



Report No. 1

March 26, 2007

Introduction

This is the first progress report of the *Bantay-Eleksyon 2007* or the **People's Coalition to Monitor the 2007 Elections**. This covers the period from the start of preparations by the Commission on Elections in July 2006 to March 25, 2007. As such this first report contained the following areas:

- a. Decision to hold May 2007 elections
- b. Election automation
- c. Appointments to the Comelec
- d. Election preparations
- e. Application and approval of candidacies for senatorial positions
- f. Application, manifestation, and approval of party-list groups
- g. Pre-election campaign activities
- h. Senatorial and party-list campaign
- i. Election violence
- j. Organizing for election monitoring

A. Decision to hold May 2007 elections

The holding of the 2007 national and local elections this second Monday of May 2007, is mandated by the Constitution and RA 7056, the Election Synchronization Law. To this end, the Commission on Elections issued Resolution 7707 on August 30, 2006 setting forth the election calendar of activities and periods of prohibited acts for the 2007 elections. It also approved the Key Activity Plan for a manual system of elections for the 2007 elections.

In the last half of 2006, two concerted initiatives were undertaken to revise or amend the 1987 constitution, focusing on shifting from the current bicameral presidential system to a unitary parliamentary system. These efforts, if successful, would have led to the cancellation of the scheduled 2007 elections.

These charter change initiatives were done through the mode of a “people’s initiative”, sponsored by *Sigaw ng Bayan* (Cry of the People) and the Union of Local Authorities of the Philippines (ULAP), and through a “Constituent Assembly” called by the majority coalition in the House of Representatives.

The “people’s initiative” petition was filed with the Commission on Elections on August 25, 2006 under Case No. EM (LD)-06-01. This was accompanied by a truckload of 6,327,952 purported signatures, thus claiming to comply with the constitutional requirement of 12% of the total registered voters. In a unanimous decision, the Comelec rejected the petition on August 31, 2006, citing the permanent injunction issued by the Supreme Court to the Comelec from entertaining such petitions.

The petitioners elevated their case to the Supreme Court. On October 25, 2006, the Supreme Court denied their petition for issuance of the writs of certiorari and mandamus to set aside the COMELEC Resolution of 31 August 2006 and to compel the COMELEC to give due course to their initiative petition. The Supreme Court concluded that “No one can trivialize the Constitution by cavalierly amending or revising it in blatant violation of the clearly specified modes of amendment and revision laid down in the Constitution itself.”¹

The “constituent assembly” mode was pursued by the administration majority coalition in the House of Representatives, through House resolution 197 passed last December 11, 2006. It was based on a controversial interpretation of the constitutional provision on amendments that supposedly allows Congress—voting as one body—to amend or revise the Constitution. It also entailed deleting a House rule that joint resolutions need the concurrence of the Senate.

The resolution was met with fierce opposition from a broad spectrum of the people, including the Roman Catholic hierarchy. Threatened by a possible surge of people power, the proponents hastily backed down and archived the controversial resolution on December 14, 2007.

The defeat of the two charter change initiatives paved the way towards the holding of the 2007 elections.

Issues of Concern:

1. No–election scenario. The constitutional proposals in both initiatives, if approved in a plebiscite, would have instituted a unicameral parliamentary system and practically set aside the May 2007 elections. In their transitory provisions, they extended the terms of

¹ Supreme Court decision, GR 174153, October 25, 2006, p. 44.

office of incumbent legislators and local officials beyond 2007. In effect, this would leave only the President, the Vice-President, and 12 senators as the only elective officials after June, 2007.

The whole exercise has put the 2007 elections and all election stakeholders on the edge of uncertainty. The Comelec itself had to do some thinking and planning for a possible plebiscite—at a time when it was in the midst of election preparations.

The late approval of the 2007 General Appropriation Act also threatened the holding of the 2007 elections. There are no funds specifically for the 2007 elections in the 2006 national budget and the Comelec savings cannot cover the expected expenses of the elections. This was however solved with the enactment of the 2007 budget in February 2007.

The Comelec old main office building was burned down last March 11, 2007. This led to speculations that important documents related to the May 14 elections may have been burned and thus provides a basis for the postponement of the elections. This was however rejected by the Comelec which announced that “the fire of March 11, 2007 will not stop the elections in May from happening.”

There is every reason to be vigilant regarding any possible “no-election” scenario that may derail the holding of the May 2007 elections, particularly in relation to the continuing crisis of legitimacy.

2. No-proclamation scenario. This is possible in a situation where the Comelec fails to finish the canvassing of votes for candidates. Chairman Benjamin Abalos, Jr. cites, as one possible source of this scenario, the new provision in Republic Act 9369 requiring the opening of actual election returns in case of “discrepancy, incompleteness, erasure or alteration” of certificate of canvass or supporting statement of votes.

The no-proclamation scenario rests on what is perceived to be a defect of the 1987 constitution in stipulating that all terms of office of elected officials ends at 12:00 noon of June 30 following the May elections. This defect may lead to a situation where there is only one half of the Senate and the majority of the House of Representatives are not yet proclaimed—and therefore there is no Congress. A situation may then ensue where it is the Executive or the President presides over the whole affairs of the state and government.

This situation basically subverts the republican check and balances and may lead to undermining of the democratic institutions.

B. Election automation. On January 23, 2007, Republic Act 9369 or the new Election Automation Act of 2007 was signed into law. This stipulates that a nationwide automated system of elections should be in place by 2010 and that a partial or pilot system should be implemented for the 2007 elections.

The Comelec, upon the advise of the new Advisory Council, decided to forego with the implementation of the pilot program for 2007 elections due to lack of time. This was criticized by many proponents of automation, notably by the chairman of the Senate Committee on Constitutional Amendments, Revision of Laws, Sen. Richard Gordon, who had worked hard in passing the bill.

Another pilot automation project was however initially approved by the Comelec—the internet voting by overseas Filipinos in Singapore. However, this also earned many criticisms of its legal basis. The Overseas Absentee Voting Act of 2003 allows the study of such a technology but does not specifically authorize its implementation. A Senate hearing on the matter last March 6, 2007 clarified that there is no such authorization in the law and that Comelec should go back to Congress for authorization.

The same day, the Comelec issued Resolution 7835, amending its previous decision and changing the initiative to a “non-binding secure internet voting in Singapore.”

The whole 2007 elections will be a fully manual voting system.

Issue of Concern:

Possibility for electoral fraud. The traditional manual election system has already proved to be a cumbersome, slow, and open to various types of electoral fraud. This was the reason why, as early as 1993, there were already initiatives to replace it with a modernized system. This came into fruition in Republic Act No. 8436 which was passed in 1997.

However, except for pilot projects in the Autonomous Region of Muslim Mindanao (ARMM), this was not implemented. In 2004, the Comelec came close to implementing a nationwide system but the main contract was set aside by the Supreme Court.

The manual system of elections needs to be monitored closely, particularly because of the criticalness of the 2007 elections and accusations of electoral fraud in the presidential elections of 2004.

C. Appointment of New Commissioners. The president appointed three new commissioners to replace Commissioners Virgilio Garcillano and Manuel Barcelona Jr. whose appointments were not renewed after they replaced Commissioners Luzviminda Tangcangco and Ralph Lantion who retired on February 2, 2004. Commissioners Rufino Javier and Mehol Sadain retired on February 2, 2006. The new commissioners were Commissioner Romeo Brawner (September 18, 2005), Commissioner Rene Sarmiento (April 7, 2006), and Commissioner Nicodemo Ferrer (June 9, 2006).

Issues of Concern:

1. Vacant position for commissioner. A seventh position remains vacant although there is a public clamor for the appointment of a new commissioner. The recent Philippine Election Forum, participated in by the Executive Department, also agreed to include this in its resolutions.

2. Credibility of the Commission. The credibility of the 2007 elections is heavily affected by the credibility of the Commission on Elections. The latter acts basically as a non-partisan body administering the electoral process.

However, Commissioner Virgilio Garcillano figured in 2004 elections in a much-publicized and controversial scandal involving an illegally-tapped telephone conversation purportedly between him and the incumbent president-cum-presidential candidate Gloria Macapagal-Arroyo. The two of them were allegedly talking about committing electoral fraud in the presidential elections.

The scandal, despite the numerous investigations and public discussions into it, is seen as unfinished. In the process, it contributed to the lowering of public satisfaction over the performance of all involved accused.

Unfortunately, even the institution that is the Commission on Elections suffered a hit in public opinion. The last published survey of the 2006 SWS Enterprises Survey conducted from February-April 2006, indicated that the Comelec suffers a -59% net sincerity rating in fighting corruption.²

The appointment of new commissioners, as well as the willingness of the Comelec to open up to a certain extent its operations to the public should help alleviate this situation. Its initiatives in reforming itself, through OPLAN MERIT, an election Code of Conduct, and internal staff seminars, also helped.

A Handbook for Members of the Board of Election Inspectors was also jointly launched and developed by the COMELEC, DepEd and PPCRV – a first in Philippine elections history – last March 22, 2007.

However, its performance in the 2007 elections remains the major determinant in regaining the public trust in the institution.

D. Election Preparations

With the Comelec Resolution 7707 of August 30, 2006, electoral preparations proceeded. The Commission on Elections issued follow-up resolutions and organized itself for elections.

² The 2006 SWS Survey of Enterprises on Corruption: MOSTLY GOOD NEWS ON THE BUSINESS SECTOR, BAD NEWS ABOUT GOVERNMENT, July 6, 2006.

The major preparatory activities (with milestones) set by the resolution include the compilation of election laws, cases and jurisprudence, preparation of election manual, creation/reactivation of working committees, inventory of available/serviceable ballot boxes, preparation of electoral forms, voter education and information campaign, drafting/approval of resolutions and guidelines, public bidding of election forms, supplies and other paraphernalia, delivery of supplies and materials, printing, verification of forms, filing of candidacies for all positions, packing and shipping, preparation/posting of computerized voters list, campaign, appointment of the Board of Inspectors and Board of Canvassers, preparation/submission of list of precincts, seminars and trainings, briefings of BEIs and BOCs, and inspection of precincts.

So far, the Comelec is well within the schedule for these activities. The burning of the Comelec head office did not affect much the timetable for the May elections. Based on the initial inventory, only an initial delivery of non-accountable forms, applications and documents of some party-list groups, and other non-critical materials were burned. Comelec is confident that these can be remedied in time for the May elections.

Issues of concern:

1. Over-printing of ballots and other accountable forms. The mass media have, at various times, reported the Comelec estimate of registered voters as 49 million, 48 million, or 45 million. It also quoted various Comelec officials as stating that Comelec will print the ballots at either one-to-one correspondence with the actual number of registered voters or with extra percentage ranging from 3% to 15%. The fact is that, at this time, the Comelec has not yet come up with a definitive figure for registered voters. It still has to clarify exactly how many ballots it will print.

2. Security of the printing of accountable forms. The National Printing Office (NPO) is charged with exclusive printing of ballots and other accountable forms. There is concern however with the report that the NPO has subcontracted the printing to private printing presses. This needs to be investigated and monitored.

There is also the reported case of three casual Comelec employees who were caught copying the serial numbers of ballots inside the NPO. This is of concern since the serial number is one of the principal means for verifying the authenticity of ballots.

The corruption cases filed against the NPO chief Felipe Evardone led to his leave of absence. He is also the brother of the administration's co-campaign manager Ben Evardone. Corruption cases place officials in a vulnerable position and can well lead to unwarranted pressures and blandishments.

E. Application and approval of candidacies for senatorial positions

The Commission on Elections received 80 applications for senatorial positions. Of these, it disqualified 42 as nuisance candidates. At present, there are 37 candidates who were recommended by the Comelec Legal Department and approved by the

Comelec En Banc through Resolution 7832 to be allowed to run for a senatorial position. The Comelec later issued the final certified list containing these same 37 senatorial candidates.

A disqualification case has been filed and is pending with the Comelec by senatorial candidate Alan Peter Cayetano of the Genuine Opposition slate against KBL candidate Joselito Cayetano. This is complicated by the intramurals within the KBL, with KBL president Ferdinand Marcos, Jr. refusing to recognize the “KBL senatorial slate.”

Issue of concern:

Approving the candidacies of unknown persons with similar surnames to major opposition candidates. The handling and resolution of Comelec on disqualification cases should be monitored to ensure that resolution of disqualification charges will not be used as a technical way to favor a party or a coalition. Section 69 of the Omnibus Election Code is explicit in citing the same name as a ground for disqualifying a nuisance candidate.

F. Application, manifestation, and approval of party-list groups

The Commission on Elections Resolution No. 7819 promulgated on February 12, 2007 disqualified/deleted from the list of registered party-list groups 36 groups for 2007 election. Meanwhile the same resolution certified the qualification of 44 party-list groups, an initial number as noted by the Commission to participate in the 2007 party-list elections.

On February 13, 2007, the Comelec certified 38 new party-list groups. There are still ongoing hearings for manifestation and approval of intent to participate of existing and new party-list groups.

Issues of concern:

1. Approval of too many applications for party-list elections. The number of party-list groups, both applicants and approved for participation in the party-list elections, are simply too many for practical handling. This will again tax the patience of voters, the BEIs, the BOCs, and everybody else. This situation may need to be investigated if this is the result of lax application of the 8-point criteria set by the Supreme Court.

2. Approval of application of party-list groups which are deemed extension of government agencies or headed by government officials. The case of Mamamayan Ayaw sa Droga (MAD) in 2001 was the classic case of government-funded projects turned into party-list projects. There are indications that this may again happen in the 2007 party-list elections. Eleven party-list groups are alleged to be either formed or led by government officials or their relatives or are extensions of government agencies. The approval of possible fake party-list groups which do not have a constituency or sectoral

causes among marginalized sectors will add to the confusion and may provide a rich ground for electoral corruption.

G. Pre-election campaign activities

The pre-election campaign activities mainly consisted of formation of election coalitions or networks and pre-campaign election propaganda.

There was a lot of maneuverings in the selection of Senate candidates and slates. The main electoral coalitions that were eventually formed consisted of the Team Unity (TU) of the ruling coalition and the Genuine Opposition (GO) of the opposition. A short-lived project for a “Third Force” did not materialize. All other efforts were either single-party candidacies or independent candidacies.

Last-minute changes in the two main senatorial slates occurred when actor Cesar Montano replaced Leyte Governor Jericho Petilla in the TU slate and Senator Francis Pangilinan refused to be part of the GO slate.

Both TU and GO slates, aside from those strongly identified with either the GMA administration or the anti-GMA opposition, invited and got candidates from the opposite sides. TU got former senators Tito Sotto and Teresa Aquino-Oreta. GO got Senator Villar.

Turncoatism is reportedly the order of the day with many candidates, both national and local, changing parties whenever convenient for their candidacies. Even the ruling coalition is embroiled in internal conflicts with the KAMPI party—closely identified with Malacañang—raiding the candidates and members of its coalition partner LAKAS-CMD.

Rampant pre-election campaigning was also observed, not only in relation to senatorial candidates and party-list groups, but also congressional and local candidates. The latter will only start their campaigns this March 30, 2007.

Issues of Concern:

1. Turncoatism. The unrestricted transfer of candidates from a party to the next party, either within a coalition or to the other side, severely undermines the political party system. It strengthens the role of the individual candidate, patronage politics, and political dynasties in the electoral and political processes.

2. Pre-campaign electioneering. A big number of candidates, both national and local, are observed to conduct pre-campaign propaganda activities through media and use of billboards, posters, and public occasions such as fiestas, birthdays of prominent people, holidays or anniversaries. These exploit a loophole in the election laws that define an election campaign to start upon the filing of a candidacy. This adds more expenses to the actual campaign of a candidate and unduly favors a more moneyed candidate.

3. Non-regulation of pre-campaign electioneering. The proliferation of pre-campaign propaganda undermines not only the fair election character of democratic elections but also undermines the authority and role of the election administrator. Though the Comelec enjoys exclusive authority to enforce and administer all election laws and regulations, it has admitted that it cannot do anything about pre-campaign electioneering. The effective implementation of Section 80 of the Omnibus Election Law against premature campaigning is in doubt.

H. Senatorial and party-list campaign

The senatorial and party-list campaign officially started on February 13, 2007. The proclamation rallies, motorcades, media ads, and postering were the first activities done by the respective coalition and candidates.

The Comelec issued timely reminders on the observance of the Fair Election Act, including the designation of common poster areas. Early in the campaign, it also conducted highly-visible campaigns involving its personnel, government street-sweepers, and volunteers to clean the Metro Manila streets of posters, banners, and streamers placed outside common areas.

The Comelec issued Resolution No. 7767 to regulate the implementation of the Fair Elections Act in relation to the May 2007 elections. This resolution contained three provisions which were contested later. One was the inclusion of the provision banning exits polls despite a standing Supreme Court decision setting aside this provision in the law. The second was the limitation to 120 minutes for television and 180 minutes for radio. The third was the lack of provisions on the purchase, manufacture, distribute or accept propaganda gadgets, such as pens, lighters, fans of whatever nature, flashlights, athletic goods or materials, wallets, shirts, hats, bandanas, matches, and the like.

The Comelec issued additional resolutions to amend Resolution 7767. It issued Resolution No. to remove the ban on poll surveys, including exit polls before and after the elections. It issued Resolution No. 7836 to clarify that the minutes allowed for TV and radio are for each region and not for the total amount. It again issued Resolution 7838 to provide additional guidelines for propaganda gadgets.

An AC Nielsen study reported that as early as two weeks into the election campaign, some senatorial candidates already spent tens of millions of pesos in media ads. Candidates Pichay (Team Unity), Villar (Genuine Opposition), and Recto (Team Unity) topped the media expenses at P33 million, P30.3 million, and P23 million, respectively.

A major feature of the campaigns was postering. Despite all the efforts so far of the Comelec, it is noticeable throughout the country that candidates are posting posters of all sizes and shapes in virtually all surfaces their campaign workers can reach. Sorties and accompanying rallies are not so widespread so far.

Issues of concern:

1. Weak prosecution of cases of violations of election campaign laws, particularly the Fair Elections Act. Despite the widespread violations of the laws and regulations on postering and common poster areas, the Comelec has yet to prosecute even one candidate on the matter. As a result, these candidates and their campaign workers are becoming bolder and bolder. There is a clear possibility that the local campaigns will worsen the violations. The case of candidate Luis “Chavit” Singson who was caught in camera giving money for a parlor game has still to be acted upon.

2. Inadequate enforcement and administration of election laws. The Comelec, under the Constitution, the Omnibus Election Code, and all other election laws, has the exclusive charge of the enforcement and administration of all laws relative to the conduct of elections for the purpose of ensuring free, orderly and honest elections. As such, it should have the power, on its own, to conduct investigations, determine violations, and prosecute violators of election laws. However, the current observed practice of the Comelec is only to act based on a complaint thereby putting the onus of responsibility on the complainant.

3. Use of government resources. Both during the pre-campaign period and during the campaign period, there was an observable increase in government projects in various areas. This needs to be correlated with the political campaigns of candidates or campaigns by their supporters who are in government. The activities of government officials, elected or appointed, also need to be monitored for connection with political campaigns.

I. Election Violence

There have been cases of electoral violence even before the formal start of election campaign. The most notable was the political assassination of Rep. Luis Bersamin, Jr. of Abra last December 2006. Abra Governor Vicente Valera is being accused as the mastermind of the killing in view of the former’s decision to run against the latter for governorship of the Abra province this coming May 2007 elections.

As of March 19, 2007, the PNP already tallied 29 cases of election-related violence during the campaign period. It also disclosed the existence of at least 40 “personal armed groups (PAGs)” or private armies that may be the source of electoral violence.

The Comelec instituted a gun ban and deputized the police to enforce it. At the same time, a memorandum of agreement between the Comelec and the Armed Forces of the Philippines stipulated the use of AFP resources only in extraordinary circumstances. As of March 19, 2007, police have accounted 1,106 firearms, 57 explosive devices and 198 other deadly weapons, from 1,178 arrested violators of the COMELEC imposed nationwide gun ban.

Election violence is occurring within the context of a much wider phenomenon of political killings. The latter are chiefly directed against Left party-list group members, journalists, and alleged members of rebel groups. On the other hand, there are reports of rebel violence against civilians identified with the military or police, including public officials.

A climate of impunity prevails right now with regards political killings, including election-related violence.

Issues of Concern:

1. Ineffectiveness of the gun ban. The gun ban was designed to prevent or lessen the occurrence of violent incidents during election period. There are two factors which are causes for concern: One, the proliferation of an estimated 250,000 unlicensed firearms; and second, the ongoing internal conflict in the country. These two factors mitigate and possibly may cancel any control brought about by the gun ban policy.

2. Possible involvement of police or military units and personnel in partisan election activities. There are already reports of partisan activities of some police and military units, especially in situations of intense local political rivalry, probable participation of retired police or military officials in local election contests, or in campaigns against perceived CPP-connected Left party-list groups.

3. Military intervention in the electoral process. Despite the memorandum of agreement between the Comelec and the AFP, there are new signs of renewed military intervention in the elections. There is the intent, given through the new secretary of national defense and retired police general Hermogenes Ebdane, Jr., of the willingness to use military units in transporting election paraphernalia or assistance in the electoral process itself. There are the announcements from the police of requests for military assistance in their electoral duties. There is the anti-Left party-list group propaganda campaign in poor Metro-Manila communities and other urban areas.

4. Rebel intervention in the electoral process. The Communist Party of the Philippines and the New People's Army have reiterated their policy and actual conduct of issuing permits-to-campaign (PTCs) in their claimed areas of control to campaigning candidates in exchange for either weapons, cash, or political concessions. The main bargaining chip is their actual or threat of use of force against those who refuse to get these PTCs.

J. Organizing for election monitoring

Due to the higher stakes for both the administration and the opposition to field candidates in both houses of Congress, the very low credibility of the election body, the higher possibility of fraud and violence in the national and local arena, the 2007 mid-term elections demand closer guarding and monitoring by citizen monitors.

Aside from the Comelec citizen arms, the Parish Pastoral Council for Responsible Voting (PPCRV) which continues its voter education and poll watching activities, and the National Movement for Free Elections (NAMFREL) which will do the quick vote count, new and existing monitoring groups have been activated for the task of monitoring the various election phases and activities.

The *Bantay Eleksyon 2007*, a monitoring task force formed by the Consortium on Electoral Reforms, will focus on monitoring the Commission on Elections and the whole election process. This effort aims to determine the degree to which the Comelec and its deputies perform their duties

Another coalition, *Pera at Pulitika* Working Group (PAP-WG) seeks to conduct a pilot monitoring of campaign spending of the parties and candidates.

A separate coalition of lawyer groups is being organized to monitor the counting and canvassing process.

Another electoral reform group formed “Ibalik Ang Dangal ng Halalan” which seeks to focus on voter registration and validation as well as the election automation issue.

HALAL or NO-CHEATS proposes to conduct a nationwide vote count through texting.

PINOY BANTAY BAYAN was recently formed and called for “collaborative action” in the May 2007 elections. It identifies and seeks to engage the various efforts in political education, public information and communication, and election monitoring.

Other monitoring initiatives, from the national to local levels, are currently being organized by concerned citizens.

These monitoring groups should find venues for possible coordination of the efforts while maintaining a non-partisan and impartial character.