other hand, sank deeper into a credibility deficit.¹⁵³ Many in the electoral reform groups have long suspected that there is an internal syndicate within the Commission,¹⁵⁴ a parallel organization that has the ability to engage in fraud for unscrupulous politicians running for elected posts. With the collusion of deputized election officers, they "deliver" the votes to the highest bidder. Garcillano was one of these entrepreneurial bureaucrats who had the knowledge, expertise and the network to successfully deliver the votes. Those interviewed for this study often referred to the "biyahe ng boto" or the voyage of the vote. The votes could be added from below or from the top. The cheating can be done below through low-level election supervisors or fraud can come as an order from a high-ranking COMELEC official. Depending on price, on the degree of personal connection and at what stage the in the elections it is will determine election fraud outcomes.

In the transcript of what has been dubbed the "Hello Garci" scandal, the name of COMELEC Chairman Abalos comes up. In one clip, Arroyo asked Garcillano if he has spoken to Abalos.¹⁵⁵ In the same tape, a conversation between a man and Garcillano suggested that supporters of senatorial candidate Robert Barbers paid Garcillano Php 1.5 million to 2 million pesos (US\$50,000).¹⁵⁶ When the controversial taped conversation was

¹⁵⁰ PCIJ (2005). Hello Garci? transcript of the three hour tape, Philippine Center for Investigative Journalism.

¹⁵¹ GMA "I am sorry" speech. PCIJ Blog. 4:17mins. See also, McGeown, K. (2005). Gloria Arroyo's Toughest Week. BBC News. UK

¹⁵² Sheila Coronel, "Apology in a Can of Worms," in *PCIJ Blog* (2005). See also Vinia M Datinguino, "The President Says 'I Am Sorry, I Want to Close This Chapter'," in *PCIJ Blog* (2005).

¹⁵³ July 1, 2005 SWS Survey showed a -27 Net trust rating for COMELEC

¹⁵⁴ Interview CMC. Quezon City.

¹⁵⁵ From the transcript: "Ano nag-usap na ba kayo ni Abalos?" The female voice asks, "have you spoken with Abalos?"

¹⁵⁶ Coronel, S. (2005) Apology in a Can of Worms. PCIJ Blog Volume, DOI: June 28, 2005

played in the COMELEC office, employees and officials of the Commission were able to identify who Garcillano was speaking with.¹⁵⁷ Former COMELEC Chair Christian Monsod was able to identify Garcillano based not only on his voice but on his knowledge of election procedures.¹⁵⁸ And while no one will discuss the topic on the record, COMELEC officials and employees admit that there is a shadow organization within the commission known to make or break an election candidacy.¹⁵⁹

The Role of the Commission on Appointments

How the COMELEC sank to such levels can be blamed both on deliberate presidential patronage and on the failure of a mechanism to control unfavorable presidential appointees in critical positions. According to the rules of the Commission on Appointment, “the commission, being part of our republican system of checks and balances, shall act as a restraint against abuse of the appointing authority, to the end that the power of disapproval should be exercised to protect and enhance the public interest.”¹⁶⁰ The Commission on Appointments (CA) is composed of twelve senators and twelve members of the House of Representatives with political parties proportionally represented. According to the rules, the CA is expected to act on appointments within thirty session days. If the president appoints a commissioner while Congress is in recess, the appointment is an “ad interim appointment.” This means that the appointee shall assume office and his tenure ends if his appointment is not acted upon when Congress subsequently adjourns.¹⁶¹ Appointing ad-interim and the by passing of nominees rather than outward rejection is not novel to the Arroyo administration. Apparently, it is an old trick in Philippine politics. According to a study by the Transparency Accountability Network, since 1987 no COMELEC commissioner nominee has been rejected.¹⁶² And out of the thirty four appointees, there were 21 ad interim appointments. What is evident based on these two observations is that the Commission on Appointment does not fulfill the role of a safety valve against possible abuse. Instead, there is a complicity in the abuse. To ensure that the President has “carefully considered the fitness and qualifications of nominees, the Commission on Appointment shall accord the nomination or appointment weight and respect, to the end that all doubts should be resolved in favor of

¹⁵⁷ Rufo, A. (2005). The Shoe Fits. Newsbreak. July 18, 2005: 16-19.

¹⁵⁸ "Interview of Christian Monsod by Arnold Clavio and Ali Sotto in Dzbb," (2005).

¹⁵⁹ Interview with BR

¹⁶⁰ Chapter 1 in the Statement of Policy from. Commission on Appointments, "Rules of the Commission on Appointments," (Manila1990).

¹⁶¹ Interview with Atty. Louie Guia. January 22,2007Atty. Guia is an election lawyer and served under Commissioner Monsod in COMELEC.

¹⁶² Lasala, A. (2007). A Review of the COMELEC Appointment Process: COMELEC Appointments Watch Project. Pasig City, Transparency and Accountability Network: 1-4.

approval or confirmation.”¹⁶³ But doubts are not resolved. Instead, it is heightened when the Commission on Appointment has a loophole for ad interim appointments that allows the appointee to take office. Rather than rejecting, the Commission on Appointment bypasses an appointee and sends signals to the Executive that the chances of confirmation for an appointee are slim. Why does the Commission on Appointment tolerate these appointments ad interim? If the Commission on Appointment does not outwardly reject a nominee, is the appointment process a venue for horse trading or political compromises? The complicity of the Commission on Appointment in the quality of COMELEC commissioners the president appoints illustrates another irregularity that becomes extremely problematic. Two constitutional bodies, both manifesting serious institutional weakness and flaws, intersect at a certain point that highlights their vulnerability to external pressures and patronage. One cannot expect independence and impartiality if the Commission on Appointment does not use exercise its rightful power.

Reward not Retribution: Loyalty Pays

As a further sign of institutional weakness, not only is the COMELEC vulnerable to an extreme form of corruption able to hijack from the commission its mandate, but even with such strong allegations of corrupt practices no one was ever prosecuted or suspended. A fully developed case of a combined presence of externally and internally motivated clientelistic relationship becomes evident when corruption is condoned and scandals ignored. Despite the massive public outrage over the “Hello Garci” scandal and the naming of COMELEC commissioners and employees who were involved, no one was ever prosecuted or even given a disciplinary sanction. Commissioner Garcillano eventually faded out of the COMELEC. When Congress convened, Garcillano was not re-appointed to face the Commission on Appointment. In fact, Garcillano went into hiding and conveniently avoided prosecution. Thus Garcillano was able to serve as a COMELEC Commissioner at a critical election in 2004, become a key figure in election fraud and simply walk away from it all. Benjamin Abalos continued to be COMELEC Chairman. In the wave of allegations and counter-allegations, Abalos managed to distance himself from the “Hello Garci” scandal, letting Arroyo and Garcillano take center stage as the public spewed temporary indignation. In the same manner that Garcillano could not have acted without the complicity of someone of higher authority, Garcillano needed foot soldiers to carry out any vote shaving or padding. The COMELEC employees whose names were implicated in the ‘Hello, Garci’ scandal not only avoided prosecution but were even promoted. Among these Renato Magbutay, COMELEC Regional Director for Western Visayas; Rene Tambuang, COMELEC Regional Director for Davao Region; Michael Abbas COMELEC Regional Director for Cotabato and

¹⁶³ Preamble from the Commission on Appointment Rules

Sultan Kudarat; Ray Sumalipao, Director for the Autonomous Region of Muslim Mindanao; Lintang Bedol, Provincial Election Supervisor for Maguindanao; and Francisco Pobe, Assistant Regional Director for Agusan and Surigao.¹⁶⁴

There were no COMELEC initiated investigations or disciplinary sanctions ever delivered for those involved or implicated in the 2004 “Hello Garci” scandal. After the 2005 exposé of cheating in the 2004 elections, many election reform observers had a clearer picture of the kind of “cheating machine” that exists within the COMELEC. And rightfully, these same election reform activists feared that the “cheating machinery” will continue.

Problems in Election Administration

In a report by a Philippine Election Observation Program concluded that “the 2004 Philippine elections were characterized by serious administrative shortcomings brought about by failed automation plans, fiscal restraints and poor management by the election commission.”¹⁶⁵ These observations were interestingly echoed by no less than President Gloria Macapagal-Arroyo in her message for the 2nd National Electoral Summit that convened in Manila in September 1, 2004. This summit was well-attended by members of civil society engaged in electoral reform such as the Consortium for Electoral Reform (CER) and the Institute for Political and Electoral Reform (IPER), and members of the Commission on Elections at the Commissioner and Director Level. Arroyo began by saying that “the 2004 National Elections would show that its conduct have been generally peaceful and credible.”¹⁶⁶ A good nine months before the tapes surfaced, in this conference Arroyo acknowledged the challenges facing the COMELEC, “this is not to deny various challenges and setbacks encountered from the period prior, during, and after election day. Among these are the failure to implement a computerized voting and counting system, increase in election-related violence, allegations of electoral fraud and the slow pace of counting and canvassing especially for national positions.”

In a meeting with members of the Consortium for Electoral Reform, former COMELEC Chair Christian Monsod once remarked that the problem is the proliferation of legal as opposed to management expertise in COMELEC. Of the thirty-four appointments in the COMELEC since 1987, only one is a non-lawyer.¹⁶⁷ The preference for hiring lawyers

¹⁶⁴ Alecks P. Pabico, "Ghost of Past Elections Haunt Comelec," *PCIJ Report*, May 10 2007.

¹⁶⁵ Peter Erben, B. H.-T., Craig Jenness, Ian Smith (2004). CEPPS Philippines Election Observation Program Strengthening the Electoral Process. Washington, D.C., Consortium for Elections and Political Process Strengthening (IFES, NDI, IRI): 1-53.

¹⁶⁶ CER (2004). Message of the President Gloria Macapagal-Arroyo. 2nd National Electoral Reform Summit, Sulu Hotel, Manila, Consortium for Electoral Reform.

¹⁶⁷ Guia, A. L. (2007). CA Appointment Process and the Presidential Power to Appoint. Civil Society Forum on the COMELEC Appointments. Crown Plaza Galleria, Ortigas, TAN: 1-6.

according to one former COMELEC official could be due to the need for training in election law. He cited his experience in the field during elections, especially during the canvassing of votes, when candidates hire lawyers to question and intimidate COMELEC election officers.¹⁶⁸ Monsod might have a point on the lack of management experts in the COMELEC but surely this is just one of the many other problems that plague the commission.

Election administration on election day involves coordinating more than 1 million COMELEC officials and deputized election officials. Christian Monsod pointed out that, “the COMELEC consists of only five thousand people. On election day, that infrastructure balloons to about 1.2 million people consisting of teachers, the police and military, citizens’ arms and other deputies. The COMELEC, particularly its Chairman, is the most powerful government agency in the country for 120 days before and 30 days after elections. But once the election gets underway, it is what the rest of the 1.2 million people do or not do, that can make or unmake elections.”¹⁶⁹ Part of the weakness of COMELEC is its reliance on so many government agencies to pull off a successful election. A weak institution aligning with other weak institutions that are vulnerable to patronage only promotes negative synergy. They are all links of the same weak chain.

Monsod’s description illustrates how unwieldy elections can get. His tenure as COMELEC Chair, however, is a testimony that with good leadership, improvements in election administration are attainable. The organizational inefficiency manifested by COMELEC in the recent 2004 elections was driven not only by the mammoth organization that COMELEC becomes on election day but also by years of shallow reforms that never address issues at the core. Shallow reforms meant as a stop-gap only increase organizational inefficiency. Temporary measures meant to address critical problems bred further vulnerabilities, which are exploited by unscrupulous entrepreneurial bureaucrats and Commissioners seeking the “delivery” of votes. Because the COMELEC’s problems are at multiple levels, it is hard to distinguish if organizational inefficiency is driven by its capture by those involved in patronage or if organizational inefficiency is driven by honest yet shallow reforms.

Commissioner-In-Charge System

In the 2004 elections, the Commissioner-In-Charge (CIC) system was instituted. According to international election observers in 2004, the system before the CIC, “the implementation of policies and the daily running of the operation were to be done by civil servants headed by the executive director. This approach, which is technically sound, has

¹⁶⁸ Interview with BR, January 18, 2007

¹⁶⁹ Monsod, C. (2007). Christian Monsod's July 14, 2007 Presentation at the Forum for Simbahang Lingkod ng Bayan. Quezon City, Voters for Clean Elections.

been eroded by the evolution of the Commissioner-in-Charge system. Commissioners have divided all areas of responsibility among them.”¹⁷⁰ The division was both operational and geographical. This deviation from the established organizational arrangements created confusion among Regional Directors and Provincial Election Supervisors. COMELEC officials can go directly to the CIC leaving at times Regional Directors or Provincial Election Supervisors at a loss about decisions or orders. Interestingly, in 2004 the vote-rich and fraud-prone Autonomous Region of Muslim Mindanao was under the CIC of Chairman Abalos. Any alleged vote padding or shaving that happened in Mindanao in favor of the incumbent could not have been possible without Abalos’ knowledge. In an interview former COMELEC Chair Christian Monsod provided a possible explanation, “*the COMELEC career officials and insiders know exactly what happened. That while the commissioner-in-charge is formally the Chairman, Abalos for Muslim Mindanao, it was Commissioner Garcillano that was actually doing the supervision. Madaling malaman yan (that’s easy to verify) —telephone calls, trips, all that—I was informed that that’s the case. In Muslim Mindanao, in effect, the supervision was delegated by the Chairman to Garcillano.*”¹⁷¹

Some COMELEC officials defend the CIC set-up. Director for Planning Emerald Ladra found the CIC convenient to resolve critical issues that crop up during election day.¹⁷² Ladra, who served as Chief of Staff to Commissioner Harriet Demetriou in 1999, was the Acting Director for the National Capital Region in the 2004 elections. These issues, especially those logistical in nature, need quick resolutions that a CIC can immediately address. For Ladra, this meant getting quick answers from Chairman Abalos regarding her recommendations that needed immediate solutions. On the other hand, Director Rogelio Benjamin, who served in Cebu during the 2004 elections, felt that the CIC set-up created confusion for COMELEC field officers. Other COMELEC employees found the CIC system inefficient in the long-term and the top COMELEC official in the provincial level, the Regional Directors, many times faced uncertainty as to what their role should be, what procedure should be taken and to what extent they can make decisions without the Commissioner in Charge. The regular chain of command is undermined and at times ad hoc decisions create more confusion in the field during election day.

Another stop-gap measure done by the COMELEC is the re-shuffling of COMELEC field officers, begun very soon before election day and continuing until the conclusion of the canvassing of votes. The rationale, according to COMELEC officials, is to ensure impartiality in case field officers have developed ties with incumbent local

¹⁷⁰ Peter Erben, B. H.-T., Craig Jenness, Ian Smith (2004). CEPPS Philippines Election Observation Program Strengthening the Electoral Process. Washington, D.C., Consortium for Elections and Political Process Strengthening (IFES, NDI, IRI): 1-53.

¹⁷¹ "Interview of Christian Monsod by Arnold Clavio and Ali Sotto in Dzbb." See also PCIJ blog for partial transcript.

¹⁷² Ladra, E. (2006). Interview with Director Ladra. N. 6. Pasay City.

government officials who are running again for office. During the time of Chairman Harriet Demetriou, a resolution was filed by the Commission to allow local government units (LGU) to provide honorarium to COMELEC field officials. The resolution can be traced to the lack of salary increase since the Asian Financial Crisis of 1997. The COMELEC followed the lead of the Department of Justice (DOJ) that likewise allowed for LGU's to provide allowances to its field officers. In the case of COMELEC, there are field officers who are even provided cars and large sums of monthly allowance by some LGU's. The practice persists to this day. In a recent news report, Cebu election officers requested a 3,000 pesos increase in the allowance that they receive from the city government, and explained that the COMELEC office in Manila had endorsed their request.¹⁷³ Impartiality is clearly compromised when incumbents at the local government units provide allowance, at their discretion, to COMELEC officials in the field offices. The arrangement opens the door for an externally motivated clientelistic relationship that anticipates payback time come election day. It is seemingly because COMELEC is cognizant of this possible breach that the re-shuffling of COMELEC field officers is conducted.

There are several problems with the CIC system. First, it does not address the problem at the core. While this system purportedly addresses COMELEC's organizational inefficiency during crucial times such as elections, it does not make the organization any more efficient in the long run. While this system may serve its purpose during elections when quick decisions and quick responses are expected, it remains an ad hoc measure. Moreover, bypassing the usual chain of offices in the field can create confusion and conflicting interpretations of policies. This is another example of shallow reforms that breeds other unanticipated problems. Secondly, come election day, the COMELEC will have shuffled field officers in places where they are unfamiliar with the dynamics of the candidates, the other deputized election officers, and the voting population. The unfamiliarity of the COMELEC field officer to the environment can be frustrating for all parties involved and increase their vulnerability to election fraud by candidates, political operators or flying voters. In a COMELEC pre-election training for election officers, the Regional Director of the Cordillera Administrative Region (CAR) announced to a room full of CAR COMELEC officials that there will be a re-shuffling come election time. The announcement was met with moans of complaint and to some extent fear. None of the COMELEC officials wanted to be assigned in places known to have high levels of election-day election day violence.

Elections and a Fire

In March 12, 2007, a pre-dawn fire gutted the COMELEC building. Among other

¹⁷³ GAC, "Comelec Officers Seek 3t Increase," *Sun Star*, February 8 2007.

things, this resulted in the displacement of key offices that were directly involved in the upcoming May 2007 elections. COMELEC Chair Benjamin Abalos was quick to assure the public that the elections would not be delayed, “not one of the documents that we need [for the election] was in the old building.”¹⁷⁴ The old building housed the COMELEC’s Records and Statistics Office, the Office of the Executive Director, the COMELEC Archives, and the Education and Information Division. According to Executive Director Pio Joson, evidence of graft charges against COMELEC employees were some of the records lost in the fire. At a press conference, Abalos likewise admitted that “ballot boxes and ballots being used as evidence in some local election cases were likewise lost in the fire.”¹⁷⁵ Some COMELEC Directors could be seen setting shop in a fast food joint near the COMELEC immediately after the fire. Some moved to the adjacent COMELEC building exacerbating already cramped conditions. It was in fact, impressive that the COMELEC still managed to pull through the last 2007 mid-term elections. But the sad reality is that COMELEC simply manages to “pull through” every election season.

In the last 2007 election, electoral reform activists did not want to see a repeat of fraud and rampant cases of tampering of voter’s tally through vote shaving and padding. There was anticipation that the experience of vote padding and shaving exposed to the public in the 2005 expose’ in fact, encouraged more fraud. Ramon Casiple of the Institute for Political and Election Reform (IPER) said that the ‘Hello Garci’ scandal seemed to have emboldened more people to cheat on elections.¹⁷⁶ In 2007, the anticipated increase in election fraud yielded more whistle blowers. Many offered tips and information where cheating was taking place. The Consortium for Electoral Reform (CER) publicized the lax security in the Bureau of Printing where the official ballots and other election materials are processed.¹⁷⁷ According to CER official Becky Malay, vigilance during pre-election days is necessary because over printing of ballots can be a prelude to vote padding.¹⁷⁸ When asked about candidate vigilance in guarding their votes for the 1998 elections, former COMELEC Commissioner Haydee Yorac encouraged candidates to, “post guards at COMELEC, if you have overprinting of forms, it’s so easy to switch. Marami diyang ‘golden arms’ sa COMELEC (there are many golden arms at COMELEC).”¹⁷⁹ By “golden arms”, Yorac was referring to overprinting and eventual pilfering of election forms at the National Printing Office. These forms make their way to candidates who plan to use these to pad the number of votes in their favor on election day. Anonymous text messages were sent to different

¹⁷⁴ Nikko and Allison Lopez Dizon, "Fire Razes Old Comelec Building," *Philippine Daily Inquirer*, March 12 2007.

¹⁷⁵ Aries Rufo, "Evidence in Graft, Fraud Lost in Comelec Fire," *Newsbreak*, March 12 2007.

¹⁷⁶ Interview with Ramon Casiple, October 2006, IPER office

¹⁷⁷ Bordadora, N. (2007). OIC printing chief also facing graft charges *Philippine Daily Inquirer*. Manila.

¹⁷⁸ Interview Becky Malay, PRRM office, February 19, 2007

¹⁷⁹ Chua, "Black Magic." p.36

non-governmental organizations involved in election reform regarding flying voters, early closing of precincts and intimidation in certain areas around the country where the elections were highly contested.

In the southern part of the Philippines, in Maguindanao, there were reports where ballots were filled in by members of the Board of Election Inspectors.¹⁸⁰ As the counting in Maguindanao was going on, there was breaking news because a public school teacher, deputized by the COMELEC as an election inspector called a radio station to give an account of the cheating and ballot-filling. This is not unusual for Maguindanao or other parts of Mindanao where lawlessness is the norm. Foreign election inspectors recalled how they were asked to leave the polling precinct at 9 a.m. on election day. They were told by armed men in uniform that the elections were over. In some cases, election observers saw the polling precincts close up at noon, after which the COMELEC election officer was seen having lunch with a candidate. Many local and foreign election observers have stories of brazen acts committed by candidates or their private armies in order to undermine and influence the elections. Some are so brazen that it sounds like the theater of the absurd. The case of Maguindanao in 2007 took a sad turn when the public school teachers who were set to testify were abducted on their way to Manila.¹⁸¹

Noticeable in the 2007 elections was the complicity of mid-level COMELEC officials. Lintang Bedol was implicated along with Garcillano in the 2004 elections yet he was promoted and given the position of Maguindanao Provincial Election Supervisor. Bedol gained public notoriety in the 2007 elections when the Maguindanao ballot boxes turned up at the National Canvassing Center empty. The National Canvassing Center is where the COMELEC Commissioners make the final tally and announce the candidates who won in the election. To make matters worse, when the COMELEC en banc summoned Bedol, he initially refused until it became too embarrassing for the COMELEC Commissioners that they could not even summon a subordinate despite threats of filing charges of contempt. In the end, Bedol could not explain to the COMELEC Commissioners why the election returns for Maguindanao were missing. The case of Bedol, and his failure to secure the ballots and provide a decent explanation of why the election returns are missing, provided the public with dramatic evidence how badly the elections are managed.

Another case implicating a COMELEC official in the 2007 elections was that of Negros Oriental Provincial Election Supervisor Manuel Advincula who was caught in a sting operation and arrested for extortion.¹⁸² Congressional candidate Edgar Teves complained that Advincula offered to dismiss the disqualification case against him for 300,000 pesos. The candidate reported the extortion to the National Bureau of Investigation

¹⁸⁰Philippine Daily Inquirer Mindanao Bureau., "2 Teachers to Testify on Maguindanao Poll Fraud Abducted," June 14 2007.

¹⁸¹ Mindanao Bureau, "2 Teachers to Testify on Maguindanao Poll Fraud Abducted," *GMA News*(2007).

¹⁸² "Negros Oriental Chief Arrested for Extortion," *GMA News*, May 11 2007.

(NBI). Teves also showed proof of Advincula's communication with him demanding for the money and providing instructions where the money should be delivered.

In 2007 there were cases of violence against COMELEC officials connected with the recent elections. The most publicized case was that of Alioden Dalaig, the head of the COMELEC's law department. The events and evidence surrounding the case provides a glimpse of the life of Dalaig. Dalaig was shot as he was about to enter a high-end casino frequented by politicians and businessmen. Robbery was clearly not the motive since the 300,000 pesos he had with him was not taken.¹⁸³ As head of COMELEC's law department he refused to investigate the 2004 Garcillano scandal stating that the taped wiretapped conversation does not qualify as legal evidence. According to Commissioner Rene Sarmiento (2006-2013), Dalaig was closely associated with COMELEC Chair Benjamin Abalos, "it was Dalaig who was probably closest to [Abalos] next to Eduardo Mejos, the [COMELEC] finance chief, and longtime aide of Abalos."¹⁸⁴ Four months after Dalaig was killed, the man who took over his job suffered the same fate. Wynne Asdala served as an assistant to Dalaig and eventually took over the position as COMELEC's head of the law department. He was shot outside the COMELEC office by two gunmen.¹⁸⁵

In 2007, the CIC system was again revived. This time the election fraud prone Autonomous Region of Muslim Mindanao became the jurisdiction of newly appointed Commissioner Sarmiento as Commissioner-In-Charge. While Sarmiento was formerly a human rights lawyer and peace negotiator, as well as a former member of the board of an election-reform advocacy organization (the Institute for Political and Economic Reform-IPER), his appointment as CIC of Mindanao was not welcomed by veteran election observers such as IPER Executive Director Ramon Casiple and Consortium for Electoral Reform member Becky Malay. They felt that Sarmiento as a greenhorn was placed as CIC of Mindanao so operators and COMELEC officials engaged in fraud can run circles around him. The special elections in Lanao under Sarmiento were filled with allegations of Election Returns (ER) being secured and moved into local hotels by COMELEC officials.¹⁸⁶ News Anchor Ricky Carandang televised footage of these Election Returns being moved, and confronted Commissioner Sarmiento in Lanao. He commented that "either [Sarmiento] was really ignorant that he didn't see what was happening right under his nose or he was part of the cheating." Before the elections were over, Sarmiento returned to Manila and turned over the CIC-ship to a more veteran Commissioner. Many inside COMELEC say the appointment of Sarmiento was deliberately done by Chairman Abalos knowing that Commissioner Sarmiento would not be able to handle the task. Previously, he had assigned key Garcillano

¹⁸³ Aries Rufo, "Slain Comelec Exec Issued Controversial Orders, Lived Checkered Past," *Newsbreak*, November 27 2007.

¹⁸⁴ *Ibid.*

¹⁸⁵ "Two Assassins Kill Comelec Legal Director," *Manila Times*, March 28 2008.

¹⁸⁶ Rufo, A. (2007). Sarmiento's Waterloo. *Newsbreak*: 36.

protégés in Mindanao before Abalos turned over the CIC-ship to Commissioner Sarmiento.

Conclusion

The years 2001 to 2007 was a period of particularly low credibility for COMELEC due to heightened allegations of corruption in the commission. The credibility deficit of the commission can be compared to the COMELEC's reputation during the Marcos era. The burning of COMELEC right before the May 2007 elections somehow foreshadowed how much further the institution will be weakened and depleted. Suspicions abound, whether about the fire that gutted the COMELEC office or COMELEC complicity in election fraud. The public can't be blamed for questioning COMELEC's credibility. The last seven years have shown the disastrous results of pathologies becoming more apparent than any time since the Marcos authoritarian rule. Evidence of complicity at the commissioner level has surfaced that damaged both COMELEC and the legitimacy of Arroyo as president. Undermining the formal structure is a parallel group within the COMELEC that can tip elections in favor of certain candidates. Yet despite overwhelming evidence, no COMELEC official was prosecuted.

The years 2001 and 2007 showed other political institutions and social actors exhibiting their own pathologies alongside the COMELEC. The Commission on Appointment was complicit, both in allowing Arroyo to appoint ad interim and in bypassing rather than rejecting nominees for the COMELEC. This shows how two constitutional commissions meant to safeguard democratic institutions fail and instead show vulnerability to abuse. The cases of fraud and violence continued with each election. It may be said that the years 2001 to 2007 showed a peak of pathologies intersecting with Chairman Abalos resigning in 2007 due to a US\$100 million pay off for a government contract unrelated to the Commission but involving the president's husband. Both Abalos and First Gentleman Miguel Arroyo were implicated in the National Broadband Network contract with the Chinese corporation ZTE. According to congressional testimony by competing bidder Joey De Venecia, son of then Speaker of the House Jose De Venecia, the contract was overpriced by \$130 million. According to those familiar with the contract, Abalos brokered the deal and stood to gain, along with Arroyo, from the overpriced contract.¹⁸⁷

Clearly, the COMELEC is a weak institution that needs to regain its credibility. The weakness of COMELEC is exacerbated by the negative synergy of deputized agencies come election day. Reforming the COMELEC will mean reforming other actors that interact with the Commission. The voting public deserves a better managed Commission on Election that can deliver free, honest and fair elections consistently. Greater efficiency requires greater institutional strength and the COMELEC must work on this. The interplay of pathologies

¹⁸⁷ ABS-CBN News, "Timeline: Exposing the Zte Deal," (2008).

coming to the fore come election season results in poor election administration and a severe credibility deficit for the commission charged with administering the country's elections. In the concluding chapter, I will outline proposals for reform.

Chapter 6 Conclusion and Policy Recommendations

Decades of Institutional Deform

What transpired in COMELEC after the Marcos regime is a story of continuity and change. What is evident is how politicization has superseded institutionalization in the Philippines. The legacy of American colonial rule persists with a weak Commission on Election. The unusual colonial American strategy that placed emphasis on elections rather than building strong institutions is best manifested in the COMELEC, the very institution tasked to carry out election administration. According to Hutchcroft and Rocamora, “contrary to their counterparts elsewhere, US officials gave far more attention to elections and the creation of representative institutions than to the creation of a modern bureaucratic apparatus.”¹⁸⁸ Abinales and Amoroso similarly argue that instead of institutionalization, i.e. building institutions and administrative structure, the availability of elected office encouraged Filipino elites to concentrate their efforts in politicization.

NAMFREL eventually exhibited a pathology of its own in the 2004 elections that affects not only COMELEC’s credibility but the entire election process. In 2005, the COMELEC’s mounting pathologies were exposed in a particularly dramatic way. Like Marcos, President Gloria Macapagal-Arroyo deftly used the COMELEC to deliver favorable electoral outcomes. For the first time, COMELEC complicity in wholesale fraud was exposed. It is this new evidence that has highlighted the weakness of COMELEC and the extent to which it is vulnerable to elite capture. Coupled with the lack of prosecution of COMELEC officials who were engaged in fraud, the commission will need to overcome multiple obstacles in order to be effective in election administration.

The COMELEC has not had a prolonged period of autonomy or an opportunity for nurturing its own capacity. At the core of this are practices of clientelism that pervade in the appointment of COMELEC Commissioners and the clientelism within and among COMELEC staff. Because of the lack of sustained institutional reforms, the COMELEC has yet to see its credibility realized. The COMELEC needs to gain credibility by showing that it is capable of performing basic election tasks such as accuracy in voter registration lists, accuracy in counting, and timely proclamation of election winners. But COMELEC must go beyond mere credibility and take the lead in electoral reform and level the political playing field. The COMELEC must aim for deeper reforms such as those discussed in the next section. If COMELEC is to achieve this, it must be able to enjoy a greater degree of

¹⁸⁸ Paul Hutchcroft and Joel Rocamora, "Strong Demands and Weak Institutions: The Origins and Evolution of the Democratic Deficit in the Philippines," *Journal of East Asian Studies* 3 (2003).

insulation from politics and from executive control.

Despite the weakness and lack of credibility of COMELEC, there are still a significant number of individuals who view elections as a meaningful event worth participating in. This is demonstrated by the continued high voter turnout during elections. Electoral disenchantment in the Philippines is not confined to the poor performance COMELEC. But it is an important factor. The recent evidence that COMELEC was complicit in orchestrating fraud has resulted in post-election instability. It has led to questions and challenged the legitimacy of the highest public office in the land.

Post-election instability will continue to manifest itself when there is a failure to deliver credible elections. The commission has shown little evidence that it has the capacity to carry out either simple or complex electoral tasks. Incumbents have kept the COMELEC weak over the years by nurturing clientelism instead of professionalism in the organization. The COMELEC suffers the same fate as the Agrarian Reform Program of the Philippines. Landed elites who are in power will not be sympathetic to reforms that undercut their economic influence. Political elites are not sympathetic to reforms that undercut electoral advantages from having a corrupt election commission that is both unable and unwilling to curb fraud. COMELEC must be empowered to enforce election rules with impartiality and independence. As former COMELEC Commissioner Yorac puts it, “the COMELEC in a very real sense is at the core of the electoral exercises because they are the ones who administer the rules, they are the ones who draw up policy, and they are the ones who send signals to all the deputized agencies. You need a lot of respect, even fear of COMELEC.”¹⁸⁹

Multi-pronged Reform Efforts

In order to address external clientelism, reforms should concentrate on insulating the COMELEC leadership from partisan politics. The Commission on Appointments should exercise its role as a safeguard for executive abuse by making sure that at the Commissioner level, the COMELEC should be assured of leadership that is non-partisan. Electoral Reform groups have submitted nominees for vacant commissioner posts to the president. It is a good score-card of how receptive Malacañang Palace is to reformist initiatives and to independent nominees for the COMELEC. For middle-level COMELEC officials who turn into entrepreneurial bureaucrats during election season, the Civil Service Commission with the cooperation of COMELEC should ensure that disciplinary actions are enforced.

Internal clientelism can be overcome by investing in human capital through training in election administration and management.¹⁹⁰ This requires specialized election

¹⁸⁹ Chua, "Black Magic." p.37

¹⁹⁰ Gaudioso C. Sosmeña, Local Government Development Foundation (Manila Philippines), and Konrad-Adenauer-Stiftung., *Breaking the Cocoon : Bureaucracy Reborn* (Manila, Philippines: Published by the Local Government Development Foundation (LOGODEF) and the Konrad Adenauer Stiftung (KAS), 1995).

administration and election management training. Those who work within the COMELEC have to be autonomous. Its goals cannot be influenced by interests and external forces. And this can only come about through a strong bureaucracy with a deeply ingrained organizational culture of impartiality and independence. Through training, recruitment, and evaluation by clear merit standards, career advancement can only take place through legitimate means. This will reduce the need to have a “padrino,” a godfather of sorts within the organization. Professional advancement should be done within proper channels and having clear standards and guidelines. Much of this could be a matter of enforcement between both the Civil Service Commission and the COMELEC.

Chief Justice Artemio Panganiban mentioned that legal skills should not be the primary qualification in looking for COMELEC Commissioners. What COMELEC needs are “COMELEC leaders” not “COMELEC jurists.” Similarly, former COMELEC Chair Christian Monsod has mentioned in many of his speeches that elections are not just about election law but election management. According to Monsod, “elections is often perceived as simply the resolution of legal issues, i.e. who can vote, who are qualified or disqualified from running for public office, the prosecution of election law offenders, etc. But elections is more than a problem of law or its enforcement. It is primarily a management problem, as well as a systems, and even behavioral, problem.”¹⁹¹ In order to address organizational inefficiency, the COMELEC must examine its management practices and apply updated management principles in its affairs. Having gone through a period of “lawyerization” and with most of its senior officials having a law background, the COMELEC must diversify its pool of talents. Having a human resource of diverse backgrounds can sidestep possible narrow-tunnel vision that bureaucrats are prone to.

Lastly, how can COMELEC improve the extension of its authority in the field, in the far flung provinces where the COMELEC field officer can be prone to intimidation or cooptation? Realistically, given the weakness of COMELEC as an institution, it is understandable why it cannot project authority in all its field outposts. COMELEC institutional history suggests it has experienced years of being organizationally decentralized in de facto terms. COMELEC suffers from centrifugal tendencies given the scope and breadth of its undertaking across the Philippine archipelago. As is expected in a highly decentralized polity, there is a lot of variation across time and space. But centrifugal tendencies and the magnitude of responsibilities heaped upon COMELEC field offices can be overcome. There are cost-effective ways to project central authority in the field and neutralize the tendency towards fragmentation. One technique of integration is having “preformed decisions” to discourage administrative deviation.¹⁹² Keeping centrifugal

¹⁹¹ Christian Monsod, "Election Administration and Election-Related Constitutional Reforms " in *2nd Electoral Reform Summit* (Manila, Philippines 2004).

¹⁹² Herbert Kaufman, *The Forest Ranger, a Study in Administrative Behavior* (Baltimore,: Published for Resources for the Future by Johns Hopkins Press, 1960). P.96

tendencies of bureaucrats in the field to a minimum might be difficult for the COMELEC given the variation across space of the kind of political and economic environment that each field official find themselves in. It is possible that each province or region might need a different protocol. The goal should be to keep centrifugal tendencies at a minimum. This lies in direct contrast to the current COMELEC situation as entrepreneurial bureaucrats at various levels have been able to pursue their own interests quite independent of central directive. And what of reining in deputized COMELEC officials in the field? For as long as the system is manual, COMELEC is left with no choice but to work with an expansive workforce on election day who may or may not be trained, and who may or may not be partisan.

Future Research

While many facets of this study can still be explored and engaged in a deeper manner, this research is a modest contribution in the study of the Philippine electoral experience through the lens of election administration. Despite the importance that is attached to elections in the study of Philippine politics, the COMELEC remained unexplored and its official history unchallenged.

A more exhaustive biographical sketch of the COMELEC commissioners, not just the prominent ones, could also provide a deeper understanding of the leaders that shaped the institution to what it is now. Part of the challenge is to find this basic data. When the COMELEC archives burned in March 2007, the commission seemed like an organization without a written history. Reconstructing COMELEC history is now going to be harder but still not impossible. It is also important to conduct further research on the commissioners under Ferdinand Marcos, to learn more about their backgrounds and how they may have functioned as commissioners under authoritarian rule.

Evidence of election fraud is always elusive. Relationships developed with COMELEC contacts have yielded information that is otherwise unavailable. Key actors in the 2004 election fraud might be more forthcoming to speak in the near future. This will shed some light and verify, first hand, COMELEC complicity. Greater clarity in the history of COMELEC as an institution coupled with contemporary cases of election fraud involving those in the commission is crucial in gaining understanding of the impact of election administration with broader issues of democratization and politics.

This study has focused on variation in time. COMELEC performance can also be traced through variation in space. It will be a challenging but interesting study to find out how COMELEC performance varies from one locality to another. To do this will require understanding and probing into the nature of local power and how much control local elites have over COMELEC in those areas. The issue here would be the variation in local power structure and how pathologies manifest in local settings. Analysis of the three pathologies

would involve attention to such factors as 1) autonomy from local power holders; 2) opportunities for self-serving behavior by COMELEC officials; and 3) the competence of COMELEC as an organization across space.

The study of the COMELEC can benefit from further excavation of data from archival sources. There remain many avenues to explore COMELEC performance over time and space. More importantly, other theoretical frameworks can provide innovative analysis that can shed new light in understanding why this basic task of election administration remains so problematic. Based on increased knowledge of pathologies, the next step is to proceed to effective measures of reform, one pathology at a time.

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