

# Papers & Presentations

International Conference on  
Development of Democracy and Electoral Practices

April 28, 2011  
Orchid Hall, Plaza Hotel, Seoul



National Election Commission  
Republic of Korea

# **Papers & Presentations**

**International Conference on  
Development of Democracy and Electoral Practices**

**April 28, 2011 / Orchid Hall, Plaza Hotel, Seoul**



**National Election Commission**

**Republic of Korea**



# Contents

---

## Session I

BANGLADESH .....	3
KOREA .....	27
TAIWAN .....	57

## Session II

International IDEA .....	75
MEXICO .....	83
NEPAL .....	117

## Session III

IFES .....	143
PHILIPPINES .....	151
RUSSIA .....	175





SESSION · I





**BANGLADESH**



# ESSENTIAL REQUIREMENTS FOR FREE AND FAIR ELECTION-

## BANGLADESH EXPERIENCE

### SEMINAR IN SEOUL- S. KOREA APRIL 25-29 2011

M. Sakhawat Hussain, Election Commissioner,  
Bangladesh Election Commission

#### **Introduction**

The foundation of strong democracy, in any type of society, is the process of choosing people's representative who would speak for them in appropriate forum i.e. Parliament and elsewhere. The only process through which people can choose their representative in a transparent manner and in keeping essence of democracy is through election arranged by Electoral Management Body (EMB), commonly known as Election Commission in Bangladesh and elsewhere. In that people have to have confidence on the institution i.e. EMB and the electoral process adopted by the country is transparent and efficient. Therefore, it is the popular confidence in electoral processes and if that confidence is lacking both on the institution and process neither election results would be acceptable to mass nor a free and fair elections could be conducted for democracy to flourish in any society, be it developed or developing societies.

Number of case study and regional studies as well has shown that when citizens lack full confidence that elections in their countries are free and fair, the result can be a decline in levels of voter participation and, in extreme cases, popular protest against the process and the institution enrages. We have witnessed similar events in Bangladesh in 2006-07 demanding to overhaul of the EMB and electoral process reform before scheduled parliamentary election in early part 2007.

Thus conceptually the Essential Elements for Free and Fair Election would be: **(1)** Accurate Voter List **(2)** Elaborate Electoral Law **(3)** Peoples Confidence on EMB and the process **(4)** Political Environment

In the context of Bangladesh democratic path had not been smooth though there were 8 parliamentary elections till 2006. The country had gone through one party rule to military intervention followed by pseudo democracy until reintroduction of parliamentary democracy as result of popular uprising against military dictatorship. But soon the political confrontation over election results, growing trust deficit on EMB resulted in to tumultuous political events in 2006-07.

In that corresponding period Bangladesh had seen worst case of political conundrum. The people expressed lack of confidence not only on EMB, in our case Election commission, but in the entire electoral process perceived to be far from being transparent. People had growing disapproval on the voter list which was in true sense far from accurate. In fact voter list was neither accurate nor the preparation and maintenance of list was transparent. The voter list in question had about 12 million spurious voters in the list as it was found at later stage. In reality Bangladesh electoral process lacked the essentials ingredient, as mentioned above, for generally conduct of free and fair elections. Electoral process was skewed during the autocratic regimes and hardly rectified even when democratic government was reintroduced in 1991. Due to persistent low political culture election results have been contested by the defeated party. On the other hand government in power, irrespective of party in power, had been resorting to take advantage of existing electoral distortion. Every election result had been rejected by the defeated party on the allegation of manipulation by the ruling party with the help of EMB. Under such back drop, under heavy public pressure government of the day had to introduce a 'caretaker government' system to conduct the elections to national assembly. With this background to guarantee impartial and fair election a 'non-party caretaker government system was introduced in 1996 with constitutional amendment. However, even the caretaker government system was also manipulated which resulted into political uprising in 2007.

The political turmoil focusing on the guarantee for free and fair election resulted into clamping down the emergency in 2007 and two years of the interim caretaker government. New Election Commission (EMB) was put in place who undertook a massive electoral reform to eliminate electoral distortion with an aim to conduct free and fair elections.



Electoral reform that succeeded in that most remarkable among other was introduction of digital photo voter list resulting into creation of an electronic database of over 85 million voters. The process was transparent and within the view of the public. The system changed from ‘voter passive to voter active’. This system eliminated spurious voters to the tune of 12 million, one of the major distortions in the process. This system is being replicated in the regional countries. There were other areas of reform which established the essential elements for conduct of free and fair elections. The reforms also included the electoral law reform, restructuring of the EMB and changes in the conduct of the elections.

With all these reforms in Bangladesh Election Commission could conduct the most ‘free and fair election’ in the history of the country with massive turnout averaging 85 percent. The election was termed by international observers as ‘largely consistent with international standard’.

### **Bangladesh Experience**

Ever since independence of Bangladesh Election Commission has been in operation which so far conducted 9 Parliamentary elections under various types of government ranging from one party system to autocratic regime to multi-party democratic system. During this period, 1972 – 1991 voter lists was manipulated, electoral law was skewed and Election Commission (EMB) could not function as an independent body though such guarantee was envisaged it is in the constitution. Election Commission Secretariat remained subservient to the government till 2008. People lost faith in electoral process. Some improvement took place on the first ‘democratic election in 1992 but was not enough. Election Commission failed to grasp the people sentiment even did not try to meet the requirement of holding free and fair election till the problems were identified and massive reform undertaken in the period of 2007-08.

Before we discuss the critical issues including the reforms initiated and Bangladesh experience of overcoming the short fall, a brief history of Bangladesh Election Commission is appended below.

## **Historical Evolution Bangladesh Election Commission (BEC)**

BEC was established soon after Bangladesh was liberated, as structured under the constitution of 1972 under the constitution as an independent body. But that was not so. Prior to the liberation Dhaka had a provincial election office since Election Commission of Pakistan was established in 1956. Therefore, the staff those constituted BEC had the continued experience of holding elections and referendum at all Pakistan basis and Provincial Assembly elections under civil government. The staff those played pioneering role in establishing BEC all most from the scratch had experienced one of the cleanest elections to the then Pakistan National Assembly in 1971 which was won by AL. These officials and staff had also held election to the then East-Pakistan Provincial Assembly in the same year. These experiences paid rich dividend in setting up the BEC at earlier stage of liberation.

BEC was strengthened and further structured on the sound footing with the enactment of the most important electoral law the Representation of the People Order 1972 (RPO-1972). A number of rules and regulations were also enacted in the same period. Under the new order the voting age was lowered from 21 to 18 years. Under the Constitution and as per the procedure set in the RPO the first Parliamentary Elections in Bangladesh was held March 7,1973. The country was delimited into 300 constituencies based on the seats limited by the Constitution.

## **Electoral System of Bangladesh**

The Constitution of the People's Republic of Bangladesh lays down the composition and electoral system. In that Article 65 (2) provides makes provision of three hundred (300) single member constituency members to be directly elected to the Parliament. Clause (3) of the same article under Fourteenth Amendment, Act 2004 provides forty five(45) seats for women for next ten years. It further says that women members "will be elected by the aforesaid members in accordance with law on the basis of procedure of proportional representation in the Parliament through single transferable vote". However, the clause does not restrict a woman to contest in the direct election.

Bangladesh adopts a multi party democracy with First Past The Post system (FPTP) as Electoral System excepts seats reserve for women.

### **The problems faced by the Commission over the years**

Few basic issues those were faced by the Bangladesh Election Commission for over three decades though elections were held to the parliament under presidential and parliamentary system were not addressed in earnest. Elections up to 1992 were questioned. During this period Election Commission could not function as was expected out of an independent body. In fact it was independent in paper only. Entire electoral process suffered from trust deficit. The problem lingered even after the reintroduction of Parliamentary system in 1992, first elections held under a caretaker government. But the old insinuation gripped the commission once again. The controversy over appointment of commissioners became major issue along with the manner in which electoral roll or voter list was prepared. Lingering problem of inadequacy of electoral law persisted though some cosmetic reforms were made. However, in short the most essential elements for holding a free and fair election went unnoticed as result Election Commission suffered from lack of peoples trust till massive reforms were made in 2007-08.

### **Identification of Critical Areas of Electoral Concerns**

Ever since establishment of BEC it had conducted numerous elections and bye-elections including all local elections till 2001. It had conducted 9 parliamentary elections up to 2008. BEC conducted three (3) Presidential Elections under presidential system and five (5) Presidential Elections through the votes of members of Parliament in Parliamentary form of government till 2009. BEC also had the experience of three (3) Referendums in 1977, 1985 and 1991.

Apart from elections at national level, mentioned above, BEC conducted other local body elections. It has the experience of Upa-Zilla Parishad (sub-district Council) election in 1985, 1990 and latest in 2009. So far BEC conducted eleven times city corporation elections till 2010 and eight times (8) Pourashava (municipality) Election including few

elections in 2008. BEC conducted Union Council elections in eight occasions till 2003. BEC also conducted one Hill District Council Election. This particular election was bit complicated and cumbersome as BEC had to rearrange election of fixed numbers of council members from different tribe and chairman reserved only for tribal candidates in all three Hill Districts of Chittagong Hill Tracts.

Analysis of all these elections showed that there existed critical areas of Electoral Concern which did not receive adequate attention to pickup the existing distortion for rectifications. Nevertheless, study shows that there remained some less identified critical areas most of which became overreaching factors for reforms.

In broader terms the most critical area that lingered for long was lack of public confidence in the electoral process. **While analysing peoples' faith in entire electoral process three key areas that needs to be constantly evaluated and reformed for fair, free, transparent and legitimacy of the entire system. These three basic areas are:**

- Electoral Roll
- Electoral system
- The structure of the EMB or Election Commission, The structure includes all laws especially electoral laws those provide legitimacy of EMB functions and provides legitimate power to conduct the election acceptable to the society.
- The physical structure is also remains critical as discussed.

***Electoral Roll.*** There is ample proof that Electoral Roll was manipulated during the last two decades which had been in the centre of the political turmoil after every election especially since 1991. That remained the most critical area that needed to be corrected. Over the years public had lost confidence on the Electoral Roll. It was proven during 2006 political mayhem. It was found that almost 12million spurious name did exist in the old Electoral Roll out of 90.7 million.

***Electoral Process.*** Electoral system or process includes all aspect of election. Legitimacy of the electoral process is crucial for the establishment and maintenance of democracy. Lack of public confidence in the process could be fatal for democracy to take roots in a society. If the electoral process is threaten by skewing the rules of the process, designed

electoral process in favour of chosen actor over others and voter choice is systematically manipulated by rigging the voting process is made through electoral administrative process then the public confidence in the system erodes. Such a situation then can jeopardise the entire ethos of democracy. Faith in electoral process is critical in maintaining democracy. Unfortunately, over the years such faith had eroded in Bangladesh.

***Structural issues of Election Commission (EMB).*** One of the most important factors that remained critical was the lack of public confidence on BEC. The fact has been adequately covered. BEC had suffered even on the question of legitimacy as there was no principle rule for appointment of managers i.e. Commission. Most of the time legitimacy of the appointment of the Commission has been questioned by public. In most cases appointment has been through political government out of persons of their liking. It remains unaltered till date and therefore, the appointment process of the Commission still remains a critical area that needs focus.

Along with questionable appointment of the Election Commission the status of its secretariat, as that works as the backbone of the Commission, had been acritical area within the structure of the BEC. The other element of structural strength of BEC is the electoral law, rules and regulations. Unfortunately there remained serious flaws in these legal documents which strengthen the hand of the BEC.

Election law found to have been insufficient in reducing the ever increasing tendency to use money and muscle power to skew the rules of the game as well manipulate the system. Use of money and muscle power had become the main element for distorting the voting result.

***Relation between BEC and political Parties.*** No formal relation existed between BEC and political parties other than election period as there was no provision in the law for mandatory registration for the parties with BEC. Due to non-existence of such provision there was no binding for political parties or for BEC to maintain a formal relationship between two most important institutions of democracy. Having studied the other regional countries' EMB structure it is evident that BEC had no such binding till law was reformed in 2007-08. Therefore, there were no checks and balances to put political parties in some kind of bindings to monitor inner-party discipline.

***Delimitation of Constituencies.*** Another important area which may also form part of structural reform is that of delimitation of the constituencies. This is an important issue that definitely adds to the factor of restoring confidence in electoral process. This is not only subject of statutory law but Constitutional obligation to create even playing field for candidates participating in the processes. The fact had been ignored for 24 years. In all other countries this factor has been considered as critical areas to reform and due importance is accorded. For example in India a separate commission is set up to ensure a fair play in delimiting the constituencies.

In broad terms these were identified as the critical areas for rectifications but no serious attempts were made in the past to resolve them through Electoral Reform.

Therefore, unless these critical areas were addressed and reflected through repeated elections those could demonstrate neutrality of the BEC through even handed application of law and use of accurate electoral roll the public confidence could not be restored.

It was therefore, became imperative on part of BEC to restore public confidence that it had to undertake an arduous task first to identify and then to address the critical areas and to rectify them before facing the real test i.e. elections. This is what the current BEC (2007-12) undertook through out the period of 2007-08 before launching into series of successful, fair, legitimate and acceptable elections including most highly appreciated, within and outside the country, National Assembly Election of 2008 i.e. 9<sup>th</sup> Parliamentary Election.

### **Institutional and Structural Issues**

***Lack of Peoples' Confidence in the Process.*** Bangladesh electoral process that has been practiced so long had some lacuna those were not given close attention to though democratic elections since 1991 has been satisfactorily fair as they were conducted under Non-Party Caretaker Government (NCG) installed after Ershad's fall in 1990. Yet there has been constant scepticism from the losing parties of manipulation from by the other agencies. Except, in 1990-91 NCG of Justice Shabuddin all other elections have been seriously questioned by the defeated parties. Political confrontation between ruling BNP and opposition headed by AL took disastrous turn after 1994 Magura-2 bye election (one

of the constituency) conducted under the ruling party. Opposition demands grew on issues like: installation of caretaker government to conduct parliamentary elections, reform of electoral process and structural changes in the conduct of election.

**Needed Reform of Election Commission.** Election Commission remained independent only on paper. Election Commission secretariat remained under Prim Minister's Office which seriously jeopardised the independence of the Election Commission. Not much attention was paid to strengthening the Election Commission by amending the electoral laws.

The failure of the then Election Commission in tackling electoral issues effectively was due to some basic structural and psychological factor:

- The organisational lacking of Election Commission
- Election administration process
- Controversy over voter list
- In adequate law to tackle crisis and
- The political environment

***The organisational issue:*** One of the main issues was that the past electoral reform processes did not have enough element of integrity in the eyes of public and opposing political parties. Therefore, even though there were feeble attempt to bring some changes but to it did not affect on electoral culture. No serious attempt was made to the basic structural change with in the of the Election Commission setup. There had been attempt free the Election Commission secretariat from the influence and indirect control of the Prim Minister's Office. Whatever effort was made by the Election Commission and the civil society that did not materialised due to lack of political will across the political divide. Therefore, it had calamitous effect on the conduct of the elections as was evident from above discussed bye elections. Election Commission could not effectively control the administration or the election management system due to unseen influence of the party in power.

***Election administration process:*** One of the biggest problems is that Election Commission has been faced in past years is the Election administration system that was and to some extent is practiced. Election Commission has to source huge number of manpower including that of law enforcing agencies from the civil administration and forces under the control of the government. Unfortunately though, due to the low political culture over the years, to a great extent, larger parts of the civil administration has been politicised in such a manner that there are political divide within the administration. This state of affair makes it difficult for Election Commission to deploy such large number of people to administer election. To fathom the enormity of the problem it may be mentioned that about six hundred thousand personnel were involved in 9<sup>th</sup> Parliamentary elections. 64 Deputy Commissioners were appointed as Returning Officers(RO) and 35,263 were appointed as presiding officers, one each for each polling centres. To assist 1,77,277 assistant presiding officers and 3,54,554 poling officers were appointed. In addition large number of members of law enforcing agencies including armed forces had been deployed. There were around 10 percent increases in the manpower in each Parliamentary election since liberation mainly due to increase in the polling centres. It is simply logistical nightmare that Election commission has to handle to hold elections to 300 parliamentary seats in single day.

It has been age old practice to appoint Deputy Commissioners as the ROs for one or number of constituencies. These and other officers are then remain susceptible to intimidation if the elections are held under political government. Though after introducing the system of NCG under the Article 58 of the Constitution there has been minimum cases of intimidation by the political parties yet there have been serious allegations of partisan behaviour of some key personnel including, to some extent, that of law enforcing personnel. Though introduction of caretaker government was thought to have helped overcoming of the trust deficit of these administrative personnel but in many cases it was not be so. A case in point of trust deficit was the rejection of the result by AL after the 1991 election though that election was important in many ways.



1991 election had special significance. One, it was revival of democracy after the fall of ‘autocratic regime’ or ‘pseudo democracy, which was forced out of power by large democratic forces with sustained people’s uprising led by AL under BNP. Two, it was for the first time in the history of Bangladesh that a non-political government known as NCG under then Chief Justice Mr. Shahbuddin Ahmed, as per unanimous decision of all the political parties, was introduced. Subsequently non-political caretaker government system was legitimised through constitutional amendment for the conduct of free and fair elections.

***Controversy over Electoral Roll:*** One of the basic instruments for ensuring a free and fair election is a clean and non-controversial electoral roll. If the roll is suspected by the voters and candidate or the majority political parties the roll becomes controversial and holding elections with such roll that erodes the confidence of the people on the Election Commission and elections held under such suspected roll becomes unacceptable by the people.

Bangladesh constitution also limits the number and put bindings on preparation of electoral roll in Article 121 which says, ‘there shall be one electoral roll for each constituency for the purpose of elections to Parliament, and no special roll shall be prepared so as to classify electors according to religion, race , caste or sex’. Though constitution does not specify the methodology to be used for preparing such roll, except 18 years to be qualifying age as voter, yet different set of law under the constitution is enacted mainly to define methodology and the other qualifications of voter and the process of updating.

However, the Electoral Law that existed before 2007 reform had set the traditional methodology for the preparation of electoral roll i.e. door to door visit by the enumerators to ascertain voters to be listed. Many a times the enumerators were alleged to be partisans and suffered from distrust. Door to door visit to enumerate was age old practice adopted not only in Bangladesh but exists in many countries in the world. In that system electorate had to fill up a form as presented to him during door to door enumerator. Except listing

a voter with name and address there were no extra visible identification was available to ensure his genuineness of the listed voter during the poll. There were no sets of system in place to check voting age while enrolling. In that methodology there was no counter check stop being voter in multiple constituencies. There was no regular updating program, except prior to next general election, which could not have accounted number of dead voters. The system gave ample opportunity for inclusion of spurious, under age and duplicate or triplicate voters. Revision was cumbersome process under that methodology. Manipulation of the electoral roll in every stage was common practice by unscrupulous enumerator. Though there was process of inclusion and exclusion during the period of public scrutiny, the objections if raised, but the process was so cumbersome that rather increased agony rather than mitigating the objections.

Since the electoral roll was not people oriented, rather system was too bureaucratic, ordinary people had faint knowledge about the process except becoming part of ‘Voter passive’ registration where voter did not have any subsequent role. Though the entire process seemed to be fair but due to ‘passive system’ voters had no easy access to find out if they were properly enrolled, therefore, by default the electoral roll carried many errors of omission and commission. It is that huge margin of error and voter passive system, inaccessibility, manipulation and bureaucratic registration process which made the enrolment process a huge challenge for Election Commission. In many a cases this default made Election Commission controversial and raised huge political uproar.

***Lack of Confidence on BEC :*** In conduct of ‘free and fair elections’ four ideal factors must play dominant part. In that EMB plays the most crucial part as it is only legitimate body to conduct and superintend elections. EMB has to ensure that integrity of elections conducted is not questioned. This can only happen if EMB enjoys public confidence and its credibility is well established through a transparent and non-partisan dealing in entire process. The BEC is no exception to that. Over the years for reasons well explained Bangladesh Election Commission suffered from trust deficit and it was Herculean task to bring back peoples confidence on Election Commission. That was only achieved

through the reform undertaken in 2007-08 which concluded in successful elections in 2008 and series of other elections ever since.

***Polarisation of Bureaucracy and its effect on elections*** : Like any other EMB Bangladesh Election Commission also conducts elections with the help of government employees seconded to Election Commission for specified period under the Constitution and the election law. In any given national election BEC needs to mobilise around six hundred thousand personnel to be deployed at a time for the election conducted in a single day. For example over six hundred thousand personnel, including a large part being the members of law enforcing agencies, were deployed in the conduct of 9<sup>th</sup> Parliamentary elections held during 2008. In that 64 Deputy Commissioners were appointed as RO for 300 constituencies and 35,263 were appointed as presiding officers, one each for each polling centres. To assist 1,77,277 assistant presiding officers and 3,54,554 polling officers were appointed. All most all of these officials were civil servant including teachers of government funded schools and colleges. In a very rare circumstance or to fill up the shortfall, if any, teachers of government funded private schools and colleges are taken as polling officers. It is these grass root level officers and staff who are the kingpin in any given election and its conduct. Therefore, conduct of free, fair and transparent election largely depends on these civil servants and government officials who are temporarily placed under the law to the Election Commission.

The most important appointment is that of the Returning officers (RO) at the constituency or administrative district level and Assistant Returning Officer (ARO) at Upa-zilla level who, under the law, given with enormous power in the conduct of election and superintendence on behalf of the Election Commission. They receive and scrutinize nomination papers, decide which candidates are eligible to contest. RO's appoint and trains Presiding Officers distribute under their responsibility ballot, all election materials, and perform all functions as envisaged in the RPO. Apart from ROs and AROs many high officials of the ministries are also entrusted with election related duties. Unless these government servants, temporarily given under Election Commission to conduct election, are neutral it becomes difficult to hold free and fair election. In most cases due to low political culture these civil service has been politicised thus creating enormous problem for

Election Commission. There has been number of cases in the past which showed the trend. Laws had to be made more stringent to deal with such situation.

### **Electoral Reform -2007-08**

In the above backdrop of the above discussion BEC initiated a massive electoral reform within given frame two years before meaningful elections could be held. A 'road map' or time frame was issued for public consumption. The time frame was approved and electoral reform was actively supported by the NCG. Finally election was held to ninth Parliament of December 29, 2008 under reformed electoral process. Both the reform and its results were hailed nationally and internationally.

**Areas of Reform.** Key electoral issues were identified such as electoral participation and representation, delimitation of constituencies, voter registration, registration and oversight of political parties, structural reform of election commission and improving electoral integrity etc were identified as areas of reform. These issues are then grouped into broad categories requiring overall reforms. These main categories had sub-divisions. However, main categories were:

- Preparation and maintenance of accurate electoral roll
- Review and reform of electoral law
- Structural reform of BEC

**Preparation of digitised electoral roll:** One of the major issues of controversy was the doubtful accuracy of the voter list or electoral roll that was discussed in detail in Chapter 2 of this paper. It was then identified by national and international expert group that the electoral roll so far prepared had 1.2 million fake voters. It was one of the main allegations against ruling BNP made by the opposition which was one of the main causes of virulent political confrontation claiming 17 lives of political activists. The controversy over the existing electoral roll caught the imagination of the public and pressure from public and the civil society grew to make a fresh electoral roll in first place. Accuracy

and authenticity was the key consideration of BEC while embarking upon preparation of new electoral roll. There were surmounting demand to prepare a database for the voters. BEC analysed the entire issue and it was decided that the old methodology had to be changed to achieve accuracy which would involve headcount. In that voter listing system had to be changed from 'passive' to 'active'.

The idea of digitised photo electoral roll was conceptualised by BEC with the technical help from experts within the country that included Bangladesh Armed Forces. It was the most modern method of preparation, preservation and multiple use digitised data of the electoral roll. A study of the system and its success and failure in few countries those who ventured to study reasons why voters were apathetical to the system to start with.

The methodology that was worked out by the BEC with the help of local technical experts called for willing participation of the voters to change the registration system from 'voter passive' to voter active' in that after initial door to door enumeration voters have to appear before the camera and bio-matrix instrument integrated with laptop computer. It was not easy to change the system and voters habit.

One single motivational factor for changing the voter habit from 'passive participation to active participation' was issuance of national ID to the each voter. The incentives behind obtaining national ID were announced and that motivated the voters more then becoming a simple voter. Decision of introducing ID card was vital to the success of the project within specified period. Bangladesh had never before had an official identification document and opportunity to obtain a national ID became a powerful incentive to register.

One of the most significant and far reaching innovations of the 2007-08 electoral reform was the decision to create a digitised photo electoral roll or, in simpler terms, voter lists that included photographs of each of Bangladesh's 8,10,58,698 eligible voters as against roughly 91 million voters enumerated in 2005-06.

In terms of accuracy digitised electoral roll proven to be the most accurate electoral roll not only of the region but could be compared with any developed country's electoral roll.

In an UNDP initiated survey carried out IFES found 99 percent of the eligible voters were enrolled in the process and more than 95 percent accurate except typing errors.

***Logistics for Digitised Photo Voter Roll.*** This was a logistical nightmare for BEC. Enormity of the logistics were beyond comprehension unless a meticulous plan was put in place. The process required to purchase 10,050 laptop, 12000 fingerprint scanners, 3290 generator, 9004 web camera, 590 server desk top had to appoint 482,880 enumerators, 104,025 data entry operators, 62,000 supervisor 6,000 officers and 15000 members of armed forces. The entire operation was supported by 700 helicopter flying hours, 24 million sheets of paper used which produced 2.2 million bound books of final electoral roll for election purpose. Never before such massive mobilisation of man and machine took place in preparation of any voter list by BEC.

Positive Impact on the electoral process digitised photo electoral roll. Such accurate voter list that provided definitive identification of each voter photo electoral roll eliminated chances of fake voting. It enhanced voting integrity ever then before. It positively increased accountability of polling and presiding officers as each voter is identifiable and without connivance of polling staff fake voting or ballot stuffing is made next to impossible. Duplicate voting is easily detectable and has reduced to almost nil which was one of the biggest drawbacks in previous method.

Since the introduction of the photo electoral roll and elections held thereafter, including, national election of 2008 there were hardly any complain of fake voting.

Apart from introduction of most modern concept of electoral roll the law also made a drastic change in updating system. It introduced annual updating of voter list instead of irregular and unspecified periodical updating.

A national data base has been created through this system.

Preparation of national ID card and issuance not only enhanced dignity of poorer section of citizen but its proven to be a contributing factors in good governance. Introduction of national ID card and digitised photo electoral roll is considered a revolution in electoral reform not only in Bangladesh but in entire region. It became a model for other developing countries. The system alone revolutionised entire edifice of the election system in Bangladesh. It remains to be the key factor for ‘free and fair elections’ in Bangladesh so far conducted between 2008-2011.

### **Review and reform of electoral law**

***Review and Reform of the RPO-1972.*** One of the initial tasks of the electoral reform that newly constituted BEC under took in parallel other was review of the main electoral law to bring reforms with the aim to conduct a transparent free and fair elections. Following objectives were set:

Expand disqualification of candidates to help assist political parties to select relatively cleaner candidates

Improvement in nomination process

Improving conduct of election

Quick settlement of election disputes

Mandatory registration of political parties

Reduce the influence of ‘money’ and ‘muscle’ in the electoral process by reforming code of conduct and strict observance of election expenditure

Strengthening the BEC in implementing the code of conduct and the electoral law

***Public pressure for Electoral Reforms.*** With the growing political unrest after every election over the issue of transparency there has been steady growth of public pressure for electoral reforms. Civil society and the media became the chief instruments to create public pressure both on political institution, government and the BEC. The combined

pressure made political parties to lend their support to the demand especially parties outside the power block. Proceedings of workshop, seminar, and expert opinion printed in newspapers, editorials and talk shows on the subject telecasted by the electronic media had put impetus on the BEC. With the time and space available after installation of the 2007-08 NCG provided the BEC with necessary window of opportunity for such reforms. Most important factors other than those discussed was the willingness of the BEC to accept the reform agenda in earnest.

***Methodology Adopted for Legal Reforms.*** With this background and in absence of set institution for electoral reform as practiced in most of the democratic countries the BEC set its own course to handle the issue of reform direct with the NCG and set up a participatory mode with the main stakeholders, political parties. Methodology the BEC adopted was:

- Review and analysis of elections held since 1991
- Institutional memory and review of existing laws and regulations
- Review of observations, documents available with the BEC
- Review and analysis of final papers produced by few civil society organisations
- Participation of stakeholders before final adoption of reform proposal

Apart from these amendments one of the most significant inclusions in law was the ‘Registration of the Political Parties with the Commission.’ With the introduction of this Article pre-qualified parties could only register with Election Commission for participating in the National General Election. The new Article was introduced which gave BEC with the power of ‘candidature cancellation’ for gross violation of the law or resorting to violence during entire electoral process.

### **Confidence Building –the Consultative Methodology**

The BEC that took office in February 2007 it inherited a situation with past legacy where public confidence on the Election Commission seriously eroded to an extent that



it was difficult to make believe that BEC could ever administer a free, fair and credible elections. More or less this perception was reflected by many till 9<sup>th</sup> Parliamentary election was held. However, in the interim period confidence building was a serious challenge that the BEC faced at initial stage. Thus rebuilding confidence remained as priority. The challenging task was handled with forethought and maturity even under serious provocation from a section of intelligentsia. The manner in which it did this provides crucial lessons for the future of Bangladesh, as well as for other countries. The BEC's success in building confidence was the decision to remain open, candid and adopting a consultative process in reforms involving both political parties and civil society. Use of media and establishing a direct contact with the people became best medium to make BEC transparent. The processes of consultations, the transparency of the dialogue, which was open to media, and working out a 'road map', yielded few major benefits for the both the institution and the electoral process reform.

*First*, transparent and consultative the process benefited from the input of fresh ideas and constructive suggestions from various sources, chiefly civil society that had dealt with election issues and electoral reform for years. This input resulted in better and broader reforms than what earlier BECs unilaterally attempted.

*Second*, though all the suggestions could not materialised the way BEC contemplated due to the year long negative political culture yet the consultative process gave stakeholders a sense of ownership that made electoral reform process acceptable to them and the public. Use of media in the process of consultation to reach public had salutary effect. It worked as the medium of contact between public and the BEC.

*Third*, and also crucial, the process of consultations contributed to a political party buy-in to the reformed electoral process. With the public confidence gained and backing of the majority of the political parties BEC could pursue all parties to agree in participating election having some reservations about some of the element of the reform. This approach addressed a fundamental deficiency of the previous election period, which had failed in large part because one of the major parties ultimately refused to participate.

*Fourth*, the process of consultations with political parties was not without pitfall. In many a places of reform, especially in some operating section of RPO in general and the political party registration in particular, most of the parties in consultation had serious reservation. Those sections and Articles had to be mellowed down. In some cases BEC prevailed for example in including ‘armed forces in law enforcing agencies’, introduction of no ‘vote’ and on Article 91 but BEC prevailed. Subsequently while converting ordinance into law ‘no vote’ and armed forces issues were dropped but Article 91E survived. BEC faced acute problem with the decision on BNP for inviting to the dialogue. BEC’s decision to ignore main faction was a wrong step which was subsequently regretted. It became a thorny issue yet BEC was able to bring BNP to the election. The mistrust between two had a lingering effect. Yet with this issue BNP accepted the existence of Article 91E, provision for canceling candidacy power with BEC, and compulsory registration. However, in final count the consultative methodology yield positive result and the reform sustained.

### **Conclusions**

From the above study it is seen that soon after liberation Election Commission was established and electoral law RPO was enacted in 1972. Since then BEC has involved itself in various elections including eight elections to the Parliament up to 2006. Due to political turmoil that the country had gone through the Election Commission could not be established as an independent institution. Election Commission on the other hand could not deliver either due to lack of confidence or political apathy towards the institution. Defeated party after every election singled out Election Commission for their defeat. The blame game continued and became the focal issue of political tumult in 2006. On the Other hand favouritism, partisan behaviour marred the reputation of the Election Commission in most cases. In most cases Election Commission failed to ‘conduct elections which generally could be said to have been fair and free in terms of international standard.

Under such circumstances the very appointment of the Commission remained questionable. Lack of confidence and political apathy towards Election Commission did not provide enough time and space for the Election Commission to take up sustentative

initiative to take up the issue of the electoral process reform which should have been a continuous process. Politicisation of civil administration, lack of will power to implement the law by the Commission stigmatised the conduct of election.

Due to lack of political will and Election Commission near apathy past endeavour of electoral reform turned into failure. Existing political culture did not support growth of an independent election commission. On the other hand past reform attempt was neither touched the public nor stakeholders were consulted which became the main causes of failure.

The event of 2006, prior to the failed election to the 9<sup>th</sup> Parliament that was scheduled in January 22, 2007, brought the emergency and installation of new NCG and provided enough time and space to the freshly constituted Election Commission to initiate a massive electoral reform. Reforms were initiated and BEC could earn the confidence of stakeholders and to be partner in the reform process.

Major reforms were made in preparation of electoral roll, reform in legal structure and structural reform of the BEC. These reforms sustained as these were turned into law by the elected parliament. Through the reform that was made in 2007-08 brought back public confidence on the BEC. It revolutionised the electoral roll with the introduction of the photo electoral roll which eliminated much of the corrupt practice in the polling. The photo electoral roll became the role model for other regional countries.

For the first time that mandatory political party registration under stringent conditions were accepted by the parties and major parties registered themselves. Elections were held among the registered political parties only. Reformed Code of Conduct brought drastic change in the candidates' behaviour during campaign and changed the campaign pattern. Under these reforms 9<sup>th</sup> Parliamentary election was held which has been termed to the best in the history of the country both by local and foreign observer besides the voters. It was possible only through drastic reforms that were undertaken in hand keeping in a view to meet the basic essential requirement for the conduct of free and fair election. Unless basic essentials are met it remains an uphill task for any EMB to conduct a 'free fair and legitimate election'. We believe Bangladesh experience can serve as an example to ensure a free and fair election.



**KOREA**



**The Current Situation and System  
for Realizing Free and Fair Elections in Korea**

**Standing Commissioner Kyung-Keun KANG  
National Election Commission, Republic of Korea**





# Table of Contents

## **I . Introduction**

## **II. System for Realizing Free and Fair Elections**

1. Existence of Independent and Neutral Election Management Body
  - 1) Status of the Election Commission: Independent Constitutional Body
  - 2) Composition of the Election Commission: Permanent Body with Nationwide Organizations
  - 3) Powers and Responsibilities of the Election Commission: Fair Management of Elections and Civic Education
2. Maximizing Citizens' Right to Vote and Stand for Election
  - 1) Maximizing Participation in Elections: Preliminary Candidacy
  - 2) Maximizing the Right to Stand for Election: Strengthening the Representativeness of Females and Subsidies for Nominating Disabled Candidates
  - 3) Globalization and Elections: Participation of Foreigners and Multicultural Families in Elections
3. Ensuring the Impartiality and Neutrality of the Electoral Process
  - 1) Ensuring the Impartiality of the Electoral Process through Computerization of the Electoral Process
  - 2) Guaranteeing the Legitimacy of People's Representatives through Fair Voting and Counting
  - 3) Securing the Openness of the Electoral Process through Public Management of Elections

## **III. The Situation of Realizing Free and Fair Elections**

1. Balancing the Impartiality and Freedom of Election Campaign
2. Prevention and Strict Punishment of Election Crimes
3. Submitting Bills to Improve the Current Election System

## **IV. Conclusion**



# The Current Situation and System for Realizing Free and Fair Elections in Korea

By Kyung-Keun KANG, Standing Commissioner, National Election Commission

## I . Introduction

The most fundamental system for realizing fair and free elections in Korea can be found in the existence of the election management body that is constitutionally independent and neutral. Korea's Election Commission, an independent constitutional body, was established on Jan 21st, 1963 by the fifth revision of the Constitution in 1962. In accordance with the Election Commission Act, the National Election Commission has permanent bodies in every Si (metropolitan city) / Do (province) and Gu (district) / Si (city) / Gun (county) in order to ensure the impartiality and neutrality of the Commission.

The constitutional duties of the Election Commission (EC) include management of elections (public office elections and private elections) and referendums (national referendum, residents' referendums, and residents' recall votes); administrative affairs related to political parties and funds; and democratic political and civic education. With the constitutionally guaranteed independence, the EC has designed a free and fair election system while maintaining strict neutrality. As a result of the EC's continuous efforts for realizing free and fair elections, the EC was ranked as one of the most trustworthy organizations<sup>1)</sup>. Furthermore, Korea received high scores in the Economist Intelligence Unit's Democracy Index Report of 2008 and 2010, which ranked Korea as a full democracy<sup>2)</sup>

The Election Commission of Korea has adopted various systems for the development of democratic politics through free and fair elections under the premise that the election system of each country varies depending on its history, politics, society, and culture. In

---

1) According to a survey in 2007, the EC was ranked 3<sup>rd</sup> next to the Constitutional Court and the Supreme Court.

2) Since 2006, the Economist Intelligence Unit releases a biennial report on democracy index, reflecting scores in the categories of electoral process and pluralism, functioning of government, political participation, political culture, and civil liberties. Korea was ranked 22<sup>nd</sup> in 2008 and 20<sup>th</sup> in 2010.

this paper, I will present Korea's major systems for realizing free and fair elections, and share the experiences with other election management bodies.

## II. System for Realizing Free and Fair Elections

### 1. Existence of Independent and Neutral Election Management Body

#### 1) Status of the Election Commission: Independent Constitutional Body

The National Election Commission of the Republic of Korea is an independent constitutional body. The first democratic election in Korea by universal, equal, and direct suffrage with secret ballot was the Constitutional National Assembly Elections held on May 10, 1948. As an administrative body of the Government of the Republic of Korea founded on August 15, 1948 in accordance with the first Constitution enacted on July 17, 1948, the Election Commission was in charge of electoral affairs. However, the EC at that time was difficult to secure independence and impartiality in terms of checks and balances since it was part of the executive branch headed by the president. The electoral fraud (so-called 3.15 Electoral Fraud)<sup>3)</sup> during the presidential and vice-presidential elections in the early days called for an independent national election management body that is equal in status to the legislative, executive, and judicial branches for fair management of elections. Consequently the Election Commission was re-established in January 21, 1963 by the fifth revision of the Constitution in 1962.

In the current Constitution, the EC is called as the fifth constitutional agency by press and Korean people. According to the Article 114 of the Constitution, the Election Commission is established for fair management of elections and affairs related to political parties. The National Election Commission is composed of three members appointed by the President, three members selected by the National Assembly, and three members designated by the Chief Justice of the Supreme Court in order to ensure the independence

---

3) In the presidential and vice-presidential elections held on March 15, 1960, Syng-man Rhee administration committed electoral fraud on a large scale in order to extend the term of his administration. The electoral fraud included putting 40% of the total votes into the ballot box in advance; casting an open ballot by a group of 3 or 5 people; creating fictitious voters; intimidating to abstain; voting by proxy; expelling the observers from the opposition party. The administration faced fierce resistance of the Korean people, and ultimately collapsed.

and impartiality of the Commission under the checks and balances of the legislative, judicial, and executive branches. In order to guarantee the independence and impartiality of election management, the members of the National Election Commission are appointed, selected or designated, and need to be confirmed by the National assembly. The chairperson of the Commission is elected from among the members, rather than being appointed by the president or the National Assembly, and customarily a justice of the Supreme Court is elected as the chairperson. The status and tenure of the commissioners are guaranteed, and they are prohibited from joining a political party or participating in any political activities in order to secure impartiality of their duties.

The current Constitution, created as a result of the Democratic Movement of 1987, separates management of elections, referendums, and political party affairs from general administrative affairs, and thus, systematically excludes any interference with elections, political parties, or national referendums. The Election Commission is given duties to maintain constitutional independence and realize free and fair elections by the Constitution

## 2) Composition of the Election Commission: Permanent Body with Nationwide Organizations

The Election Commission of Korea, established by the Election Commission Act, is an election management body with nationwide permanent organizations. The Election Commission consists of the National Election Commission at the top and Si/Do and Gu/Si/Gun election commissions in every Si(metropolitan city) / Do(province) and Gu(district) / Si(city) / Gun(county). The National Election Commission is composed of a chairperson and 8 commissioners. Since the chairperson, who is a current Supreme Court justice, does not serve full-time, a minister-level standing commissioner serves full-time to assist the chairperson and to oversee the secretariat.

The Internet Election News Deliberation Commission and the National Election Broadcasting Debates Commission are sub-commissions of the National Election Commission. The Secretariat, including a minister-level secretary-general, and a vice-minister level deputy secretary general, is composed of 2 offices, 7 bureaus, and 25 divisions, and the Korean Civic Education Institute for Democracy for democratic civic and political education. In 16 Si/Do election commissions are one standing commissioner

who is a ranking public official, commissioners who do not serve full-time, secretariat, and the Election Broadcasting Debates Commission. The Secretariat is headed by a director-general, and has 4 divisions. In 251 Gu/Si/Gun election commissions are members of the commission and a secretariat. The members of Gu/Si/Gun commissions do not serve full-time.

All of the election commissioners, except the standing commissioner, do not serve full-time. Therefore, each election commission at all levels has a secretariat that deals with electoral affairs. All employees who work at the EC secretariats are public servants, and carry out duties that are given by the Constitution and laws.

The Election Commission consists of two-level organizations; one composed of members of the commission and the other composed of public servants who have passed the civil service exam. The standing commissioner of the National Election Commission and the head of secretariat, secretary-general are all minister-level officials. While commissioners have a short term of office of 6 years and do not serve full-time, public servants at the secretariat have both the expertise and many years of experience in election management that they have certain degree of independence from the commissioners in terms of their duties at work. Moreover, except for matters requiring the decision of the Commission, (e.g. rules and regulations of duties of the election commission, rules on delegation and arbitration, candidate registration, announcement of the election results, decision of the elected, revision and enactment of the rules, changes in precedents, etc.) the powers and duties of the Commission are delegated to the secretariat so that the secretariats can have autonomy and independence in dealing with the responsibilities.

The autonomy of the secretariats in terms of duties is fundamental in carrying out the duties impartially, and helps provide independence from the legislative, judicial, or executive branches as well as political parties or factions.

### 3) Powers and Responsibilities of the Election Commission: Fair Management of Elections and Civic Education

The Public Official Election Act stipulates that the Election Commission be fair in management of electoral affairs. It includes preparation and inspection of the voters' list

for presidential election, National Assembly elections, local council elections and elections for the head of local governments, candidate registration, campaign management, voting, and counting. In addition to elections for public office, the EC manages national referendums, residents' referendums, residents' recall votes, as well as elections for public entities, presidents of national universities, and intra-party competitions. Elections for public entities include elections for the heads of agricultural, livestock, fisheries, and forestry cooperatives, representatives of district re-development cooperatives, and representatives of apartment houses.

Other responsibilities of the Election Commission include administrative affairs related to political parties, such as registration, modification, activities, and dissolution of political parties, in addition to providing support for the development of political parties. For efficiency and transparency, and in accordance with the Political Funds Act, the Election Commission also distributes national subsidies; deals with the establishment and activities of political fundraising associations distributes political funds contributed to the EC; and deals with political party's financing of political funds.

To provide equal opportunities for political parties and candidates in elections, and to impartially manage elections in accordance with the laws, the EC provides field-oriented information on election law in addition to strict enforcement of laws on election law violations that harm the integrity of elections. In particular, the commissioners and employees of the EC are given the authority to investigate any violation of the Public Official Election Act or Political Funds Act, to collect evidence of such violation, and to ask the person in question to present him/her at the EC office. When suspected of violation, the election officials may request relevant institutions to submit financial transaction records and communication records. Fine for negligence may be imposed on election law violations, and halt or correction order, or warning may be issued. When halt order or correction order, or warning is not carried out; or when there are election law violations that are deemed to greatly harm the integrity of election, the case will be brought to the prosecutor's office.

In addition, democratic civic and political education programs are expanded and offered to encourage participation of the voters in the electoral process and to help them exercise the right to vote, and to help realization of democracy in everyday life.

The Election Commission of Korea has established and expanded cooperative relations with election management bodies in other countries. The Commission was elected as the Vice Chair of the Association of Asian Election Authorities, and hosted the 2010 AAEA Executive Board Meeting in Seoul; has signed MOUs with Peru (2008), Nepal (2009), Bangladesh (2009), and Australia (2010) to strengthen cooperation; has offered electoral training programs to more than 150 election officials from over 50 countries; and has provided office equipments for election administration to 5 countries. Since 2005, the EC and German civic education institutes have held annual symposium on civic education (odd number year: Korea, even number year: Germany), and international symposiums have been held together with a Swedish institute in 2009 and 2010. The Election Commission of Korea wishes to expand international exchanges and cooperation to Asia and America, and plans to build a network for international cooperation in other countries through 55 overseas voting officers who have been dispatched to Korean overseas missions in 2011. Furthermore, a plan for establishing a fair overseas voting foundation is under consideration to deal with civic education and training programs for overseas Koreans, and to promote fair election campaigns.

## **2. Maximizing Citizens' Right to Vote and Stand for Election**

### **1) Maximizing Participation in Elections: Preliminary Candidacy**

When election campaigns are allowed at all times, there will be overly competitive election campaigns at all times, which will lead to excess expenditure in campaign spending, and consequently give an advantage to well-financed candidates and jeopardize the fairness of elections. Therefore, in Korea, election campaign is allowed only during the prescribed period before the election day.

However, the prescribed campaign period is short and disadvantages for newcomers in electoral competition when compared to and competing against the incumbent. To solve this problem and improve the fairness of election campaign opportunities, the preliminary candidacy has been introduced in 2004. When registered as a preliminary candidate, he/she can establish a campaign office; distribute business cards; send information via E-mailing



system, send preliminary candidate leaflets; wear signs such as sashes for campaign; make phone calls to ask for support; and send text messages to campaign for election.

The preliminary candidacy is unique in helping free and fair elections. In Japan, however, despite the short campaign period for elections for the House of Councillors, the House of Representatives, and local elections, there is no preliminary candidacy. Therefore, newcomers are not given equal opportunities in making themselves known to the voters when compared to the incumbent. As a consequence, the rate of re-election for incumbents is much higher than that in Korea. In elections for public office, the system is unfairly advantageous to the incumbents than newcomers.

The preliminary candidacy in Korea prevents frivolous candidates by strengthening the registration requirements, such as making a deposit (20% of the deposit amount of the relevant election), submitting criminal record, etc. The system has helped achieve election integrity and contributed to the freedom of election for general public by expanding the range of election campaigns for preliminary candidates

## 2) Maximizing the Right to Stand for Election: Strengthening the Representativeness of Females<sup>4)</sup> and Subsidies for Nominating Disabled Candidates

To strengthen the representativeness of females in the National Assembly and local councils, for proportional representation of the National Assembly and local council, political parties must present a party list in which female candidates are given every odd number on the list, making up more than half of the total number of the candidates on the list in accordance with the Article 47 of the Public Official Election Act. In case of proportional representation of local council, registration is annulled when there is a violation of the ratio and order of female candidates on the party list according to the Article 52 of the same act.

Also, when parties nominate candidates for the National Assembly district representatives and local council district representatives, they are recommended to nominate female candidates for at least 30% of the total number of the local districts. National subsidies<sup>5)</sup>(the total number of the voters in the most recent National Assembly

---

4) At the moment, female National Assembly members make up about 15% of the National Assembly, with 45 members out of a total of 299 members.

elections × 100 Korean won) for fielding female candidates are distributed to political parties in proportion to the number of nominated female candidates in the aforementioned elections according to the Article 26 of the Political Funds Act.

As a result, in the 2008 National Assembly elections, subsidy of about 2.85 billion Korean won was distributed to 3 political parties according to the ratio of the nominated female candidates. In the 2010 local elections, 2.08 billion Korean won (55% of 3.78 billion Korean won, the total subsidy amount put in the budget) was distributed to 3 political parties according to the ratio of nominated female candidates.

To strengthen the representativeness of females in local councils, since the nationwide local elections held in 2010, political parties now must nominate more than 1 female candidate per 1 National Assembly District in regular elections for either Si/Do council district representatives or Gu/Si/Gun council district representatives. Violation of this results in the annulment of the party's candidate registration in the concerned district<sup>6)</sup>.

To improve the representativeness of the disabled in the National Assembly and local councils, subsidies for nominating disabled candidates are put in the national budget<sup>7)</sup>. The subsidies are distributed to political parties according to the ratio of the nominated disabled candidates in the regular elections for the National Assembly district representatives and local council district representatives. The rule has been put in place in the Political Funds Act in January, 2010, and 200 million Korean won was distributed to 1 political party in the nationwide local elections held in June, 2010.

### 3) Globalization and Elections: Participation of Foreigners and Multicultural Families in Elections

To describe modern men, Professor Nathan Glazer at Harvard University said that we are all multicultural people now. In modern society, the boundaries of countries are fading while globalization is accelerating, making it a global era. Since 2000, immigration for

---

5) The total number of the voters in the most recent National Assembly elections multiplied by 100 Korean won

6) In the 2010 nationwide local elections, there was no case of registration annulment due to this new requirement.

7) The subsidy is calculated by multiplying 20 Korean won by the number of total voters in the most recent National Assembly elections. In the 2010 nationwide local elections, the total amount of subsidy was 750 million Korean won.

jobs and marriage has been increasing, and currently more than 1 million foreigners reside in Korea, and about 182,000 have immigrated for marriage.

Just like other countries, Korea is becoming multicultural that policies for supporting multicultural families are necessary in terms of election management. First of all, Korea does not grant voting rights to foreigners in presidential or the National Assembly elections, which are national elections. In 2005, the Public Official Election Act was revised to grant voting rights in local elections to foreigners registered on the foreigner registration list, who are aged 19 or over and have resided in Korea more than three years after obtaining permanent resident status. As a result, the number of eligible foreign voters was 6,726 in the 2006 nationwide local elections, and 11,662 in the 2010 nationwide local elections. In addition, foreigners who are eligible to vote in local elections can vote in superintendent of education elections, residents' referendums, and residents' recall votes. In case of residents' referendums, since the purpose is to ask the opinions of the residents on the policy or important issues within the concerned area, many local governments including Seoul Metropolitan City do not require a certain period of residence and allow all permanent residents to vote.

To help multicultural families settle in Korea and exercise their rights and duties, it is necessary to provide support for them at the Election Commission level. The EC operates a group of interpreters to provide voting guide in foreign languages (English, Chinese, etc), and to make voting more convenient for foreign voters. There are also voting experience programs for female immigrants, and election guide programs for multicultural families, and civic education programs for increasing civic awareness. Although the Election Commission is working to support multicultural families in many aspects, it is not sufficient to meet the demands of multicultural families. As voting rights are granted to foreigners, it is important that continuous efforts be made in terms of civic education and electoral support, so that the members of multicultural families can exercise their voting rights correctly.

For the 5<sup>th</sup> nationwide local elections held on June 2, 2010, Ulsan Metropolitan City Election Commission held an information session on voting methods for female immigrants from Ulsan Multicultural Family Love Group on April 8, 2010. On May 20, a 'Get out the Vote' event was held, in which people including female immigrants wore

traditional costumes of their home countries. Through the lecture and event, female immigrants became aware of the importance of voting rights, left strong impression to the people of Ulsan Metropolitan City, and helped increase voter turnout by giving fresh and strong impression to the voters in the area.

### **3. Ensuring the Impartiality and Neutrality of the Electoral Process**

#### **1) Ensuring the Impartiality of the Electoral Process through Computerization of the Electoral Process**

The Election Commission is striving to make elections more democratic by giving political parties and candidates more opportunities to participate in the electoral process; allowing inspection of the voters' list and correction of the voters' list when objection is raised; strengthening voters' right to information by offering candidate information and party platform; and election observation.

To satisfy the voters' right to information and increase the efficiency of election management, the EC has been working to computerize election management process. Main contents of the computerization process include preparation of the voters' lists, unified election information system, internet election information system, system for political party information and contributions, cyber automatic search system, comprehensive legal information system, and overseas voting system.

The voters' lists are prepared electronically using resident registration system and domestic residence report (in case of local election, foreigner registration list is also included) in each precinct by the head of Gu/Si/Gun whenever election is held. There is a procedure for inspecting, raising objections, and helping the voters whose names are omitted on the voters' list. Therefore, errors of omission or wrong entry can be eliminated to near perfection. The resident registration network and administrative network are fully established that the voters can go anywhere in the country to vote when unified voters' lists are set in place.

The main functions of various computerized systems are as follows.

<Table 1> Systems Dealing with Election Management

System	Main Function	Purpose
Unified Election Information System	Computerization of election management process including registration, applications, voting and counting	To improve the efficiency of election management
Internet Election Information System	Offering information related to elections such as candidate registration, results of voting and counting,	To provide fast and accurate information for the voters
System for Political Party Information and Contributions	System to deal with political party affairs such as status of political parties, policies, platforms, contributions, and political funds	To confirm policies and platforms, and make contributions
Cyber Automatic Search System	System for searching and deleting the contents in violation of election laws (e.g. libel, propaganda, etc.)	To allow freedom of speech while maintaining election integrity
Comprehensive Legal Information System	System for searching political laws, cases, authoritative interpretation, etc.	To help prevent election law violations due to lack of legal information
Overseas Voting Information System	System for registration, information on voting and counting, etc. for overseas Koreans.	To improve overseas voter turnout

## 2) Guaranteeing the Legitimacy of People’s Representatives through Fair Voting and Counting

Gu/Si/Gun election commissions allow observers recommended by political parties to witness the whole process related to ballot papers including printing of the ballot papers to shipping them to polling places. Voting begins at 6 am after election officer inspects the ballot boxes, and inside and outside of voting booth areas with voting observers. Voting process begins in the following order: check the ID on the voters’ list → receive ballot papers → mark the ballots → put them into the ballot box.

To prevent voting by proxy and multiple voting, the voters, under the observation of voting observers, are required to present a picture ID, such as resident registration, issued by public institutions. When the voter’s ID is confirmed, the voter needs to sign, seal, or print his/her thumbprint on the voters’list in order to receive ballot papers and vote.

For fair management of voting, each party or candidate participating in the election can have 2 voting observers at each polling place (in case of nationwide local elections, 2 observers per each political party and independent candidate) after reporting to election commission. However, to avoid overcrowding of polling place, voting observers are limited to 8 persons per polling place, and when exceeding the limited number, observers are selected by drawing lots. Voting observers are paid allowance of 40,000 Korean won by national budget in order to encourage observation for fair voting. When there are no observers or the number of observers is smaller than 4 persons, the Election Commission designates observers.

When polls close, ballot boxes are sent to counting places for counting. Counting begins when ballot boxes arrive at the counting places. After opening the ballot boxes, election officers check if the number of ballot papers issued on the voting record is matched by the actual number of ballots counted in order to ensure the accuracy of the voting process. For fast and accurate counting, automatic ballot counting and sorting machines<sup>8)</sup> are used in all elections for public office.

For fair and accurate counting, Gu/Si/Gun election commissions proceed with counting under the observation of counting observers designated by each political party and independent candidate participating in the election. By allowing counting observers to watch and take pictures of the whole process, fairness and transparency are guaranteed in the counting process.

In order to secure legitimacy of the election result and administrative correction, the Public Official Election Act stipulates procedures of election lawsuit and election petition for raising objections to election results. Those who object to the validity of the election results in presidential or the National Assembly elections may file a law suit in the Supreme Court, the highest court in Korea. Unlike the three-trial system where appeal is allowed, disputes concerning the results of presidential or the National Assembly elections are subject to a single-trial system. In case of local elections, administrative appeals are conducted as a procedure prior to a judicial trial to promote administrative correction and reduce the workload of the court.

---

8) The system was introduced in the 2002 nationwide local elections for fast and accurate counting.

The decision making body of administrative appeals is the next upper election commission (the National Election Commission or Si/Do election commissions) of the election commission involved in the appeal. The person who objects to the decision of the administrative appeal, he/she may file a lawsuit in the Supreme Court in case of the heads of Si/Do elections and elections for Si/Do council proportional representatives, and to a high court in case of Si/Do council district representatives, heads of Gu/Si/Gun, and Gu/Si/Gun council elections.

The number of administrative appeals and election lawsuits filed for the 5<sup>th</sup> nationwide local elections held in 2010 was 9 cases and 5 cases respectively. The number has noticeably decreased from the 4<sup>th</sup> nationwide local elections, where 30 cases of administrative appeals and 6 cases of election lawsuits were filed. Furthermore, except 3 election lawsuits in progress, the rest of administrative appeals and election lawsuits were either withdrawn or rejected, demonstrating the impartiality and accuracy of election management.

### 3) Securing the Openness of the Electoral Process through Public Management of Elections

Through the Election Commission's management of election campaigns, and national or local governments' reimbursement of election expenses of political parties or candidates, public management of election aims to secure the impartiality of elections and correct the unequal campaign opportunities of candidates caused by the difference in campaign finance.

Article 116, Section 1 of the Constitution makes it clear that election campaigns are to be managed by the election commissions by stipulating that "Election campaigns shall be conducted under the management of the election commissions at each level within the limit set by Act, and equal opportunities shall be guaranteed." Furthermore, the Section 2 of the same article clarifies the principles of public management of elections in terms of election campaign management and election expenses by stipulating that "Except as otherwise prescribed by Act, expenditures for elections shall not be imposed on political parties or candidates."

### **i) Return of Deposits and Reimbursement of Election Expenses**

In order to deter frivolous candidates and secure the seriousness of candidacy, candidates are required to deposit the following amount of money to stand for election:

- Presidential election: 500 million Korean won
- The National Assembly election: 15 million Korean won
- Heads of Si/Do election: 50 million Korean won
- Si/Do council election: 3 million Korean won
- Heads of Gu/Si/Gun election: 10 million Korean won
- Gu/Si/Gun council election: 2 million Korean won

Depending on the election results, deposits are either returned to the candidates or to the national or local government. All of the deposits are returned if the candidate is elected; has passed away; or receives 15 percent or more of the total valid vote cast. Half of the deposits are returned if the candidate receives more than 10 percent but less than 15 percent of the total valid vote cast.

When elections are held, Gu/Si/Gun election commissions calculate the total amount of election expense limits depending on the types of elections and election districts, and set the ceiling on election expenses. Candidates are required to expend within the prescribed ceiling, and any expenditure exceeding 200,000 Korean won should be made using a traceable means (e.g. checks, credit cards, wire transfer) that can verify the candidates' real name. After the elections, candidates need to submit an accounting report on incomes and expenditures of election expenses to the Election Commission. To secure the transparency of incomes and expenditures of election expenses, the EC conducts through inspection of the candidates' accounting reports, and makes the reports public so that the voters can review and raise objections.

When candidates meet the requirements for the return of the deposit, the candidates' election expenses are reimbursed. However, when a candidate is convicted of election law violation, or exceeds the election expense limit, the amount spent on the election law violation or twice the amount spent in excess of the limit is not to be reimbursed. Furthermore, the national or local governments bear the expenses for posting and removal of campaign posters; for sending election leaflets; for holding debate sessions and policy



debate sessions hosted by the Election Broadcasting Debates Commission; and for allowances paid to voting and counting observers designated by political parties and candidates to seek equal campaign opportunities among candidates.

**ii) Subsidies for Political Parties**

To protect and foster the political parties, the National Election Commission distributes subsidies to political parties every year (33.4 billion Korean won in 2011). In an election year for public office, election subsidies (the same amount as the non-election subsidies) are paid to the parties that have nominated candidates within two days after the candidate registration deadline.

The amount of the above mentioned subsidies(the number of total voters who participated in the latest National Assembly elections x the amount set by the National Election Commission) is put in the national budget and distributed to political parties. The amount of subsidies paid to political parties in 2010 is 32.4 billion Korean won for fostering of political parties, and another 32.4 billion Korean won for fielding candidates in local elections. Based on the participation in the elections; negotiating groups in the National Assembly; the number of seats in the National Assembly; and the number of votes won in the elections, 10 parties including the major parties have received the subsidies. The amount of election subsidies for the 2008 National Assembly elections and for fielding female candidates is as follows:

<Table 2> Amount of Subsidies Paid to Political Parties  
in the 18<sup>th</sup> National Assembly Elections

Political Parties	Amount Paid (in Korean won)			Payment Date
	Total	Election Subsidy	Subsidies for Fielding Female Candidates	
<b>Total</b>	<b>31,324,917,360</b>	28,477,197,600	2,847,719,760	March 27, 2008
United Democratic Party	13,517,660,310	12,924,942,250	592,718,060	
Grand National Party	12,248,546,640	11,773,369,790	475,176,850	
Liberty Forward Party	1,615,124,640	1,615,124,640	-	
Democratic Labour Party	3,858,579,210	2,078,754,360	1,779,824,850	
Creative Korea party	21,251,640	21,251,640	-	
Pro-Park Coalition	63,754,920	63,754,920	-	

To ensure appropriate and transparent use of the subsidies paid to the political parties, the subsidies must be used as stipulated in the Political Funds Act, and political parties are required to submit an accounting report on the subsidies. Violation of the aforementioned rule results in the collection of the subsidies (certain amount set the Political Funds Act or twice the amount of the subsidies illegally used) or reduction in the amount of subsidies to be paid in the future. When a political party is dissolved, the subsidies paid to the party must be returned.

### **iii) Bearing the Cost of By-Election**

As the recent increase in the number of by-elections has cost a lot of money for election management, it has been suggested to have the person responsible for the by-election to bear the cost for holding it. This year's by-elections are held in 38 election districts (Invalidation of the election: 25, loss of eligibility for office: 4, death: 5, resignation: 4) on April 27<sup>th</sup>. Among those 38 by-elections, the estimated cost for holding the 29 by-elections held for reasons other than resignation or death of candidates is about 25.9 billion Korean won. Making the person responsible for holding a by-election bear the cost of the election requires careful consideration of the purpose of public management of elections and the ability of the person in question to bear the cost.

## **III. The Situation of Realizing Free and Fair Elections**

### **1. Balancing the Impartiality and Freedom of Election Campaign**

Realizing ideological values of democracy depends on the impartiality and freedom of election campaign. To conduct elections in a free and fair manner, the Public Official Election Act should embrace such ideas. The Public Official Election Act, reflecting the characteristics of the Korean politics and elections, have provisions both to ensure the freedom of expression and the impartiality of election campaign. Article 58 of the Public Official Election Act declares the freedom of election campaign, stipulating that anyone is allowed to engage in election campaign freely, unless prohibited or limited by law.

However, when the freedom of election campaign is allowed without limit, unintended side effects such as over-competition, excessive campaign expenses, and the inequality of opportunities among candidates could harm the fairness of elections. Elections that are not free and fair would neither reflect nor represent the people's will, rather result in a government structure without respect of the people's will. Thus, the freedom of campaign as freedom of political expression should not be limitless, as certain limit should be imposed based on the Constitution.

As Korea's Constitution requires both the freedom and impartiality of election campaign, discussion on how to achieve the balance between them is still underway. To date, the Public Official Election Act has been revised to ease the regulation, moving away from the regulation-focused perspective. However, there are critics who claim that the freedom of election campaign is still restricted, and it should be extended further.

The National Election Commission regulated the campaign of civic and social organisations for or against '4 major rivers projects' or 'free school meal' in the 5<sup>th</sup> nationwide local elections and limited pre-election campaign using 'Twitter'. For the NEC, rigorous law-enforcing was inevitable to ensure the impartiality of the elections, because '4 major rivers projects' or 'free school meal' were the main points of contention in the elections and organized activities for or against the main points of contention amount to pre-election campaign as well as constitute an activity to influence the elections. The Public Official Election Act, in order to achieve the balance between the impartiality of elections and the freedom of expression, does not prohibit support and opposition activities altogether, rather regulate the mechanisms employed for that purpose. Thus, the NEC has not banned civic or social organisations from supporting or opposing major policies such as '4 major river projects' or 'free school meal', if they are organised without the intention to influence election campaign.

Twitter is tantamount to a campaign via email, as prescribed by Article 60-3(1)3 of the Public Official Election Act, to which Article 93 of the Public Official Election Act is applied. The Constitutional Court, in its majority opinion, determined that Article 93 is not in violation of the Constitution. There exists a difference in interpreting the laws on whether to allow campaign using Twitter or not. Nonetheless, the NEC regulated the use

of Twitter by those who were not registered as candidates, in order to rigorously interpret and enforce laws.

Meanwhile, articles and report on broadcasting, newspapers, or other Internet medium, which have become an important means of election campaign, have a tremendous influence in elections. As a result, disputation as to if the media coverage was fair or not has arisen frequently. Thus, the means to ensure the media's fair coverage have been put together. The Election Broadcasting Deliberation Committee has to be set up from one day before the first day of registration for preliminary candidacy to 30 days after election day (in case of by-elections, from 60 days before election day to 30 days after election day). The Committee investigates the impartiality of election broadcasting, and if the coverage is found to be not fair, corresponding punishment is determined, which is then notified to the Korea Communications Commission, who readily imposes the punishment on the broadcaster alleged of unfair broadcasting. To maintain the impartiality of newspapers or periodicals, the Election Articles Deliberation Committee is also established to take necessary actions when it finds unfair election coverage.

The Internet Election News Deliberation Commission, under the wing of the NEC, reviews the impartiality of election coverage posted on the website of Internet-based media. If they are found to be partial, the Commission orders necessary measures, such as posting press release on the website in question to correct the wrong.

## **2. Prevention and Strict Punishment of Election Crimes**

In order to eliminate vote-buying, those who receive money, food or gift, as well as those who give them face punishment. To ensure the effectiveness of vote-buying prevention, those who receive money, gift, or food from candidates are fined 10 to 50 times the amount received, which could reach up to 30 million Korean won.

To root out sources of illegal political funds and unlawful provision of money, food, or gift and encourage the people to report such crimes, those who report to or inform the NEC or prosecutors of election law violations or crimes related to political funds are rewarded up to 500 million Korean won.

The system of imposing a fine up to 50 times the amount received and giving reward has contributed to realizing free and fair elections. It ensured that all political parties or candidates engage in election campaign on an equal footing, and in observance of laws, irrespective of their wealth. It also marked a turning point in the Korean election culture as it considerably reduced the practice of vote-buying in elections.

Tough punishment on election crimes is required to bring the public to awareness of election law violations and to conduct elections in observance of laws. The Public Official Election Act has the provisions to limit the right to vote, the right to be elected, and the right to work for public office, and invalidate election results to prevent election crimes. In addition to criminal punishment, violators are disqualified from public office. If a person is sentenced to imprisonment, or a fine of 1 million Korean won or more for election law violations, the person loses his or her voting rights and is disqualified to run or work for public office (for 10 years after completing his/her prison terms, and for 5 years after the imposition of a fine).

If the elected is sentenced to imprisonment or fined 1 million Korean won or more in the election year, the election result becomes invalidated. If the manager or treasurer of campaign office is sentenced to imprisonment or fined 3 million Korean won or more for spending campaign expenses exceeding the election campaign limit, the election becomes annulled. If a campaign manager, treasurer, spouse or lineal ascendants or descendants of a candidate is sentenced to imprisonment or fined 3 million Korean won or more for serious election crimes in the election year, the election becomes annulled (except for the candidates who run for president, proportional National Assembly members, and proportional members of local councils). And the elected whose election result is invalidated should return the deposit received, and election expenses reimbursed-which are given after the election finished-to the NEC. The same goes to a person who is not elected but whose sentence is as heavy as that might have caused the annulment of the election.

The followings are examples demonstrating the effectiveness of the system of imposing a fine and giving rewards. This has led to a decrease of election law violations such as vote-buying, which have been a recurring problem in the history of Korea's elections.

<Table 3> Examples

	<b>Violation</b>	<b>Action</b>	<b>Amount of Fines/Rewards Imposed</b>
<b>Fines</b>	Provided tour and food worth 4.435 million Korean won to 17 residents of the election district for the 70 <sup>th</sup> birthday party of the head of Gu government	Filed a charge to the prosecution (March 16, 2010)	80.26 million Korean won on 15 people
	Provided food worth 2.646 million Korean won and mobilized staff in the book publication ceremony of potential candidates	Filed a charge to the prosecution (March 22, 2010)	65.53 million Korean won on 66 people
<b>Rewards</b>	A spouse of a preliminary candidate set up a private organization and provided 5.8 million Korean won to its members	Filed a charge to the prosecution (April 15, 2010)	74.30 million Korean won
	A local council member secretly distributed 206 sets of gift to 164 residents of the election district	Handed over a case to the prosecutor for further investigation (February 18, 2010)	20 million Korean won

### 3. Submitting Bills to Improve the Current Election System

The NEC has submitted revision bills regarding the politics-related laws including the Public Official Election Act, Political Parties Act, and Political Fund Act, to the National Assembly, with an aim to bring about free and fair elections. The revision bill has been formed after taking into account the opinions of experts in the fields of the politics, academia, media, and civil organisations, voiced in the symposium organised by the NEC on March 24-25. This paper examines major points contained in the bill, focusing on the measures to improve electoral systems to realize free and fair elections. The revisions proposed with regard to the Public Official Election Act are as follows.

First, as a way to ensure democratic process in the course of selecting political parties' candidates to run for public office, a Primary election is proposed. If political parties qualified to receive national subsidies entrust the NEC with intra-party competitions, those will be held on the same day nationwide. And any person with voting rights can cast their vote in a party's competition.

Second, the Minister of Foreign Affairs and Trade, upon the request from the NEC or prosecutors, may order the prohibition of issuance or reissuance of passports to those who

committed serious election crimes for a certain period of time, in order to ensure fairness in overseas voting. Third, the overseas mission's employees are to receive the application for overseas voters by making the round of their jurisdiction, as a way to ensure the voting rights of overseas citizens and to improve procedural administration. Also, a 'vote by mail' in overseas voting will be partially permitted, while polling stations are to be set up additionally outside the overseas missions, if necessary.

Fourth, in order to toughen the punishment for election crimes related to vote-buying, the statute of limitations of vote-buying is to be extended to two-years from election day. Fifth, as a way to achieve the balance between the impartiality and freedom of elections by expanding freedom of campaign and encouraging policy-oriented campaign, election campaign on the Internet is allowed at all times. Also, the media will be allowed to hold an interview or a debate for the purpose of campaigning at all times; while organisations are allowed to have an interview or debate from the first day of preliminary candidate registration to one day prior to election day. Sixth, an integrated voters' list is proposed to increase voter accessibility by allowing them to vote at any polling stations of their choice, and a pilot test of such list will be implemented in the by-elections.

Next, the following proposals have been made with regard to the Political Parties Act. First, the use of first name or last name of a particular person in the name of political party will be prohibited to prevent voters' confusion. Second, in order to make political funds more transparent, the personal information of those who provide party membership fee of more than 10million Korean won per month or 100million Korean won per annum will be made publicly available. And the accounting report of all political funds will be made publicly available on the Internet.

## **IV. Conclusion**

The Republic of Korea has achieved remarkable economic development and political democracy since the establishment of the Korean government in 1948. When it comes to the people's right, civic liberty, democratic citizenship, and political diversity, Korea has been on a par with advanced nations in the world.

One of the main driving forces for Korea to achieve rapid economic development and democracy was the NEC's vital role in conducting elections in a free and fair manner. The NEC, with its independency guaranteed by the Constitution, has maintained political impartiality and strived to administer various elections impartially, for almost five decades since its establishment. As a result, the public servants of the NEC have become election experts with accumulated experiences of election administration. The NEC has shared such expertise with various Asian nations. In particular, the NEC conducted the 5<sup>th</sup> nationwide local elections in 2010 successfully, in which 8 elections - heads of Si/Do government, heads of Gu/Si/Gun government, local council members of Si/Do (district/proportional), local council members of Gu/Si/Gun (district/proportional), superintendent of education, and members of education committee - were held simultaneously, under very challenging environment due to huge amount of material and personal resources. The figures attesting the scale of the elections include: 3,991 positions up for elections about 10,000 candidates standing in the elections; around 300 million ballot papers about 610 million campaign booklets and about 480,000 workers for election management.

The NEC has been recognized as one of the most trusted and influential national agencies by the Korean people. It also has been highly regarded globally, as it has conducted Korea's elections in a transparent way, evidenced by Korea's high scores in the Economist Intelligence Unit's Democracy Index Report, which ranked Korea as a full democracy both in 2008 and 2010. The magazine analyzed and graded 167 democracies around the world, and Korea has been categorized as a full democracy both in 2008 and 2010.

Building upon such achievements, the NEC has supported elections of those countries where elections are held for the first time or election management process does not function properly, upon the request from the UN or the countries concerned. In the 5<sup>th</sup> nationwide local elections last year, 12 observers from Mongol and Kazakhstan, which are seeking the paths to democracy, observed all the process of local elections. An election management program, which includes seminar sessions on Korean electoral system and



April 27<sup>th</sup> by-election observation, is being offered for 14 officials from 9 countries(the Philippines, Mongolia, Myanmar, Cambodia, Nigeria, Cameroon, Kenya, Bolivia, Fiji) starting from April 18<sup>th</sup> of this year. Those who have observed elections in Korea have testified that the accuracy, impartiality, efficiency and swiftness of Korea's electoral process were impressive.

The NEC plans to contribute to democratic development of the world, by sharing the experience of Korea's conduct of free and fair elections and electoral system, and election management know-how, which will help the countries in transition to democracy.

Everyone at the Election Commission has strived hard for fair management of elections bearing neutrality and impartiality in mind. As a result, the Commission has made great contribution to the development of electoral democracy through consolidation of procedural democracy, and establishment and spread of clean election culture.

However, as democracy is deepened and society is diversified, the expectations and demands of Korean people towards the Election Commission are higher than ever. Hence, in order to better reflect the will of the people in elections and to have democracy practiced in everyday life of Korean people, it is necessary for the Election Commission to focus on the followings: expand participation of voters; provide consumer demand-oriented electoral services and preventive election law information services; offer advanced politics-related law system to expand the freedom and participation in elections while maintaining the impartiality; devote itself to democratic civic and political education.

By doing so, the Election Commission may contribute to the advancement of Korea into the group of politically and economically developed countries.



**TAIWAN**



# **Essential Requirement to Realize the Free and Fair Elections**

April 2011

Dr. Po-ya Chang

Chairperson of the Association of Asian Election Authorities (AAEA)

and

the Central Election Commission of R.O.C. (Taiwan)



# Essential Requirements to Realize the Free and Fair Elections

## **I. Foreword**

Any form of democracy tries in its own way to ascertain the will of the people and to bring public affairs into line with it. This can be achieved by holding an election to allow direct or indirect political participation of their citizens. Elections, the most basic and significant form of the political participation, can empower the country's citizens to choose their leaders and dominate the direction of national policies. However, only through a well-designed system can the freedom and fairness of election be safeguarded and social turmoil be avoided. The following report will briefly introduce correlations between election and democratic politics, elaborate prerequisites required for creating a well-designed election system, and share Taiwan's experiences on how it manages to organize a free and fair election.

## **II. Election and democratic politics**

“A government of the people” contributes to the essence of democratic politics. The rulers, in the form of an individual or a political party, are approved and authorized by the ruled, who in most of the democratic systems assert their wills through direct or indirect elections. The election result grants the rulers the legitimacy to rule for a certain time span under the approval and authorization of the people. Hence, elections are indispensable to embody the ideal of democratic politics, with a practice to 1) elect political representatives; 2) legitimize the governance of new administration 3) outline the people's policy preferences; and 4) educate the citizens about the right to vote.

However, holding an election is neither equivalent to being democratic nor indicating the country as a full-fledged democracy. Without adhering to such basic principles as freedom and fairness, election is merely a mechanism that carries a framework, but provides no solid foundation for fair competition, thereby hurting a country's democratization instead. Only under a free and fair election can the defeated candidates admit the legitimacy of the result; people trust the newly elected administration; and the political power be turned over peacefully.

### **III. Prerequisites for holding a free and fair election**

A free and fair election effectively channels the distribution of political resources, steers the nation's policy through a peaceful means, and consolidates the democratic politics. Therefore, this mechanism is frequently used by the international community, as well as the people, to assess a democracy's maturity and quality. A free and fair election nurtured on the basis of "openness", "just" and "plurality" must meet the following criteria:

#### **1. Set compete legislative regulation:**

A country's constitution regulates the organic structure of the government, the duty and power of each government body, rights and obligations of the people, and other basic principles that the country is built upon. As the people's rights to vote and to be elected are incorporated in the provision of the Constitution, it is to show that the democracy is determined to protect the people's right of political participation and that the people will not be deprived of such rights under a power transition. Therefore, the Constitution to include a provision that protects the people's rights to vote and to be elected is the prioritized term for achieving a free and fair election.

Moreover, relevant election laws should also be formulated to regulate in detail the eligibility of the voters and candidates, composition of electoral agencies, campaign activities, ballot casting and vote counting, so as to provide a legal ground for the government and people to follow.

During the elections, the eruption of violence, threats, cheating, vote-buying and other illegal acts may disrupt the election or change the election result. Relevant regulations should stipulate clearly that those acts are election crimes, and punishments should be imposed in case of violations.

#### **2. Establish an independent electoral agency to play a fair role:**

Given the electoral affair's nature of complexity and that the election result will have a significant impact on the distribution of political resources and the nation's future



policies, an independent and impartial government agency should be formed to handle relevant electoral affairs and its officials, upholding the principles of fairness and objectiveness, are required to equally treat all the voters and candidates, disregarding their political affiliation.

In democratic countries, such as the United States, the United Kingdom and France, the rights to appoint electoral officials are shared by administrative and legislative branches of the government. The law also sets regulations on the percentages of political party representatives in the electoral agency.

### **3. Give suffrage rights to all people:**

According to Article 25 of the International Covenants on Civil and Political Rights, every citizen shall have the right and opportunity to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage. Under a democratic system, suffrage rights shall be granted to all individuals, without distinction of race, physical capability, education, or wealth. All individuals who are eligible to vote deserve equal suffrage rights and are entitled to enjoy the fairness of election.

### **4. Guarantee the free expression of the will of the voters:**

The voters should freely and independently express their will in the election and should not be interfered by other external factors. By so doing, the election result can correctly reflect the will of the voters and honor the genuine meaning of a free and fair election. Moreover, the government should ensure that the elections are held by secret ballot and let the voter be free of fear to select his/her ideal candidate or political party.

### **5. Guarantee to all eligible candidates equal and valid rights to be elected:**

In principle, to create "a government of the people" requires that the rulers be elected by the people at periodic elections. To guarantee to the people with access to take part in the conduct of political affairs, the eligible electors are entitled to run for public office and enjoy "the right to be elected".

Generally speaking, all countries set stricter requirements for individuals to run for public office than to vote. However, despite of different regulations in various countries, all eligible candidates should be guaranteed with a right to be elected as people's representatives in the government agencies or as public functionaries and to freely register as candidates in all public functionary elections.

#### **6. Regulate the campaign funds and expenditures:**

Campaign activities are organized in free elections for candidate to advocate his/her platforms to the voters, in order to seek support. However, monetary and personnel sponsorships are needed to undergo these campaign activities. As the competition goes fiercer, the larger amount of campaign funds needs to be raised.

Considering that the wealth discrepancy may breach the fairness of election, the right to run for public office only falls in the hands of the wealthy, and the candidates financed by individuals, families, or other interest groups may only serve for the purpose of profiteering, the provision of laws have to set restrictions on the campaign funds, including the identity of donors, the purpose of use and maximum amount of the funds raised.

#### **7. Establish a convenient voting mechanism:**

The electoral affairs should be designed to ensure that all eligible voters, including those physical challenged, have easy access to the polling stations, in which they can enter a secret space and use provided tools to complete their voting procedures. In the adoption of such vote-casting systems as postal or absentee ballots, the system should also make it easy and convenient for the eligible voters to employ their voting right.

#### **8. Make vote-counting procedures transparent:**

As the vote-counting procedures are different in various countries –with some counting the votes in a centralized tabulation office and others in individual polling stations, the electoral agencies are required to make the procedures public and transparent, in order to defuse the public's doubts to accept the election results and admit the legitimacy of the new government.

## **9. Design a just dispute-settlement mechanism:**

To uphold the fairness and upgrade the quality of democratic politics, an independent and just arbitration mechanism should be set up to follow the law and other legal procedures to settle election disputes with objectiveness, so as to safeguard the rights of the concerned parties.

## **10. Provide information through plural channels:**

Election is held to choose an ideal, righteous and capable person to serve the country and help improve the wellbeing of the people. However, who is the ideal person? Whose campaign platforms can better meet the voters' expectation? Who is both capable and righteous? To make a correct decision, the voters should be well-informed. Therefore, plural channels that preserve equal opportunities for candidates to convey needed information to the voters should be offered.

While the candidates, political parties and voters enjoy the legitimate freedom of speech, media should also be given the freedom to provide objective information to the voters. But the media should play its moral role well to stay neutral and unprejudiced, and give the public a balanced report on individual candidate or political parties.

## **IV. Achieve a free and fair election: the Taiwan experience**

### **1. A complete and sound electoral legal foundation:**

The Constitution of the Republic of China protects the basic rights of the people to take part in politics, with provisions clearly indicating the legal age for the people to vote or run for public office, as well as the way of ballot-casting and campaign activities.

Pursuant to the Constitution, Presidential and Vice Presidential Election and Recall Act, and Civil Servants Election and Recall Act were promulgated to set detail regulations on the power of electoral agencies, the eligibility of voters and candidates, electoral publications, election campaigns, vote-counting procedures, dispute settlement, and punishments for election violations.

## **2. Independent election commission:**

In Taiwan, all civil servants elections are organized in accordance with relevant regulations by an independent authority, that is the Central Election Commission (CEC), and its subordinated agencies in municipalities, cities and counties. To ensure the impartiality of the electoral body, the Organic Law of the Central Election Commission stipulates that the commission's chairman, vice chairman and its members are appointed by the premier and confirmed by the legislature, and may be reappointed once, serving a maximum of two four-year terms.

Moreover, to ensure the CEC's impartiality, the number of commissioners belonging to a given political party must not exceed one-third of the total, and the commissioners are banned from taking part in any party activities during their tenure.

In addition, the premier cannot replace all the commissioners at once in order to secure the CEC's independence and impartiality, as the organic law regulates that up to half of the commissioners can be placed every two years.

## **3. A fair registration system of voter lists:**

The suffrage rights are given to all eligible voters, regardless their gender, education level, property or other criteria, in all public servants elections. As long as a citizen who has attained the age of 20, resides in the election district for required period of time, and has no civil rights been declared incompetent, shall be eligible to vote.

Owing to a sound household registration system, the voter lists in Taiwan are compiled by the household offices based on the household registration information on the day of twenty days before the voting day. The voters, except those residing aboard to return home to exercise their voting right in the Presidential and Vice Presidential Election are required to apply in advance, don't have to register or apply to be an elector.

## **4. Convenient polling stations:**

In Taiwan, an elector shall go to the polling station to cast his/her ballot on the voting

day. For the convenience of the voters, the polling stations are set up based on "boroughs", which means that all of the polls can be reached within 10-minute walk. To cut short the waiting period and speed up the vote-counting processes, each of the polling stations shall deal with no more than 1,500 voters. According to the election and recall acts, the polls shall be established in office buildings, schools, public places, and other appropriate places in keeping with the geographical distribution of the voters.

To help the handicapped voters employ their rights, the polling stations should be set up in a venue that is accessible by the disabled voters, or at least provide assistances or necessary devices to help the handicapped persons complete their voting procedures.

#### **5. Free and balanced media coverage:**

In Taiwan, voters are given equal opportunities through plural channels to receive political and election information. The buoyant media industry that enjoys a high degree of freedom of press provides diverse and abundant information to the voters.

#### **6. Eligible citizens can freely register as candidates:**

In Taiwan, except the Presidential and Vice Presidential candidates shall be recommended by political parties or by the joint signatures of joint signers, and the legislators at-large and overseas Chinese legislators shall be registered by political parties, the political parties can recommend candidates, or the electors can register independently, to join all kinds of public office elections.

However, an explosion in the number of candidates may cause great burdens to the nation's electoral resources, Presidential and Vice Presidential Election and Recall Act, and Civil Servants Election and Recall Act both require the candidates to make a security deposits on their registration.

#### **7. Diverse campaign activities:**

A variety of campaign products and activities are made and organized by the candidates or their political parties during the election, including flags, caps, vests, outdoor billboards,

campaign vehicles, advertisement on vehicles, flyers, posters, newspaper ads, TV commercials, Internet, and campaign rallies. Through these promotional materials, the candidate wants his/her platforms and visions to be heard, so as to win support and recognition from the voters.

However, these activities may disturb the daily lives of the general public, causing inconvenience. The regulations therefore allocate a period of time for the candidate to launch his/her campaign and request that candidates running for public office can only campaign within the given duration.

Furthermore, to crack down on vote-buying and ensure a clean election, the CEC and its subordinated agencies holds a joint meeting on a regular basis to discuss and coordinate different opinions of relevant authorities. The law enforcement agencies also work closely with the CEC to fight against vote-buying and other election violations.

#### **8. Government-funded electoral activities:**

Like aforementioned, the candidates can conduct their own publicity campaign. However, to give the same opportunity to those lacking campaign resources, and reduce the possibility that the candidate may be used as a tool of profiteering, the government also funded the following campaign activities for the candidates: 1) election agencies print election bulletins in accordance with the law, having the candidates' platforms and background information published for the reference of voters; 2) the election commission buytime slots from the TV stations, arrange the venues, and organize public debates and forums to be broadcast on TV; 3) for candidates running for the legislator at-large or overseas legislative seats in the Legislative Election, the political parties can produce publicity commercials for their recommended candidates, and after being screened by the CEC, the CEC can fund to have them broadcast on TV; 4) after a candidate or a political party obtains the required amount of votes, the government will subsidize part of their campaign expenditures; 5) at the CEC website, election regulations, announcements, and other election-related information are posted to the public.

#### **9. Set regulations on campaign funds and political donations:**

To prevent the wealth discrepancy from leading to an unfair election, Presidential and

Vice Presidential Election and Recall Act, and Civil Servants Election and Recall Act have incorporated clauses to set the maximum amount of campaign expenditures.

In addition, to mitigate the influence of private capitals on the elections and eliminate corruption, Taiwan also adopted the "Political Donations Act" in 2004, hoping to make the donations accepted by political parties, political associations and the persons planning to participate in campaign more public and transparent. The act gives detailed regulations on the individuals or associations that may accept political donations, those who may contribute to political donation, the donated amount, ways and duration of accepting the donations, report to the authority, the compilation of accounting report, use of donated amount, and auditing procedures. It is expected that this act can help safeguard the equal rights of the candidates to obtain financial and other election resources.

#### **10. Impartial electoral staff and scrutineers:**

Islandwide, more than 14,000 polling (vote-counting) stations are set up, with about 190,000 polling staff taking part. To instill the credibility of the electoral agencies, the election and recall acts regulate that more than half of polling staff at the polling (vote-counting) stations should be public servants in service. To enhance the procedural knowledge of electoral staff, the CEC and its subordinated agencies hold training workshops on a regular basis, educating the electoral staff to practice their duties in accordance with the regulations, and adhere to the principle of administrative impartiality.

The election and recall acts also regulate that the political parties or candidates can designate a certain number of observers at each of the polling stations to supervise on their behalves whether the electoral staffs impartially fulfill their duties to secure the openness and fairness of the election process.

#### **11. Efficient and transparent vote-counting procedures:**

Taiwan has no a unified vote-counting center. The votes are counted at each of the polling station, and later, the polling staff will send the result to the electoral operations centers established in the municipalities, cities and counties. Those operation centers will directly enter the data into a computerized system for the CEC to do the final tabulation.

The election and recall laws regulate that upon completion of casting, the polling stations shall be turned into a vote-counting station, and the ballots shall be orally counted in the presence of spectators. The vote-counting processes are open to the general public for inspection. After all ballots are opened and counted, the chief administrator and the chief scrutineer of the vote-counting station shall proclaim the results of the opening of the casting according with a written statement of vote-counting. A copy of the same statement shall be signed and handed over the persons designated by political parties of recommended candidates, or joint signatures candidates.

## **12. Objective and independent election arbitration mechanism:**

The election disputes will be handled by an impartial mechanism, that is the competent court. To safeguard the rights of the concerned parties, each competent court shall make final judgment within six months. The election and recall suits are divided into two kinds – annulling the election and annulling the electee of an election.

- (1) Annul the election: when an election commission has violated the law so as to affect the results of an election or a recall, a prosecutor, a candidate, the person under recall process and the initiator of a recall case may, within 15 days after the proclamation of the name list of elected persons or the proclamation of the result of a recall is made, bring a suit against that election commission before a competent court to request nullifying the election.
- (2) Annul the electee of an election: when 1) the number of ballots won by the elected official is so inaccurate as to have affected the election results; 2) a person who employs threat, violence, or other illegal means to have affected the election results, the election organ, the prosecutor, or a candidate may, within thirty days after the proclamation of the list of the elected officials, sue for the nullification of the electee in a court with competent jurisdiction; 3) an electee whose candidacy qualifications are not eligible, within his/her term of office, a prosecutor, or a candidate may bring a suit to annul the electee of the election.

In 2007, Taiwan passed the required legislation to have a "non-litigation vote recount system" come into force. A non-litigation vote recount refers to a mechanism that allows a party to request the court to initiate a recount without going through regular litigation procedures when the margin of difference of votes received by the election winner and



the runner-up is within 0.3%. This mechanism demands the court, whose position is neutral and impartial, to play a more active and prompt role. Under this system, the court can speedily settle a dispute and will not infringe the right of the concerned party to seek justice, even without going through regular litigation procedures.

## **VII. Conclusion**

The Article 21 of the Universal Declaration of Human Rights states, "the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections", and the "genuine elections" it refers to should be "a free and fair election".

To achieve a free and fair election, certain prerequisites are required, as they can also be used to indicate the quality and maturity of a democratic system. Taiwan over the years has been devoted to realizing a free and fair election, and its endeavors have shown the government's strong determination to promote democratic politics and honor the democratic values.

In 2000, the Kuomintang (KMT) lost the ruling power to the Democratic Progressive Party (DPP) in the Presidential and Vice Presidential Election. Taiwan had its first peaceful turnover of the political power. Eight years later, the KMT resumed the power again after winning the Presidential and Vice Presidential, and as a result, Taiwan underwent its second peaceful turnover. These two peaceful transitions of power bear testimony to a fact that the people of Taiwan trust the CEC for its independence and impartiality, and that the CEC holds an election in line with freedom and fairness.

Democratic politics are fulfilled by giving the citizens ultimate rights to choose the nation's leaders and decide on the nation's policies in periodic elections. To protect the basic rights of the citizens and encourage all people to fully take part in discussions and decision-making of public affairs on an equal basis, the CEC vows to work even harder to realize a free and fair election, in order to expand the people's participation in public affairs and deepen the democracy in Taiwan.





SESSION · II





# **International IDEA**





## Electoral Justice and a Healthy Democratic Life



**ADHY AMAN**

International Institute for  
Democracy and Electoral Assistance  
Seoul, 28 April 2011



International IDEA



## Electoral Justice ...

... involves the means and mechanisms:

- For ensuring that each action, procedure and decision related to the electoral process is in line with the law;
- For protecting or restoring electoral rights by providing the ability to make a complaint, get a hearing and receive an adjudication.



*Electoral Justice: The International IDEA Handbook, 2010*

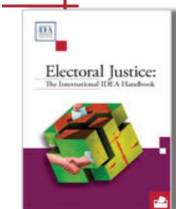
International IDEA



## Electoral Justice ...

... therefore :

- Promotes RULE OF ELECTORAL LAW;
- Upholds ELECTORAL RIGHTS;
- Provides DUE PROCESS OF LAW.

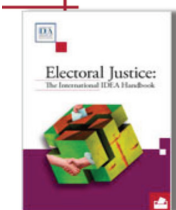


International IDEA



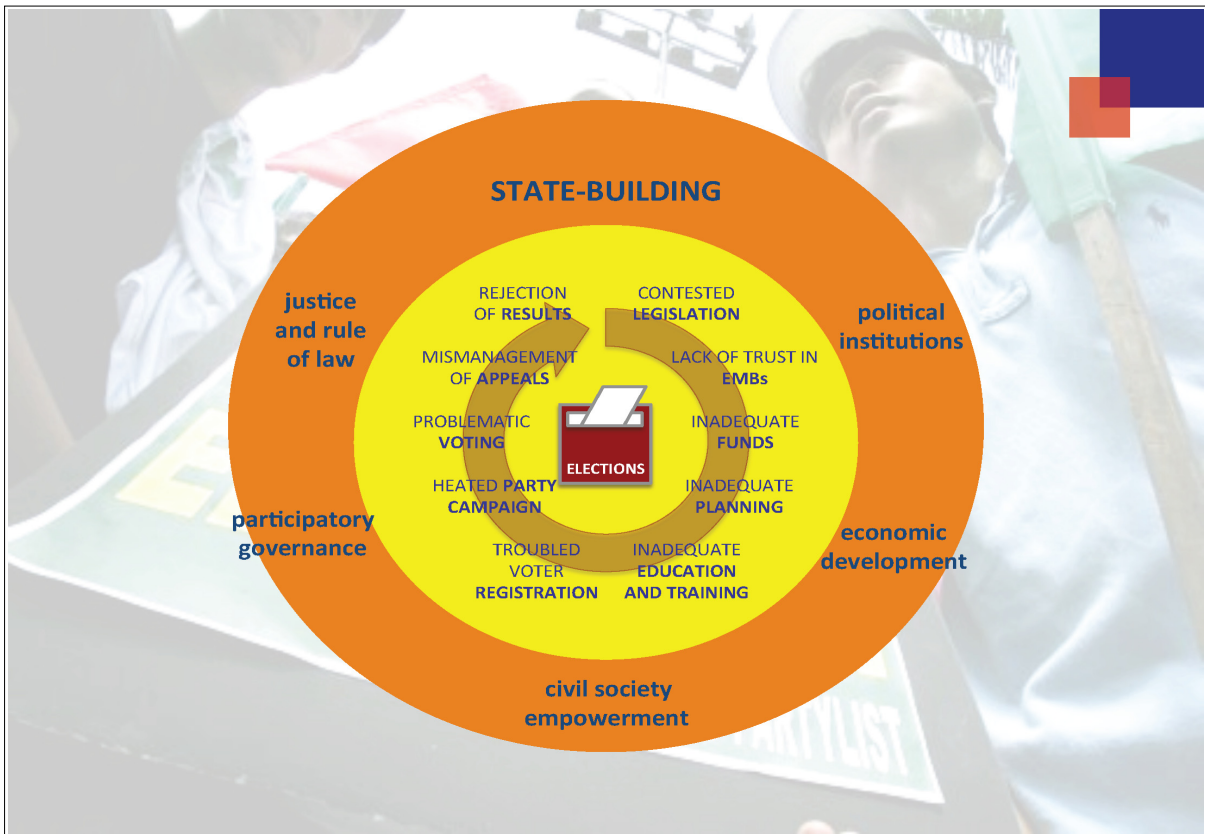
## Principal Electoral Rights based on International Obligations

- Right to vote
- Right to run for elective office
- Right to participate in the conduct of public affairs, directly or by means of freely elected representatives
- Right to political association for electoral purposes
- Rights to freedom of expression, freedom of assembly, petition, and access to information related to political-electoral matters
- Right of access to an EJS, including the right to an effective remedy, due process of the law and the defence of an electoral right



International IDEA

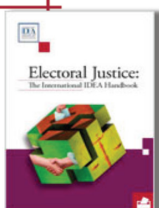




## No Trust, No System

### The Lesson from Kenya (2007)

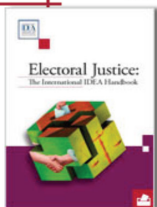
- Lack of trust in the EDR body (i.e. the judiciary) rendered the Electoral Justice system that existed useless.
- “Loss of legitimacy by any adjudicator is extremely serious, striking at the viability of the very adjudication process.” [Kriegler Commission Report, 2008]



## High Trust, System Works

### **The Lesson from Indonesia (Local Elections - ongoing)**

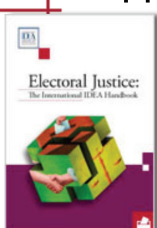
- As opposed to the perceived to be corrupt regular courts, the Constitutional Court (the EDRB) is highly trusted by politicians.
- Despite recent allegations of bribery among CC judges, politicians kept trusting the CC for adjudicating their cases, thus rendering the system effective.



## Having Partial EDRB may be like washing in dirty water

### **The Lesson from Cote d'Ivoire (2010)**

- Even though trust existed, the partial nature of the Constitutional Council (the EDRB) may lead to partisan decisions.
- “The Council has exceeded its powers by cancelling the results in a partisan and discriminatory fashion by focusing on a region and failing to plan for a new Presidential election.” [EU EOM Report, 2011]

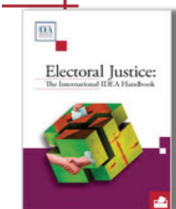




## An Impartial EDRB may avoid Political Crisis

### The Lesson from Mexico (2006)

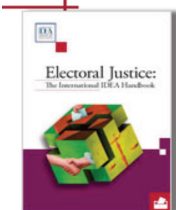
- The Federal Electoral Tribunal of Mexico (the EDRB) is known to be independent and impartial.
- Although the Tribunal has not been free from accusations for being subjective, confidence remained high.
- Thus, in the midst of great tension and pressure, the Tribunal was able to avoid crisis [remember: no appeals].



## TRUST is essential

To acquire trust in electoral institutions needs:

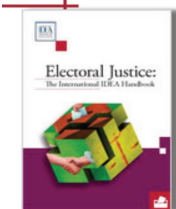
- Professional and effective EMB/EDRB;
- Citizen awareness of the EMB/EDRB's actions;
- Transparency in the EMB/EDRB;
- Accountability of the EMB/EDRB.



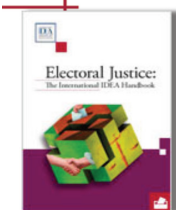


## Electoral Justice ...

... cannot be overlooked if we are to achieve a HEALTHY democratic life.



## Finally....



**MEXICO**



## Mexican campaign regulations. Recent trends.

Luis E. Giménez Cacho

IFE. México

This paper will briefly describe the main traits of federal election rules established after a full reform of the Mexican election code conducted by the Mexican Congress by the end of 2007. It will show the key rulings along four significant fields: primaries and formal campaign duration, public and private funding, campaign revenue and expenses auditing by election authorities and a new set of control measures over media broadcasting designed to guarantee a relative fairness in radio and TV access by candidates and parties.

### **I. Framework**

After the 1910 social revolution and practically along the whole twentieth century, Mexican political system was involved as a peculiar hegemonic party system. Constitutional design was that of a conventional occidental democracy, based on separation of state powers, the executive, legislative and the judiciary branches. Elections were held on a regular basis and, due to a previous thirty year dictatorship experience, reelection in the executive branch was banned, as well as consecutive holding of posts by members of both chambers of the legislative. Nevertheless, democratic procedures were more formal than effective, due to a long tradition of authoritarian political culture resulting from the violent overturn of the whole oligarchic society structure at the beginning of the century.

Along more than seventy years, since the creation of National Revolutionary Party (PNR) in 1928, political activities and decisions were processed within the structure of the hegemonic party and opposition was mainly testimonial. This status began to change in 1977, when due to an enduring political crisis, a significant constitutional reform recognized the public relevance of political parties, legitimated political opposition and allowed parties access to media and other public resources. After those reforms, practically every election resulted in an increase of electoral and government presence of opposition parties and gave way to persistent claims for new electoral reforms. Current election and campaign rules, and institutions related to them stem from a set of progressive reform

cycles that in the end have shaped the character of a pluralistic and competitive democracy. A particularly relevant reform took place in 1996 in the aftermath of an election (1994) in which it was revealed that media access and campaign funding were extremely concentrated in favor of a vanishing hegemonic party. Among other things, the 1996 reform established a new public funding scheme for parties and an autonomic status for the Federal Electoral Institute - *Instituto Federal Electoral* (IFE) - the elections administrative body. These reforms cleared the way for a victory of an opposition party for the first time in over seventy years during the 2000 presidential election. This fact was recognized by many as the end of a transition process to effective democracy. Democracy and its young institutions reached then its historical recognition peak among Mexican citizens.

Nevertheless, six years later, the legitimacy of election bodies was challenged again by the fact that presidential election outcomes gave the winner a scarce difference of 0.56% over his opponent, in a 41.5 million voter turnout. The losing candidate opposed the results, mainly invoking the violation of campaign rules banning private corporations to conduct media campaigns and claiming for a full recount of votes. His requests were essentially rejected by the Judiciary Branch, but several flaws were detected in election rules. This is the reason why a new reform cycle was opened by Congress in 2007. Finally, as a means to reestablish legitimacy, it was decided to conduct a full revision of the electoral code that addressed not only reforms related to the recent media campaign experience but also to public party funding and several relevant electoral and legal procedures that required adjustments to a shifting political reality. Current campaign rules find their origin in this reform.

### **Mexican electoral system**

Mexico is a Federal Republic integrated by 31 sovereign States and a Federal District. Therefore, electoral activity by parties is practically constant due to the fact that every sovereign State conducts local elections under its own ruling and timelines, though limited by a common constitutional framework. Recent reforms tend to gradually associate election dates, both local and federal, in order to rearrange political activism and party priorities. The following description will not pay attention to local singularities and will concentrate in key federal campaign regulations.

The President of The Mexican Republic is elected for a period of 6 years and



re-election is not possible. The Upper Chamber, the Senate, is composed by 128 senators who are also elected every six years. The Lower Chamber is formed by 500 Representatives (Deputies) elected every 3 years. Non consecutive election is possible within the Legislative Branch. It is worth mentioning that recent congressional discussions towards State Reform in 2011 point towards the abolition of the consecutive reelection ban for Congress.

The President is chosen by direct election. The Upper Chamber is formed by 64 senators elected by relative majority, a formula of two candidates representing each Union State; 32 senators by "first minority"- the second place candidates in each state- and 32 additional seats chosen by proportional representation in a single national list.

The Chamber of Representatives is formed by 300 deputies elected by relative majority, one for each federal district, and 200 deputies elected by proportional representation out of five regional lists corresponding to the same number of geographic circumscriptions. Appointment methods for Deputies and Senators by proportional representation diverge. The 32 proportional senators are chosen by a pure proportionality formula, whereas deputies are elected by the Hare-Niemeyer or largest remainder method. A 2% threshold of the overall valid deputies' votes is required for parties to participate in the seats distribution.

No party will be allotted more than 300 seats in the Lower Chamber by any method, or more than 8% seats over the total votes received.

On the other hand, parties must obtain at least 42.1% of the valid votes and 167 majority districts in order to get 251 votes (absolute majority) in the Lower Chamber.

### **Electoral authorities**

As said before, the Federal Electoral Institute (IFE) is since 1996 a public, fully autonomous and independent agency responsible for organizing federal election processes and supervising compliance with legislation by parties, candidates, broadcasters and other political actors.

The highest authority on electoral matters is the Electoral Court of the Federal Judicial Branch (TEPJF), functioning as a specialized organ of the Judiciary. All IFE resolutions may be appealed by parties and concerned individuals at this tribunal and even political parties internal decisions may be challenged by party members before this court.

## II. Basic campaign period rules

Ordinary federal elections are held on the first Sunday of July; every three years for the Lower Chamber and, as said, every six years for the presidential and senatorial elections. Before the 2007 reform, registration of majority candidates to the Lower Chamber took place during the first two weeks of April. Proportional listings were registered along the third and fourth week of the same month. Therefore, candidates to a deputy post were allowed 90 and 75 days of campaign accordingly. Senators were officially registered in March and enjoyed a campaign period of 105 days - in the case of majority Senator Candidates- and 75 days for those in the proportional listing.

Presidential candidate registration used to take place in the first two weeks of January therefore allowing a long 180 day period for campaigning. This exceptionally extended presidential race term has been related to the fact that during the old regime presidential campaigning aimed to the legitimating of a certainly winning candidate rather than conducting a proper competitive contest. The evolving electoral routine in the new competitive environment has proven this long period as unnecessary. Besides, there is the fact that public party funding calculations were then based in campaign costs estimates that were affected by the duration of campaigns. Overall election cost and a sense of public funding being too high among the population contributed to the new campaign schedule adopted by the end of 2007.

Through this reform, campaign duration was reduced by 30% for the Lower Chamber candidates and up to 50% for the presidential race. Besides, a new regulation was introduced to regulate primary election periods in which parties select their candidates-to-be. (See table 1)

**Table 1**  
**Duration of primaries and campaigns after 2007 reform**

Type of election	Start	End	Duration
<b>Primaries</b>			
General election	3th week of December of the year prior to the election.	A day before the caucus or internal election	60 days max.
Midterm election	4th week of January on election year.		40 days max.
<b>Campaigns</b>			
General election	The day after register of candidatures on IFE	3 days before to polling day	90 days
For midterm elections			60 days

### **III. Campaign Funding**

#### **Public funding**

Parties are allowed several sources of funding, private and public, as long as public funding is predominant. Public subsidy is provided by federal tax money while private funds sources are limited to individuals: party members and supporters. Party self-finance activities and financial yields are also allowed.

Until 2007, the public funding general lot was calculated by a formula based on an estimation of fixed deputy campaign costs multiplied by the number of posts at stake and the number of parties participating in Congress. As it can be easily deducted, this formula was affected by campaign duration as well as by the number of active parties. This tended to generate a permanently growing flow of public funds towards the party system.

Before 2007, the public funding lot which intended to provide ordinary or general operating party expenses was doubled during campaign years regardless of the type of election –general or midterm–. In time, this procedure was also questioned by public opinion regarding campaign public financing as being disproportionate, and in the end providing an unjustified and growing profit to media corporations.

In order to grant a certain degree of evenness, public ordinary and campaign funding was -and is still- allotted in two segments: 30% distributed in equal amounts parties and 70% in a proportion of votes obtained by each party in the last election.

2007 reforms radically changed the calculation methods of public subsidy. General expenses funding amount is now constitutionally established on a yearly basis as a percentage (65%) of the minimum federal wage multiplied by the number of citizens included in the Federal Electoral Registry. At the same time complementary campaign public funding is fixed as a percentage of public ordinary funding of the current year, depending on the type of election. For general election campaigns additional funding adds up to 50% of the amount allotted for ordinary expenses. For midterm elections, funds take up 30% of the same basis. (For practical applications of these principles refer to examples in tables 2 and 3)

**Table 2****Example of public funding for a general election based on 2011 data**

<b>Political party</b>	Ordinary expense funding 2011 (US \$ million)	50% campaign extra (US \$ million)	Total per party (US \$ million)
National Action (PAN)	66.8	33.4	100.2
Institutional Revolutionary (PRI)	84.5	42.3	126.8
Democratic Revolution (PRD)	35.5	17.7	53.2
Labor Party (PT)	18.5	9.3	27.8
Green Ecologist of Mexico PVEM	24.7	12.3	37.0
Convergence for Democracy (Convergencia)	16.3	8.2	24.5
New Alliance (NA)	18.2	9.1	27.3
<b>TOTAL</b>	<b>264.5</b>	<b>132.2</b>	<b>396.7</b>

**Table 3****Example of public funding for a midterm election based on 2011 data**

<b>Political party</b>	Ordinary expense funding 2011 (US \$ million)	30% extra (US \$ million)	Total per party (US \$ millions)
National Action	66.8	20.0	86.8
Institutional Revolutionary	84.5	25.3	109.8
Democratic Revolution	35.5	10.6	46.1
Labor Party	18.5	5.6	24.0
Green Ecologist of México	24.7	7.4	32.1
Convergence for Democracy (Convergencia)	16.3	4.9	21.2
New Alliance	18.2	5.5	23.7
<b>TOTAL</b>	<b>264.5</b>	<b>79.3</b>	<b>343.8</b>

### **Private funding prohibitions**

Private funding of political parties and candidates is restricted to individuals as members or sympathizers of parties. Therefore, registered political institutes may not receive any funds from any government organization at any level, either States of the Union or municipalities. Foreign political parties, individuals and corporations or any international organization are banned from party financing. At a national level, private corporations, churches and religious groups as well as people that live or work abroad may not provide funds to parties or candidates.

### **Private funding ceilings**

In order to ensure the principle of public funding prevalence, on the whole, political parties cannot receive private funding over 10% of public resources allotted for ordinary activities. At the same time individual citizens or organizations can contribute with at most of 0.5% of ceilings for campaign expenses of the previous presidential election.

### **Ceilings to campaign expenditures**

Campaign expenditures by candidates are fixed according to the posts at stake. Ceilings to campaign expenditures for Individual presidential candidate campaigns are set to 20% of the public campaign funding established on the year of presidential elections. For the Lower Chamber candidates, the ceiling results by dividing the presidential election campaign ceiling by 300. In the midterm elections (election for deputies only), the ceilings are updated using the Minimum Wage Growth Index in Mexico City.

In case of Senate candidates the ceiling must equal the amount resulting from multiplying the upper limits for Deputies times the number of districts comprised in the corresponding Union State, without considering a number of districts higher than 20.

### **III. Accountability: Sources and destination of funding.**

Before the recent reform, revision and auditing of parties' ordinary and campaign expenses was conducted under the surveillance of a special commission of IFE's General

Council. Starting 2008, a special Accountability Unit was created within IFE. It is endowed with technical independence and is specialized in party finance auditing and inspection. As a result of a constitutional modification this Unit is not limited by bank, fiscal or fiduciary secrecy for the performance of its tasks. Political parties must permanently file reports on their financial activity before this Accountability Unit. Several reports are required. (See table 4)

**Table 4**  
**Reports to be submitted by political parties before IFE**

Type of report	Content
Primaries	Source and amount of expenses made; as well as a list of pre-candidates who failed to file their reports.
Filling of campaigns	Source, amount and expenses made in electoral campaigns with information updated may 30.
Campaign reports	The same information until first Sunday of July (polling day).

**Reporting deadlines**

Primary election campaign reports must be filed by parties within the first 30 days after the end of the primary election. A set of preliminary campaign expenses reports must be presented within the first 15 days of June, which means they should be available two weeks before the polling date. Finally, closing campaign reports must be produced within 60 days after Election Day.

**Reporting features**

Parties must individually report on campaign money sources, destination and use of the income received through any kind of funding. They must also make a beginning budget, integrated with cash balance, individual campaign bank accounts listings and investments.

Reports are verified at large. Origin and use of the income received for political parties is accurately inspected by the Accountability Unit and cross checked through proprietary and any related bank accounts.

Reports must show any kind of transactions made by political parties. This includes any

non monetary donations that shall be quantified in order to assess compliance with ceilings to campaign expenditures.

According to regulations, reports must be clear and understandable for any kind of readers and be comparable with previous year's reports.

### **Check procedure**

IFE's Accountability Unit may order audits and inspect to political parties' local committees and campaign headquarters anytime during the campaign period. In order to prevent illegal or concealed financing, Accountability Unit may request information to Financial Intelligence Unit of the Ministry of Finance about suspect unusual or relevant transactions made by political parties, candidates or pre candidates. This feature of the Mexican auditing process has proven especially relevant due to a recent increase of drug trafficking groups and organized crime activities suspected to interfere with the political system.

By the end of the auditing process, the Accountability Unit issues and presents a consolidated advisory opinion that must be submitted to the General Council of IFE, which is then entitled to impose the corresponding penalties when applicable.

As said before, political parties may appeal the General Council's advisory opinion and according sanctions and fines before the Electoral Court.

It is important to note that all reports and audit results are consistently made public for transparency purposes through the Internet. Further details on income and expense are available upon request to any individual through the freedom of information mechanism administered by IFE.

## **IV. New regulations on media access**

From the electoral authorities perspective the most complex task resulting from the 2007 reform is the one related to regulation, administration and control of broadcasted messages by means of radio and television networks.

Illegal involvement of corporations and private enterprise associations throughout the 2006 presidential election derived in a traumatic experience that severely damaged the credibility and public trust upon the electoral system as a whole. That is to say, to be more accurate, at least among the numerous sympathizers of the close-losing candidate.

After those events, Congress resolved a radical reform banning all forms of commercial purchase of broadcasted ads and messages of political content by any person, organization or political parties. From 2008 on, political propaganda against or in favor of any candidate or party may exclusively be conducted through the so called "official times", that is a portion of broadcasting time assigned by law to the Mexican State in exchange of private radio and television permits.

Besides, during election periods, IFE is the only authority in charge of administering radio and television time belonging to the State. The expressed aim of these provisions is to offer equitable conditions in the electoral contest, in order to prevent economic differences between political groups from becoming a deciding factor on the outcome of the elections.

According to law, briefly said, broadcast times administered by IFE comprise 48 minutes a day in every radio and television station for itself, political parties and other electoral entities during primaries and campaign periods.

Time distribution for political parties and IFE is assigned as follows:

1) During primaries

- Parties: 18 minutes a day for each transmission hour in TV channels and radio stations.
- IFE: 30 minutes a day for itself and other electoral entities in TV channels and radio stations.

2) During campaigns

- Parties: 41 minutes a day for each transmission hour in TV channels and radio stations.
- IFE: 7 minutes a day for itself and other electoral entities in TV channels and radio stations.

In number of 20 or 30 seconds ads, the time is distributed as follows:

- 30% equally for all parties.
- 70% proportionally according to the votes obtained in the previous election.

IFE is required to prepare patterns of transmission of ads with these characteristics containing the distribution of ads in each radio station or TV channel on a daily basis an



individual ads transmission schedule for every day and every broadcaster; a listing of the political parties corresponding to each add and, besides, transmission hours for IFE'S ads and other electoral entities.

As said before, Mexican law prohibits political parties, pre candidates and candidates to acquire commercially radio and TV announcements by any means.

Federal or local governments and municipalities are prohibited propaganda in election period, exception made of announcements related to educational and health services and civil protection in case of disasters.

It must be said that political party's freedom of speech is not pre-censored, but parties may be exposed to complaints before IFE by individuals or organizations affected by illegal message contents. Television channels and radio stations are required to transmit the political party's ads without any alteration.

During campaigns, IFE constantly monitors the scheduling of TV channels and radio stations nationwide to ensure that broadcasts meet the guidelines approved by the Institute and that there are no messages that violate the provisions under Mexican law in this area. A peculiar note of this reform is that IFE, as a Federal authority, is also in charge of controlling political propaganda corresponding to local elections and campaigns. This task has showed a special difficulty.

IFE also monitors the radio and television news broadcasts covering and federal campaigns in order to establish and make the public aware of news programs time granted by broadcasters to each candidate.

Political parties, all the electoral entities and every individual can know the results of inspections and monitoring carried out or ordered by the Institute.

Any breach of the patterns detected by IFE is notified to the radio stations and TV channels in the next 12 hours.

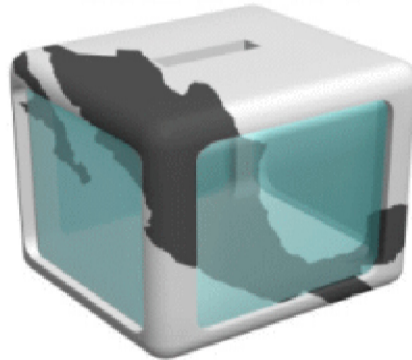
If broadcasting patterns violations are not technically justified, broadcasters are sanctioned under the terms of the law. Penalties for failure begin with public warnings and can reach fines up to 100,000 days of minimum wage for TV channels (US\$ 507,379), and 50,000 days for radio stations (US\$ 253,689).

In case of recidivism on this behavior, IFE informs the Ministry of the Interior, which may consider the penalties applicable under the Mexican media law.

Space reasons do not allow explaining here the details of the legal and administrative complications that emerge from such media rulings. However, just considering the fact that Mexico is such a large country -with around 112 million inhabitants- and that the radio

and TV broadcasters add up for around 2000 stations nationwide, it may be illustrated why political propaganda regulation and control through radio and television has become the most important challenge for IFE, until now successfully achieved. It is a controversial issue as well. Needless to say, government incumbents, party contenders and commercial broadcasters are continuously developing new means to circumvent the spirit of the new legislation through astonishing creative ways. Media regulation has become the central electoral issue at the beginning of the Mexican 21<sup>st</sup>. century.

# CAMPAIGN REGULATIONS IN MEXICO



NEC International Conference. Seoul, Korea.  
abril 28, 2011

1

## I. Mexican electoral system



2

## What is the federal election about?

- **The president of the Mexican Republic**

Every 6 years.

Reelection is impossible.

- **Higher chamber**

128 senators, elected every 6 years.

Non consecutive reelection is possible.



- **Lower chamber**

500 deputies elected every 3 years.

Non consecutive election is possible.

## Electoral system

- **President:**

Direct election.

- **Senators:**

- **64** by relative majority (formula of 2 candidates for each Union State)
- **32** by first minority (2<sup>nd</sup> place in each senatorial election)
- **32** by proportional representation (a single national circumscription)

- **Deputies:**

**300** by relative majority (1 for each federal district)

**200** by proportional representation (5 regional lists corresponding to each circumscription)



## Appointment of deputies and senators by proportional representation

- **Senate:** Pure proportionality formula.
- **Chamber of Deputies:** Hare-Niemeyer method (largest remainder method).
- **Election threshold:** A seat for each 2% of the whole voting received for the political parties in the election.
- **No party will be allotted more than 300 seats in the Lower Chamber by any method or more than 8% seats over the total votes received.**
- **Parties must obtain at least 42.1% of the valid votes and 167 majority districts in order to get 251 votes (absolute majority) in the Lower Chamber.**



5

## Electoral authorities

**Federal Electoral Institute (IFE):** Public, autonomous and independent agency responsible for organizing the federal election process.

**Electoral Court of the Federal Judicial Branch:** The highest authority on electoral matters, a specialized organ of the Federal Judicial Branch.



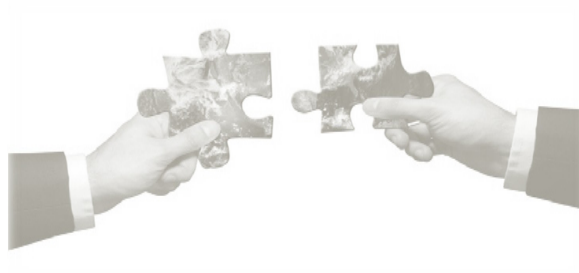
6

## II. Basic campaign rules

### Duration of primaries and campaigns

Type of election	Start	End	Duration
<b>Primaries</b>			
For general election	3 <sup>rd</sup> . week of December of the year prior to the election.	A day before the caucus or internal election.	60 days max.
For midterm election	4 <sup>th</sup> week of January on election year.		40 days max.
<b>Campaigns</b>			
General election	The day after register of candidatures on IFE.	3 days before the polling date.	90 days
Midterm election			60 days

## III. Campaign Funding



## Sources of funding

### ▪ Public funding:

- Federal resources

### ▪ Private funding:

- From members
- From supporters
- Self-financing
- From financial yields



## Public funding

- **Public campaign funding is calculated as a percentage of public ordinary funding:**
  - General elections: 50% of the legal funding for ordinary activities corresponding to that year.
  - Midterm elections: 30% of the legal funding for ordinary activities.
- **These amounts will be allotted in addition to public resources for permanent ordinary activities. Overall ordinary funding is fixed as a percentage of the minimum wage times the number of voters included in the National Voters Registry.**
- **Overall funding is distributed to parties 30% in equal shares and 70% proportional to most recent election results.**



11

## Examples of public funding for election campaigns with 2011 information

### 1. General election

Political party	Recurrent funding 2011 (US \$ millions)	50% campaign extra (US \$ millions)	Total per party (US \$ millions)
National Action	66.8	33.4	100.2
Institutional Revolutionary	84.5	42.3	126.8
Democratic Revolution	35.5	17.7	53.2
Labor Party	18.5	9.3	27.8
Green Ecologist of México	24.7	12.3	37
Convergence for Democracy	16.3	8.2	24.5
New Alliance	18.2	9	27.2
<b>TOTAL</b>	<b>264.5</b>	<b>132.2</b>	<b>396.7</b>

12



## Examples of public funding for election campaigns with 2011 information

### 2. Midterm election

Political party	Recurrent funding 2011 (US \$ millions)	30% campaign extra (US \$ millions)	Total per party (US \$ millions)
National Action	66.8	2.0	68.8
Institutional Revolutionary	84.5	2.5	87
Democratic Revolution	35.5	1.0	36.5
Labor Party	18.5	0.56	19
Green Ecologist of México	24.7	0.74	25.4
Convergence for Democracy	16.3	0.48	16.7
New Alliance	18.2	0.54	18.7
<b>TOTAL</b>	<b>264.5</b>	<b>7.8</b>	<b>272.3</b>

13

## Private funding prohibitions

### Political parties and candidates shall not receive any funds from:

- Branches of government, States of the Union and Town Halls
- Foreign political parties, individuals or corporations
- International organizations of any nature
- Religious ministers, churches or groups of any religion
- People who live or work abroad
- Mexican corporations



14

## Private funding limits

- **Political parties can't receive private funding over 10% of public resources allotted for ordinary activities.**
- **Any citizen or organization can contribute with at most of 0.5% of upper limit for campaign expenses of the previous presidential election.**



## Upper limits on campaign expenses

- **Presidential campaigns:** 20% of the overall public funding for campaign expenses established on the year of presidential elections.
- **Lower Chamber:** The upper limit for the presidential election is divided into 300.
  - In case of midterm elections (deputy's election), the top limits are actualized using the Minimum Wage Growth Index in Mexico City.
- **Higher Chamber:** The upper limit must amount the result form multiplying the upper limits for Deputies by the number of districts comprised by the entry, but without considering a number of districts more than 20.

## IV. Accountability: sources and destination of funding



## Reports

**Political parties must file reports on their finance before the Accountability Unit of IFE. Several reports are required.**



## Types of reports that must be submitted by political parties before IFE

Type of report	Content
Primaries	Source and amount of expenses made; as well as a list of pre-candidates who failed to file their reports .
Filing of campaigns	Source , amount and expenses made in electoral campaigns with information updated may 30.
Campaign reports	The same information until 2 <sup>nd</sup> Sunday of July (polling day).

## Deadlines

- Primary campaigns reports: Within the first 30 days after end of the primary election.
- Filing of campaigns reports: Within the first 15 days of June.
- Campaigns reports: Within 60 days after Election Day.

## Reporting features

- Reports on sources, destination and use of the income received through any kind of funding.
- Parties must present a beginning balance integrated with cash balance, bank accounts and investments.
- Reports are used to verify, analyze and check the origin and use of the income received for political parties.
- Reports must show any kind of transactions made by political parties.
- Must be clear and understandable for all kind of readers.
- Must be comparable with previous year's reports.

## Check procedure

- 1) IFE's Accountability Unit audits and inspects political parties' local committees and headquarters during campaign period.
- 2) Accountability Unit requests information to Financial Intelligence Unit of the Ministry of Finance about suspect unusual or relevant transactions made by political parties, candidates or pre-candidates.
- 3) IFE is not limited by bank, fiscal or fiduciary secrecy for the performance of the activities.
- 4) Unit emits and presents a consolidated advisory opinion that must be submitted to The General Council of IFE, which is entitled to impose the corresponding penalties, when applicable.
- 5) Political parties may appeal the General Council's advisory opinion and resolution before the Electoral Court.
- 6) All reports and audits are made public for transparency purposes.

## IV. Regulations on media access



### Regulations on media access

- During elections IFE is the only authority in charge of administering radio and television time belonging to the State, which is the only means of campaign propaganda.
- The aim of these provisions is to offer equitable conditions in the electoral contest, in order to prevent economic differences between political groups from becoming a deciding factor on the outcome of the elections.



## Times administered by IFE according to law

- IFE disposes of 48 minutes a day in radio and television stations for itself, political parties and other electoral entities during primaries and campaign periods.



## Time distribution for political parties and IFE

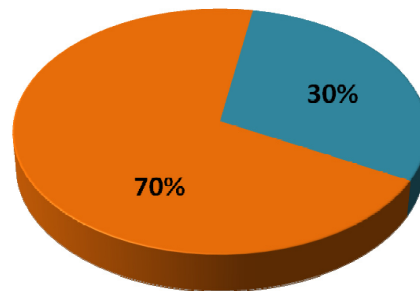
### 1) During primaries

- Parties: 18 minutes a day for each transmission hour in TV channels and radio stations.
- IFE: 30 minutes a day for itself and other electoral entities in TV channels and radio stations.

### 2) During campaigns

- Parties: 41 minutes a day for each transmission hour in TV channels and radio stations.
- IFE: 7 minutes a day for itself and other electoral entities in TV channels and radio stations.

## In number of adds, the time is distributed as follows



- 30% equally for all parties
- 70% proportionally according to the votes obtained in the previous election

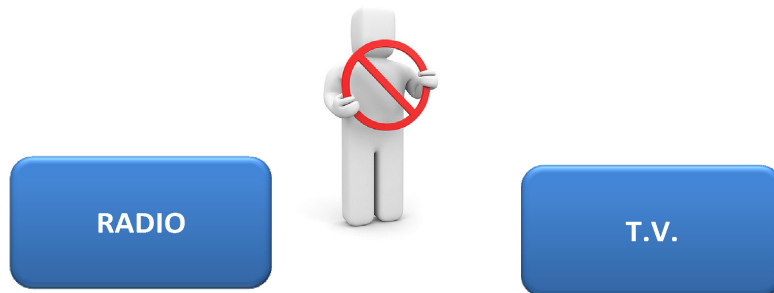
## IFE prepares patterns of transmission of adds with these characteristics

- Distribution of the adds in each radio station or TV station on a daily basis.
- Individual adds transmission schedule.
- The political party associated to each add.
- Transmission hours for IFE'S adds and other electoral entities.



## Mexican law

Mexican law prohibits political parties and candidates to acquire commercially radio and TV announcements by any means.



**Federal government, Local governments and Town Halls are prohibited propaganda in election period, except announcements about**

- Educative services.
- Health services.
- Civil protection in case of disasters.

- Political party's freedom of speech is not pre-censured.
- TV channels and radio stations are required to transmit the political parties adds without alteration.

### **During campaigns IFE constantly monitors the scheduling of TV channels and radio stations to ensure that**

- TV channels and radio stations meet the guidelines approved by the Institute.
- Political party's broadcasts are transmitted without alterations.
- There are no messages that violate the provisions under Mexican law in this area.

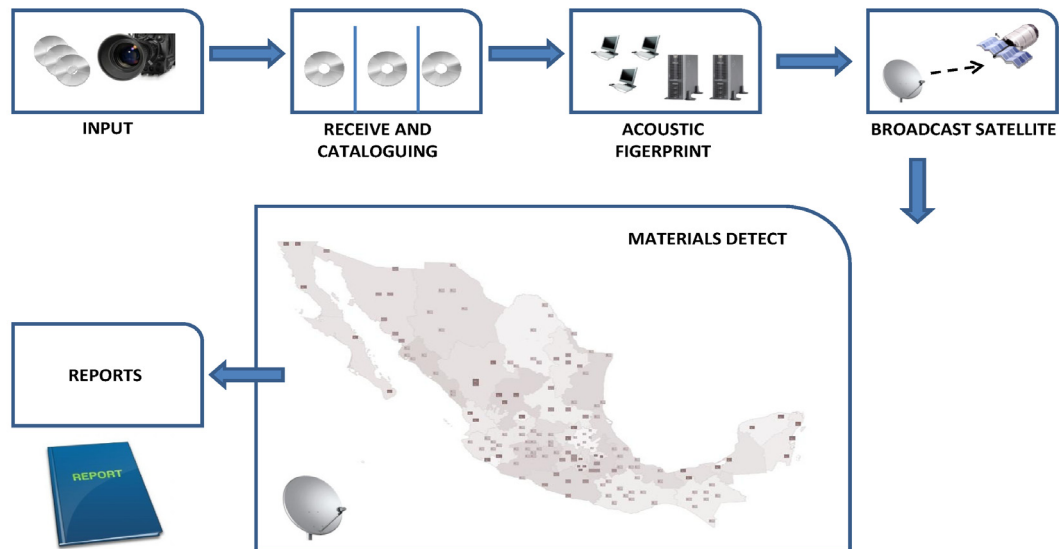
## During campaigns IFE constantly monitors the scheduling of TV channels and radio stations to ensure that

- IFE also monitors the radio and television news broadcasts covering and federal campaigns in order to establish news time allotted to each party and candidate.
- Political parties and electoral entities can know the results of inspections and monitoring carried out or ordered by the Institute.

## During campaigns IFE constantly monitors the scheduling of TV channels and radio stations to ensure that

- Any breach of the patterns detected by IFE is notified to the radio stations and TV channels in the next 12 hours.
- If broadcasting patterns violations are not technically justified, broadcasters are sanctioned under the terms of the law.

## Integrated System for Administration of State Times (SIATE). Operation



35

## Penalties for failure

- Public warning
- Fine of up to 100,000 days of minimum wage for TV channels (US\$ 507,379), and 50,000 days for radio stations (US\$ 253,689).
- In case of recidivism on this behavior, IFE will inform to Ministry of Interior which may consider the penalties applicable under the Mexican media law.

36

## Other campaign restrictions

- During the electoral contest, it is forbidden to calumniate, defame parties and candidates as well as to denigrate institutions.
- IFE may sanction misconduct in this respect.
- Government agencies may not broadcast announcements in it's favor along the campaigns



**NEPAL**





A Theme Paper on

Reasonable Regulations on the Election Campaign Expenses in Context  
of Nepal to be Presented in the Seminar to be held in Seoul, South Korea

**Introduction**

Expenditure incurred by or on behalf of a registered political party or candidate to promote the party or candidate at an election or in connection with future elections, including the payment made whether in cash, goods, obligation or by way of gift, loan, advance, deposit or otherwise having economic value required for the election expenditure that has the aim of winning the election is election campaign expenditure. But election expense does not include the deposit money for nomination by the party and candidate.

**Items of Expenses by Political Parties/Candidates in Elections Campaign**

This list is by no means an exhaustive list of items of expenditure which may be counted as election expenses. It only serves to illustrate the common items of such expenses.

- Fees and allowances, including travelling expenses, paid to agents and assistants engaged in relation to one's election activities.
- Cost incurred on meals and drinks for agents and assistants before and on polling day.
- Cost incurred for design and production of election advertisements such as: banners, signboards, play-cards, posters, handbills, publicity pamphlets, video and audio tapes, electronic messages and various forms of literature or publicity materials for the promotion of the candidate.
- Costs incurred for display and removal of election advertisements including labor charges.
- Costs incurred by the relevant authorities for removal of election advertisements displayed without authorization.
- Cost incurred for renting space used in connection with the election campaign.

- Cost of stationery used in connection with the election campaign.
- Operation costs in connection with the election campaign, e. g. photocopying, hire of telephone line and fax line.
- Postage for mailing of publicity materials (excluding the free mail provided by the government).
- Costs incurred for the hire of transport in connection with the election.
- Costs incurred for publicity by vehicles.
- Costs of advertisements in newspapers, taxi or other public transport.
- Costs incurred for the election meetings, including venue charges.
- Costs of T-shirts, armbands, caps, etc. and other identification devices for election agents and assistants.
- Costs incurred by a candidate who is a serving member of the parliament, a District Council or a serving chairman, vice-chairman or member of the Executive Committee of the Village Development Committee; or serving a Village Representative in the publication of performance reports during the election period.
- Costs incurred by the political body or organization of the candidate in promoting his/ her election.
- Costs for obtaining legal device incurred in respect of the management of an election.
- Interest incurred from a loan to finance the campaign activities of a candidate.
- Subsidy of activities organized for promoting one's candidature in a form of donation which is counted as election expense.
- Although some people may not charge the candidate for goods supplied or work, labor and services rendered, a reasonable sum estimated for such charges, over any allowance or discount usually given to customers, is an election expense.
- Goods given incidental to the provision of voluntary service.
- Charities undertaken for the purpose of promoting one's candidature, and
- Costs for any negative publicity launched against one's opponent.

The relative importance of different components of campaign expenditure varies greatly across countries. Breakdown of campaign spending in some countries, for example, has been presented in the following tables.

A survey by the National Democratic Institute (NDI) for International Affairs on political party financing found the following breakdown on spending in 12 African countries: Benin, Botswana, Ghana, Kenya, Malawi, Mozambique, Nigeria, Senegal, South Africa,

Tanzania, Uganda and Zambia.

**Table 1**  
**Survey Report by NDI on Political Party Campaign Expenditure**

S.N.	Items	Expenditure (in percent)
1.	Mass media	10.0
2.	Campaign materials	17.0
3.	Rallies and meetings	9.0
4.	Travel and logistics	26.0
5.	Money and direct benefits	14.0 (including 3.4% on vote buying)
6.	Personnel	22.0

Source: Open Society Justice Initiative, *Monitoring Election Campaign Finance: A Handbook for NGOs*, 23<sup>rd</sup> Nov. 2004.

The table 1 shows that the highest expenditure has been incurred on travel and logistic, followed by campaign materials and mass media. Further more NDI has made the study about campaign expenditure in the following 10 countries and the data has been represented in the table below: Bangladesh, Bulgaria, Cambodia, Croatia, Guyana, India, Macedonia, Nepal, Peru and Romani

**Table 2**  
**Campaign Expenditure**

S.N.	Items	Expenditure(in percent)
1.	Mass media (TV and Radio)	27.0
2.	Campaign materials	20.0
3.	Rallies and meetings	13.0
4.	Travel and logistics	14.0
5.	Money and direct benefits	12.0 (including 2.3% on vote buying)
6.	Personnel	10.0

Source: *Ibid*

The above table shows that the highest campaign expense has been incurred on mass media (27%), followed by campaign materials. Money and direct benefit provided to the voters by either party or candidate has been estimated by NDI 12%.

Election is fundamental for democracy. In every democratic country periodical election either of presidential or parliament is must. It is the election that strengthens the democracy and the rights of the people. And administration of elections require huge amount which is managed by the government through national budget. This budget is managed and operated by the Election Management Body (EMB). But the other part of election expenses is campaign expense which is managed by the political party and the candidate contesting in the election. The main objective of such expense is to win the election.

Election campaign expense is an important part of the total expense. This expenditure is made by the political party and the candidate. Source of expense and its outlay is managed by the electoral laws, regulations, directives and notice issued by the EMB. Laws and regulations for this concern are different in countries. In some countries, limit for campaign is fixed either by law or regulation of the EMB. For example, in **India**, according to the Election Commission's rules in bigger constituencies a candidate can spend up to IRs.2.5 million. In other constituencies it ranges between IRs.1 million to IRs. 2.5 million. The accountability imposed on the candidates and parties has curtailed some of the more extravagant campaigning that was previously a part of Indian elections. However, there are some loopholes in campaign expenses. The most significant one lies in explanation 1 to section 77 (1) of the Representation of the Peoples Act, 1951 under which amounts spent by persons other than candidate and his/her agent are not added to his/her election expenses. This means a candidate can spend as much as s/he likes without violating the ceiling on poll expenses. All expenditures when revealed can be attributed to the party or friends of the candidate. But following a 1996 Supreme Court judgment and the recommendation of the Constitutional Commission, this explanation was amended in 2003. Despite the legal provision, political parties spend much more than the limit as determined by the government.

Election Commission of India had enforced **Model Code of Conduct** from the Lok Sabha elections in 2009. But violation of the model code of conduct was observed to a

large extent. Election Commission of India banned distribution of sarees by political parties/candidates as gift during the election campaign. In order to avoid a repetition of 2004 saree tragedy, Election Commission imposed a blanket ban on distribution of sarees for campaigning for 2009 Lok Sabha polls. During 2004 general elections, 22 women died in a stampede at a function organised by BJP leader Lalji Tandon to distribute sarees among the weaker sections in Lucknow. Election Commission also banned distribution of apparel like shirts or T-shirts (The Times of India, March 13, 2009).

An amendment to the Representation of the People Order (RPO) in **Bangladesh**, 1972, in August 2008 has set the election expense limit at Tk.500,000 (US\$ 7,300) for each candidate in the parliamentary elections. A candidate is required to submit to the Returning Officer (RO) the possible sources of election expenses, statement of his/her property, annual income and taxes paid before the main campaign begins. Besides, all candidates must submit the statement of their actual election expenses within 15 days after the election results are published in the gazette (The Representation of the People Order, 1972). There is a provision of punishment in prison and a fine for breaking the expense rules. But in reality nobody has so far been punished for breaking the expense limit.

Expenditures for election campaigns in **Japan** are limited to a certain amount. For the members of the House of Representative (FPTP), statutory campaign expenses for each candidate have been fixed ¥15 (number of registered voters in the constituency) + ¥19,100,000). The Campaign expenditure limit for each candidate of the House of Councilors (candidates on the PRS) is ¥52,000,000. The candidate or his/ her nominator is required to appoint a campaign accountant who is responsible for the revenue and expenditure for the election expenditure (Election System in Japan, 2006).

In **Malaysia**, Election Offences Act 1954 allows the candidates to put up bunting, banners, posters and materials during the campaign period. They have to clean up the mess after polling day. To make sure, candidates have to pay a deposit of RM 5000 for parliamentary elections and RM 3000 for state elections. This deposit will be returned if the candidates remove all the materials put up in public places within 14 days after the election.

There are also other costs in running campaign, such as logistic, cadre mobilization,

office maintenance etc. However, there is limit to how much they can spend in their campaign. Candidates are allowed an expenditure of up to RM 200,000 for parliamentary seats and RM 100,000 for state assembly seats only.

The report of election expenses has to be forwarded to the State Election Officer within 31 days after the election results are published in the gazette. Failure to submit the election expenditure within the prescribed time would be treated as an illegal practice under the Election Offences Act, 1954. The person convicted of this offence can face a fine of RM 5000 and lose the seat. He/she can also be disqualified from contesting elections for following five years (Election Commission, Election Laws).

With regard to the limit of the campaign expenditure, there is no any limit in campaign expenditure in some countries. For instance, in **Sri Lanka**, political party and the candidate meet the entire election expenses incurred for any election. There is no limitation on election expenses incurred by any political party or by any candidate. But strict restrictions and prohibitions have been imposed on election campaign. In **Indonesia**, there is no limit on the amount of campaign funds. But there is provision of campaign fund contribution. Personal contributions are capped at Rp 1 billion, with corporate contributions capped at Rp 500 billion. Donors must be clearly identified and every election participants require opening a special, dedicated, bank account for campaign funds. Election participants must provide the General Election Commission (KPU) with their campaign records 15 days after voting day for auditing by a public auditor. The legislation places strict limits on the commercial mass media with respect to sponsorship, advertising, air time and political campaigns. The mass media is prohibited from blocking air time in favor of one political party, or sponsoring any form of election materials (Meuthia Ganie Rochman et al, 2009, p.66). According to Federal Election Commission (FEC) regulations in **USA**, an individual may contribute no more than \$23,000 to a candidate in a specific election, and \$28,500 to a political party during any calendar year. These limits determine what portion of the total funds raised by a candidate is available for the primary campaign and how much must be held in reserve for the general election. The Bipartisan Campaign Reform Act of 2002 distinguished between so-called 'hard' money that is given to the candidates, and 'soft' money that is contributed to political parties and political action committees, rather than to individuals ([www.usembassy.org.uk/elec08/news12.html](http://www.usembassy.org.uk/elec08/news12.html)). At the end of each quarter of the calendar year, U.S. presidential candidates must reveal how much money

they have raised to their campaigns. The money pays for such expenses as campaign travel, office space, television and radio advertising, telephone service and printing literature.

## **Campaign Expenses in Context of Nepal**

### **Country Context**

Nepal is situated between India and China in a geographical area of 147,181 square kilometers. A small landlocked country Nepal has stark diversities and known in the world as the land of Mount Everest-the highest peak in the world and the birth place of Lord Buddha. Ecologically the country is divided into three zones: the Himalayas, the Hill and the southern fertile and humid flatlands, called the Terai, covered with thriving agriculture, dense forest and national wildlife reserves. In terms of local administration and development the country is divided into 75 districts. Nepal has a population of an estimated 28.5 million (male 50.2% and female 49.8%) with an annual growth rate 2.13%. To the total population urban population shares nearly 20% and 80% population is living in the rural area. There are more than 100 ethnic groups, speaking over 92 languages. More than 80% of the people are Hindu; however, all other major religions are also practiced. Around 62% people of 6 years and above are literate. The literacy percentage by sex is 70.1 for male and 55.5 for female (CBS, Nepal 2010 Projection).

### **Political Context**

Democracy in Nepal was at first introduced in 1950 after abolishing a century old autocratic Rana regime. First democratic parliament election was held in 1959. The then two third majority Nepali Congress government was thrown by a political coup in 1960 by the then king and party less Panchyat System was introduced. After 30 years of democratic struggle multiparty democracy was again restored in 1990. Nonetheless, this political achievement was upset by the emergence of Communist Party of Nepal(Maoist) who began an armed uprising 'The People war' in 1996. In February, 2005, the then king Gyanendra took over the absolute power which alienated the political parties and worsened the security situation. This brought the CPN (Maoist) and alliance of major democratic parties known as the Seven Party Alliance together. A formal 12- point understanding in

November, 2005 was made between Maoist and Seven Party Alliance. One of the major understandings was to holding the Constituent Assembly Election (CAE). This agreement and coordination led to a 19-days protest, popularly known as Jana Andolan II (People's Movement II). This protest finally ended king Gyanendra's absolute rule with the reinstatement of the 1999 parliament On 24 April, 2006. A negotiation was made between CPN (Maoist) and the government. The Comprehensive Peace Accord (CPA), formally ending the civil war, was made between the government and the CPN (Maoist). Interim Constitution 2007 was issued by House of Representatives (HR) and approved by the Legislative Parliament (330 members) that called for the elections to the Constituent Assembly. In early 2007, the CPN (Maoist) joined the Seven Party Alliance government.

### **Electoral History**

The first parliamentary election was held in 1959. This democratic exercise was crushed in its early stage. The panchyat system was introduced. In 1979, there was also a referendum called by the king to decide between the existing Panchyat system or multi party democracy, in which the Panchyat system emerged victorious.

After a decade-long struggle the multi party democracy was restored in 1990 and then three parliamentary elections were held in 1991, 1994 (mid-term), and 1999. In all these elections, only the majoritarian system (First-Past-The — Post i.e. FPTP) was employed.

After a long interval of nine years, Nepal once experienced a democratic election on 10 April, 2008 for the Constituent Assembly (CA). A Mixed Electoral System (FPTP for 240 seats and PR Parallel for 335 seats) was employed for the Constituent Assembly Election.

### **Structure of the EMB**

The history of elections and Election Commission in Nepal goes back to 1950. However, restoration of democracy after the Peoples Movement—II in Chaitra-Baisakha in 2062/2063 (March—April 2006), all political parties agreed that a Constituent Assembly election be held as soon as possible. A new set of commissioners including the Chief Election Commissioner was required in the Election Commission to hold CA elections in a free, fair and credible manner for which the Constitutional Council recommended candidate's name for the Election Commissioner to the Parliamentary Hearing Committee



(PHC). These names were put forth for parliamentary hearings. Following the hearing process, one Chief Election Commissioner and four Election Commissioners were appointed which constituted a new independent Election Commission of Nepal. The appointment procedures and the functions, duties and powers of the Election Commission are enshrined in the Interim Constitution of Nepal 2063 which was promulgated on 15th January, 2007. Thus, the Election Commission consists of five members. The Commissioners are appointed for a period of six years or until they attend the age of 65 year whichever is earlier. The rights and duties of Election Commission are to conduct, supervise and control the Constituent Assembly Election, Local Elections and Referendum. Election Commission is also responsible for the oversight, direction and preparation of the electoral rolls. Election Commission has its offices in 75 districts, which is known, as District Election Office (DEO) and each district level election office is headed by the District Election Officer (DEO). All officials of central and local offices are deemed to be directly responsible to the Election Commission of Nepal during all election operations.

### **Election Campaign Expenditure in House of Representatives Elections in Nepal**

Election Code of Conduct practiced in Nepal during the Constituent Assembly Elections was a document of moral binding than a legal one. In all the general elections after 1990 a code of conduct was drafted and issued by the Election Commission on the general consensus and understanding with all stakeholders. Thus the code of conduct was a document of common understanding among the elections stakeholders.

As provisioned in the Election Commission Act, 1991 (as amended in 1996), the Election Commission, Nepal (ECN) prepared and implemented a code of conduct for all election stakeholders. The Election code of Conduct, 1991 had fixed the limit of election campaign expenditure to a candidate. In fixing expenditure ceiling, 75 districts were categorized into four groups. Accordingly, campaign expenditure ceiling of NRs. 275,000.00 per candidate was fixed for three districts of the Kathmandu valley, NRs. 235,000.00 for 21 Terai districts, NRs. 165,000.00 for 44 hill districts and NRs. 1,15,000.0 for the 7 mountainous districts respectively. the Same code of conduct was implemented in the general election of 1999 with some modifications (Election Commission, 2053, Election Code of Conduct).

## **Election Campaign Expenditure in Constituent Assembly Elections in Nepal**

### **Items of Expenses by Political Parties/Candidates in Nepal**

All the costs incurred during the Constituent Assembly election campaign by the political parties were categorized by ECN under the following broad headings (CAE Code of Conduct, p. 16):

- Voter list purchasing,
- Cost incurred on publicity by one auto vehicle / two horses,
- Cost incurred on fuel for vehicles/fodder for horses,
- Loudspeaker,
- Poster/leaflet printing,
- Transportation of poster and other campaign materials,
- Election meetings/seminars,
- Publicity by printing and electronic media,
- Office operation,
- Cadres/workers mobilization,
- Booth expenditure, and
- Miscellaneous.

Political parties/candidates were legally bound to make expenditure under the aforesaid headings.

### **Free Air Time**

No campaign money was provided directly to political parties or candidates contesting in the elections. However, free air time on state owned radio and television was provided to political parties in proportion to number of candidates fielded by them at first phase, 5-10 minutes time was allowed to political parties to disseminate their election manifesto. At second phase, 2-5 minutes time was made available for election campaign. Lastly, 1 minute time was allowed to request voters to cast vote in favor of their party or candidates before the beginning of silence period. The cost incurred on these programs was paid by the Election Commission.

## Campaign Expenditure Ceiling under FPTP

The limit of election campaign expenditure for the political party and candidate was fixed in consultation with the stakeholders by ECN under the Section 30 of the Election Commission Act, 2007. The expenditure ceiling to each candidate under FPTP race was NRs. 459,400. In FPTP the expenditure was made by either candidate or his/her representative.

The Election Commission had also fixed maximum limit of the item-wise expenditure for each candidate contesting under FPTP. The following table shows the item-wise expenditure ceiling:

**Table 3**  
**Item-Wise Expenditure Limit**

S.N.	Items	Expenditure (in NRs.)	Percent
1.	Purchasing voter list	1,500.00	0.33
2.	One vehicle/2 horses	60,000.00	13.06
3.	Fuel/fodder	48,000.00	10.45
4.	Loudspeaker	40,000.00	8.71
5.	Printing leaflet	75,000.00	16.32
6.	Transportation	10,000.00	2.18
7.	Public meeting	75,000.00	16.32
8.	Publicity by print and electronic media	25,000.00	5.44
9.	Office operation	30,000.00	6.53
10.	Cadres mobilization	50,000.00	10.88
11.	Booth expenditure	25,000.00	5.44
12.	Miscellaneous	20,000.00	4.34
Total		459,500.00	100.00

Source: Election Commission of Nepal, 2064, *Constituent Assembly Election Code of Conduct*, p.16

The above table shows that leaflet printing and public meeting were emphasized the most and hence, allotted maximum expenditure i.e. 16.32% to each. Next important item seen in the list was the use of vehicles and party cadres mobilization which shares 13.06%

and 10.88% respectively. Item-wise expenditure limit made by ECN is said to lacking objectivity as the weight applied to different items was rather based on the guesswork and estimated calculation.

### **Election Expenditure Ceiling under PR**

Altogether 54 political parties contested in the PR race of the CA elections in April 2008. The Election Commission had fixed per candidate maximum limit of rupees fifty thousand for election campaign expenditure under Proportional Representation side of elections and the total amount incurred on the election campaign by political party was required to be submitted to the Election Commission within 35 days of the election results, making the breakdown of the total expenditure as follows:

- Purchasing voter list,
- Vehicle/horse,
- Fuel and fodder,
- Loud speaker,
- Printing leaflet,
- Transportation,
- Public meeting,
- Publicity by print media/electronic media,
- Office operation,
- Cadres mobilization,
- Booth expenditure, and
- Miscellaneous.

### **Regulations**

The CA election campaign was regulated by the Election Commission through the Code of Conduct, agreed to by the political parties in the election fray. This code also included limits on campaign spending and other campaign activity limitations. The election campaign expenditure was regulated by the following legal documents:

- Election Commission Act, 2063 (2007),
- Constituent Assembly Election Code of Conduct 2007,

- Election Code of Conduct, 2053 (1996),
- The Election (Offences and Punishment) Act, 2063 (2007),
- Election Related (Complaint and Action) Implementation Directives 2064 (2007).

### **Monitoring and Supervision Team**

- A 5 member **Complaint and Dispute Resolution Committee** was constituted within the Commission headed by a Commissioner.
- **Monitoring Team:** High level officials, including secretaries from different ministries of the Government of Nepal were deployed in different districts to monitor, supervise, coordinate and issue directives in cases of violation of prescribed rules and regulations by parties and candidates contesting in the election were noticed, a fine ranging from five hundred to ten thousand rupees would be imposed against the violators.
- **Returning Officers:** A Returning Officer was deployed to each constituency as prescribed by law in order to monitor, supervise, hearing complaints, making adjudication, among others. The RO was also conferred with rights to punish with a fine ranging from five hundred to ten thousand Rupees to the person who commits the offences.
- **Polling Officer:** At the polling station polling officer was conferred with the rights by law to monitor, to supervise, hearing complaints, making adjudication and even to punish with fine ranging from five hundred to ten thousand rupees to the person who commits offences.
- **Monitoring by Election Commissioners:** Before and during elections, Commissioners visited and monitored different constituencies to create conducive environment of election.
- **Media Monitoring Program:** Responsibility of media monitoring was given to the Press Council. It was technologically equipped. All the news disseminated by newspaper, radio, TV and FM were monitored and recorded twenty-four hour and reports were sent to the Election Commission everyday in the morning for necessary action.

**Provisions of the Acts, Code of Conduct and Directives to regulate, control and monitor the campaign expenditure are as follows:**

- No political party or candidate contesting in the election shall make, or cause to be made, expenses in excess of the limits as specified by the Commission. A person who has the obligation to submit returns of election expenses to the concerned District Election Office in the format prescribed by the Commission must do that within 35 days after the date of publication of the final results of election. The returns of election expenses thus submitted may be got audited by a recognized auditor on such conditions as specified by the Commission (Election Commission Act, 2063/2007).
- If a candidate makes expenses beyond the limits as specified by the Commission or fails to submit the returns of expenses within the period as prescribed, the Commission may punish such person with a fine of a sum which is equal to the election expenses made by such candidate or the ceiling of expenses as specified by the Commission, whichever is higher (Ibid).
- If it appears from the audit report that the concerned person has made expenses (a) in an inappropriate manner; or (b) in such a way that the fairness of election is effected; or (c) in an illegal manner with malicious intention, the Commission could make a decision to disqualify such person for being a candidate in any election for a maximum period of six years with immediate effect and if he/she an elected member shall ipso facto be canceled (Ibid).

The media, which in Nepal experiences a very high degree of freedom of speech, also had to adhere to the Code of Conduct. A media center was established to monitor the dissemination of news and messages related to the election, party and candidate. Similarly, for the first time, in 2008 CA election, Non-government Organizations (NGOs) were also brought into the perview of the Commission and were bound to abide by the code of conduct (Code of Conduct, 2064/2008).

According to the Election (Offences and Punishment) Act, 2007, no person acting on behalf of any political party or candidate or his or her agent or other person shall, during the period of election, give or agree to give any voter cash or kind as a present, reward, gratification, donation or gift to exercise or refrain from exercising his or her right to vote or for the exercise of or refraining from exercising his or her right to vote; and even the

voter shall not receive or agree to receive such cash or kind for himself or herself or any other person for that person (Election Commission, Nepal, the Election (Offences and Punishment) Act, 2007). The Act has also restricted on election propagation as follows:

- For the purpose of canvassing election, no poster, wall painting, Tul or other banner shall be used, or caused to be used, or printed or caused to be printed, except for the distribution of simple pamphlets in the size, shape and color as specified by the Commission.
- For the purpose of canvassing election, no mike and loud speaker shall be used in other places, except for the purpose of a public assembly or disseminating information of such assembly.
- No person shall affix, or caused to be affixed, any posters, pamphlets to, or write, or cause to be written on, any religious, archaeological or historical or government owned or controlled buildings, monuments, walls or structures for election canvassing.
- No person shall affix, or cause to be affixed, any posters, to any private house, shop, wall or other structure without the permission of the owner thereof, for election canvassing.
- No political party or candidate or his or her agent or any other person shall, in the course of election canvassing, use, or cause to be used, vehicles exceeding the number as permitted by the Commission.
- No political party or candidate or his or her agent or any other person shall, in the course of election canvassing, use or cause to be used any vehicles belonging to the government or organizations owned by the government or the local body.
- The Monitoring Team or the Returning Officer or Polling Officer may order any person whoever causes obstruction or attempts to or aids or abets to cause obstruction to the polling or counting of votes or any other act of election to refrain from doing such act and to go out of that place.
- The Monitoring Team or the Returning Officer or Polling Officer may order the concerned security personnel to arrest any person who commits any act prohibited by the Election (Offences and Punishment) Act, 2007. The security personnel shall carry out the order issued by any one of them.
- The above stated officer shall punish any person who commits the acts prohibited by the Act with a fine ranging from five hundred rupees to ten thousand rupees,

depending on the gravity of offence. A person who is not satisfied with the decision of the imposition of the fine may make an appeal to the concerned Appellate Court within thirty five days.

## **Conclusion**

Election is the price of democracy. It involves extensive expenditure and some of these are legitimate and essential while some are excessive and ostentatious and therefore wasteful and unacceptable. Some of the costs are easy to assess and visible and some are hidden and difficult to assess. Some of the costs arise and are incurred due to abuse of state resources. At the same time, some of the costs incurred are prohibited by law and guidelines issued by the Election Management Body. Such prohibited and unseen expenditures have pervasive ramifications in conducting a free, fair and credible election. Because payments and spending which are in pursuit of corrupt practices and against accepted norms of society are also prevalent in a nascent democracy.

Most of the political parties in CA election did not submit election expenditure in time. The expenditure details submitted after consistent follow-up by the ECN was also found tentative based on a rough calculation. Political parties need sincerity in keeping account of the campaign expenditures and to complying with the legal provisions which was found lacking in the context of CA elections per se. An analysis of item-wise expenditure has shown that parties have just maintained the official formality so that no legal question could be raised against them. Thus the campaign expenditures submitted to the Election Commission by political parties severely lack credibility.

Critics and independent observers have made remarks that most of the political parties and candidates have crossed the ceiling amount of the election campaign expenditure. Almost every elected parliamentarian violates the ceiling with impunity. Some expenditure is explicit and easy to assess and maintain records but hidden expenditure which generally makes adverse effect on the elections, is difficult to assess. In effect, the expenditure ceiling has become somewhat meaningless, and the spirit of the law is violated with impunity by most parties and candidates.

Most parties were treating the campaign in the same manner as past general elections.



This was likely a recurrent problem and cause for complaint from parties not in the government. All 30 ministers were contesting elections -20 in FPTP seats and 10 on PR lists. They were tempted to divert public resources to their parties and their own campaigns. Some parties even alleged to have used government vehicles while going to the Election Commission for filing candidate nominations. Ministers and parties leaders ignored the order and warning of Election Commission. (International Crisis Group, Asia Report No. 149, 2nd April, 2008 p.14).

With regard to the campaign expenditure, some political parties/candidates were not found accountable and sincere in maintaining their campaign account. After repeated request by ECN, to the total candidate (4085), 2,599 candidates (including by-election) under FPTP submitted expenditure list to the respective District Election Offices. Thus, 1,486 candidates (36.4%) have not yet made any response to the letter of the Election Commission. Similar trend was recorded in the by-election held in April 10, 2009. To the total candidates of 139 contesting in six constituencies of the five districts, only 36 candidates (26%) submitted their lists of expenditure. Thus, more than 74% candidates have refrained from submitting the list of their election campaign expenditure in the by-election (ECN, Legal Department 2066, Falgun/February, 2010). Except making consistent follow-up to the candidates refraining from submitting the list of election campaign cost, the Election Commission regretfully could not bring those candidates under the law because of the legal implicit and complication. Likewise, out of 54 parties contested in PR race of the CA election,, only 49 have submitted the details of the election campaign expenditure to the Commission whereas remaining 5 parties did not make any response.

In a developing democracy like Nepal, which has just emerged out of violent conflict and a culture of impunity exists to a large extent, securing fair, free and credible elections was a big challenge. Natural and geographical adversities and scarce resources too pose challenge in election campaign expenditure administration and its proper monitoring. Despite, Election Commission of Nepal was much successful in implementing and monitoring election campaign expenditure which was appraised by the stakeholders after the CA election.

Basic means of election campaign in Nepal are graffiti, use of poster and banner, mass meeting, publicity by loudspeaker, door to door canvassing, use of relatives and friends

in canvassing, and sometimes even using intimidation and threat, assurance of development, distribution of goods and cash money to buy votes etc. Such practices are some of the examples championed in the past parliamentary elections as reported by the then media and observers. But in the Constituent Assembly Election, various Acts, Rules and codes of conduct were so strictly enforced by the Election Commission that some parties and candidates were asked explanations, a state owned radio- Radio Nepal, Ghatna Bichar (Events and Views) was postponed, and private TV, FM and print media were warned not to violate code of conduct. Political parties were ordered to wipe out the wall painting and clean the wall. Following the order of the Commission some top leaders of the party brushed the wall by themselves. International and national observers, voters, political parties and candidates all of them remarked CA election-a successful achievement in the electoral history of Nepal. Of course, it was more fair, free and so credible.

CA election was historical; a means of conflict resolution and it was inclusive in candidacy and representation. Therefore more parties and candidates were in the election field. Four thousand and eighty five candidates contested for 240 seats under FPTP whereas 54 parties submitted closed list. This needs a huge amount for election campaign. To the total cost of the CA election, election campaign expenditure made by the parties and candidates accounted for around 15%.

How to curb the influence of black money in the elections has been one of the recurring themes in democracies like ours. All deliberations on getting honest and competent candidates elected to the parliament through a credible election are underpinned by the concern that high flow of unaccounted money in favor of certain candidates adversely affects public choice. The agitation about election finance is motivated fundamentally by the following two major concerns: a. rising campaign cost is emerging as a barrier to equal opportunity for political participation and b. high flow of black money in election financing ultimately diminishes aggregate public welfare. The civil society groups could clearly foresee that expenses incurred by the candidates will soon be reimbursed by the voters but selected few, through means of ranging from kickbacks and delivery of public goods to award of public contracts to appointments in public jobs. Admittedly, all these will finally end up increasing the cost of living of the voters in general.

Political finance reforms have taken varying shapes in different countries. Review of

concerned literature allows us to identify four major ways by which democratic societies have tried to regulate political finance in general and election finance in particular. These four approaches are as follows: a. imposing limits on election expenditures, b. regulating private contributions to election campaign, c. provisioning public resources for election campaign, and d. enacting reporting and disclosure requirements.

## **Recommendations**

Election is a regular process in the representative democracy which happens at a certain regular interval. Therefore, cost-effective election is a considerable factor for the election management authority. In the context of Nepal, election must be cost effective where huge investment is needed in the social and economic sector to uplift the standard of living of the larger section of the population who are living under abject poverty line. For this, following due recommendations are made:

The expenditure of political party, which are not disclosed at any stage, include extravagant spends not affordable in a low income country should better be prevented by common agreement. The abuses of state resources and various other hidden costs including political corruption related spends must be controlled and eliminated. The Election Commission, the Government and Law Enforcement Officials, Monitoring Groups, Political Party Leaders and Civil Society must collectively commit to introduce and ensure compliance by all the best practices acceptable by society at large and are not wasteful.

Election should be conducted in a simple and normal manner. A great pomp and show is not needed. It only increases variable costs. So, cheap source of campaign and dissemination are ought to be adopted.

Variation in the election cost also depends on the electoral system adopted. There are different types of electoral system. Some systems are easy and cost effective to administer whereas some systems require more cost and are hard to administer. So Lawmakers must be prudent in selection of an appropriate electoral system.

The government should provide election campaign money as well as some printed materials for campaign to political parties/candidates on proportional basis.

A strong and well-authorized legal monitoring team should be deployed in each election constituency to monitor and curb the expenditure of political parties/candidates, and if found illegal activities, should be taken legal measures.

## References

- Government of Nepal, National Planning Secretariat, Central Bureau of Statistics, 2010, Projection of Population (unpublished).
- The Election Commission of India, web site:  
[http://www.eci.nic.in/eci\\_main/miscellaneous\\_statistics/expenditure\\_loksabha.asp](http://www.eci.nic.in/eci_main/miscellaneous_statistics/expenditure_loksabha.asp)
- Open Society Justice Initiative, Monitoring Election Campaign Finance; A Handbook for NGOs, 23rd Nov. 2004.
- Publications.
- <http://www.usembassy.org.uk/elec08/news12.html>
- International Crisis Group, Asia Report No. 149. 2nd April, 2008.
- Naya Patrika, 11 March 2008 (Nepali ed.).
- Election Commission of Nepal, Election Commission Act, 2007
- Constituent Assembly Election Code of Conduct, 2064, op. cit.
- Election Commission of Nepal 2065, Annual Report 2063/2064.
- The Representation of the People Order, 1972(as amended up to October, 2008), Bangladesh.
- <http://www.ti-bangladesh.org>
- Shadhan Akram and Shadhan Kumar Das, Tracking the Election Process: An analysis of the Postponed Ninth Parliamentary Election, Transparency International Bangladesh.
- Ministry of Internal Affairs and Communications, Local Autonomy College, 2006, Election System in Japan.
- Meuthia Ganie Rochman, Indra Jaya Piliang et al, 11 February 2009, Proud to be Indonesian(A Voter's Guide to Democracy, Voting and Citizenship), Elections-Multi Donor Programme-Support to Indonesia's Democratic Elections.
- IFES, May 2003, Campaign Finance in Indonesia.
- [www.aseanaffairs.com/indonesia\\_daily\\_news/politics/indonesia\\_s\\_presidential\\_election\\_to\\_cost\\_\\$388m](http://www.aseanaffairs.com/indonesia_daily_news/politics/indonesia_s_presidential_election_to_cost_$388m).
- The Jakarta Post, Friday, May 29, 2009, Indonesia.

- Election Commission Malaysia, 2007, 50 Years of Democracy and Elections in Malaysia.
- Election Commission Malaysia, 2008, Report of the 12th general Elections.
- Centre for Media Studies, 2009, New Delhi, India.
- The Times of India, Friday, February 12, 2010
- Ibid, Friday, March 13,2009
- The Times of India, New Delhi, Tuesday, March 17, 2009.
- National Election Commission, Korea, Election Management in Korea(a leaflet)
- National Election Commission, Korea, Public Official Election Act (English-Korean Version), nd.
- GON, Ministry of Law and Justice, 2007, Interim Constitution of Nepal
- Election Commission of Nepal, Post-Conflict Electoral Management in Nepal(The Experience of the 10 April, 2008 Constituent Assembly Election Process)
- Website: <http://www.opensecrets.org/pres08>.



The page features two horizontal bars, one above and one below the text. Each bar is composed of three segments: a long blue segment on the left, a short cyan segment in the middle, and a long green segment on the right.

# SESSION · III





**IFES**





## Speech

### "The Importance of Strategic Planning and Electoral Leadership"

Peter Erben  
Senior Electoral Advisor  
International Foundation for Electoral Systems (IFES)

Presented at the  
“National Election Commission of the Republic of Korea International Conference”  
Seoul, Korea - 28 April 2011

#### **Good afternoon, friends and colleagues from around the world,**

I am grateful for the opportunity to introduce myself and my organization, the International Foundation for Electoral Systems, also known as IFES, at this important event. I intend to share a few thoughts with you about international assistance to election management bodies and the pivotal importance of excellent electoral leadership to achieve elections of a high quality –this in the pursuit of creating credible and effective elected institutions and contributing to the political stability of nations around the world.

The International Foundation for Electoral Systems, also known as IFES, is an election assistance and democracy promotion organization. We are non-governmental and non-profit and consider ourselves truly international with staff members from more than 50 countries around the world. Some of my colleagues are based in our Washington DC

headquarters, and many more are located in approximately 25 other countries around the world, including six offices in South and Southeast Asia and one in Central Asia.

I am myself from Denmark and have traveled the past 20 years in support of democracy around the world. Amongst my many different roles in a range of countries, I have been the election commissioner and Chief Electoral Officer of Kosovo and of Afghanistan. I am currently the Country Director for IFES in Indonesia, where we have worked closely with the election commission since 1998.

We fortunately also have many friends and partners in countries where we do not have field offices. I believe we have a great deal to offer all electoral colleagues around the world: our work is entirely non-partisan, and includes programs that help citizens participate in their democracies, increase government accountability to the electorate, and strengthen government institutions. In support of these goals, we supplement our field-based technical assistance with a range of research projects. These are fully accessible to the public, and are particularly targeted to election administrators.

IFES practitioners around the world collaborate to turn field experiences, combined with robust academic research, into baseline electoral literature that is truly useful to election administrators around the world.

**Recent publications include:**

- Two white papers on Assessing Electoral Fraud in New Democracies: A Basic Conceptual Framework and A New Strategic Approach
- Guidelines for Understanding, Adjudicating, and Resolving Disputes in Elections
- Duality by Design: The Iranian Electoral System
- Direct Democracy: Progress and Pitfalls of Election Technology
- Political Finance Regulation: The Global Experience

We currently are working on several ground-breaking publications:

- A book on the management of technology in elections and best practices for procurement of information technology;
- A guide on how to conduct a comprehensive feasibility study on electronic voting and counting machines. This will support election managers as they contemplate whether

and how to implement e-voting; and,

- A final paper in our series of white papers on assessing and combating election fraud.

This year, IFES will also unfold a number of new initiatives that may be of special interest to many of you here today; namely, long-term strategic planning for electoral institutions and the electoral leadership of election management bodies.

It is this initiative that I would like to focus on today. From my own years immersed in electoral challenges, and based on the experiences that IFES has accumulated around the globe, it is clear that the conduct of free and fair elections – an important objective for everyone in this room – is highly dependent on the credibility and effectiveness of the team of election administrators tasked with their management.

With that in mind, I propose that effective long-term strategic planning is at the heart of the successful delivery of successive high-quality election processes and represents one of the ripest areas for reform in most democracies.

IFES has spent the last two decades working to support our friends in election administration around the world. During that time, we have witnessed an unprecedented increase in the number of countries conducting competitive elections. Millions of individuals around the world regularly and freely exercise their voting right as the expression of their active role as citizens of democratic societies.

As you all know, few voters will thoroughly understand the magnitude and complexity of the monumental operations conducted by thousands of electoral officials, around the clock, starting months before the actual Election Day.

In contrast, from the perspective of an electoral administrator, the process of organizing and delivering an election is an extensive and complex endeavor that relies almost entirely on effective planning and management techniques.

A formalized strategic planning process is pivotal for effective election administration, but even this is not enough to ensure that an election management body performs at its best. I would suggest that the success of an election management body is highly dependent

on excellent internal electoral leadership, both among commissioners and executive level managerial staff. This is a truism that you will find if you examine other institutions or industries, but it is particularly important in election administration, which deals with great risks and even challenges to the political stability within their respective country.

Some of the important leadership issues and challenges for the highest levels of election management include:

- How to build a publically and politically credible institution;
- How to achieve understanding within electoral managers of all the resources available to strengthen the institution, including technical and financial assistance;
- A fundamental, high level understanding of electoral standards and best practices;
- How to manage and collaborate effectively within a commission as well as between a commission, its secretariat and its sub-national offices;
- How to manage relationships with other stakeholders, including politicians and candidates, government bodies, donors, and international technical assistance providers;
- How to collaborate with civil society to achieve quality elections and ensure a well-informed electorate; and,
- How to inspire and lead an electoral organization during and, particularly, between elections.

Effective leadership necessitates meeting these challenges head-on, both for the near term delivery of free, fair, and legitimate elections, and for the longer term goal of building a continuous, credible and inclusive electoral process. These are not easy tasks, but there is a great deal of experience embodied amongst practitioners around the world, such as you, gathered here in this room today.

Senior election managers across the globe have proven that the complexities of both developing and developed democracies need not stand in the way of effective leadership before, during, and after Election Day. There are a variety of different times during the election cycle when electoral leadership plays a uniquely important role. IFES proposes to support election management bodies throughout this process, both in the countries in which we have well-established field offices, as well as in those countries that may not ordinarily need our support.

IFES experts, led by my colleagues Antonio Spinelli and the late Joe Baxter, have already produced a comprehensive strategic planning guide for election management bodies. As the logical next step in this process, we also plan to embark on creating a tailored curriculum on electoral leadership for senior electoral managers. This effort will be heavily influenced by IFES' field experience, but more importantly, it will be based on the study of excellence, and of failures, in key case studies from around the world over the past three decades.

IFES' areas of work are very much in line with the three overarching goals of our hosts, as I understand them. Like the Korean National Election Commission, we believe that it is essential to focus on: one, promoting and strengthening democratic citizenship; two, creating a political culture in which elections may be conducted in a transparent and efficient manner; and, three, ensuring that the election administration is equipped to perform according to the highest standards in the field.

I hope that IFES' work in this area –whether it is our strategic planning guidebook, which is being readied for publication; strategic planning methodology events that we can organize wherever needed; or, the senior electoral leadership training that we are currently developing – will prove interesting and useful to some of you here today.

Should any of you be interested in our work and in our publications I am obviously at your disposal during and also after this conference.

Thank you.





# **PHILIPPINES**



# THE PHILIPPINE AUTOMATED ELECTIONS



**COMM. LUCENITO N. TAGLE**

*AND*

**COMM. ELIAS R. YUSOPH**

**CONCEPT OF  
DEMOCRACY & ELECTIONS**



**ELECTORAL PROCESSES**

**AUTOMATING THE 2010  
NATIONAL ELECTIONS**

## THE PHILIPPINES AS A DEMOCRATIC AND REPUBLICAN STATE

*Philippines:*

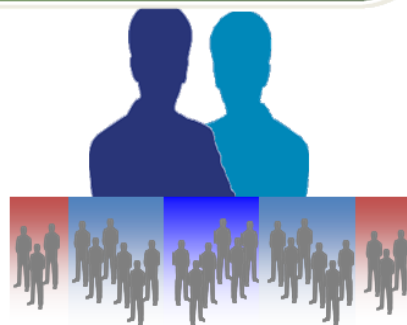
An archipelagic country  
of 7,100 islands



## PHILIPPINE ELECTIONS

**Regular Elections** –elections held on such dates established by law at regular intervals. Whether national or local, also refers to an election participated in by those who possess the right of the suffrage, are not otherwise disqualified by law, who are registered voters.

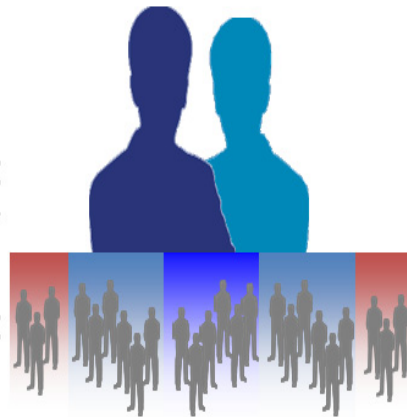
- **Synchronized National and Local Elections**
- **Synchronized Barangay and Sangguniang Kabataan Elections**
- **ARMM elections (Autonomous Region of Muslim Mindanao)**



## THE PHILIPPINES AS A DEMOCRATIC AND REPUBLICAN STATE

### PHILIPPINE ELECTIONS

**SPECIAL ELECTION** – is an election not regularly held but only to supply vacancy in a particular office before the expiration of the full term for which the incumbent was elected.



➤ also refers to an election held when there is a failure of elections

# COMELEC



## AUTOMATING THE 2010 ELECTIONS

COMELEC

 **i.b.a. na ngayon!**  
IT'S BETTER AUTOMATED.

# Automated Election System

A system using **appropriate technology** which has been demonstrated in the voting, counting, consolidating, canvassing, and transmission of election results, and other electoral processes

Its purpose is **to ensure the secrecy and sanctity of the ballot** and all election, consolidation and transmission documents in order that **the process shall be transparent and credible** and that the **results shall be fast, accurate and reflective of the genuine will of the people**

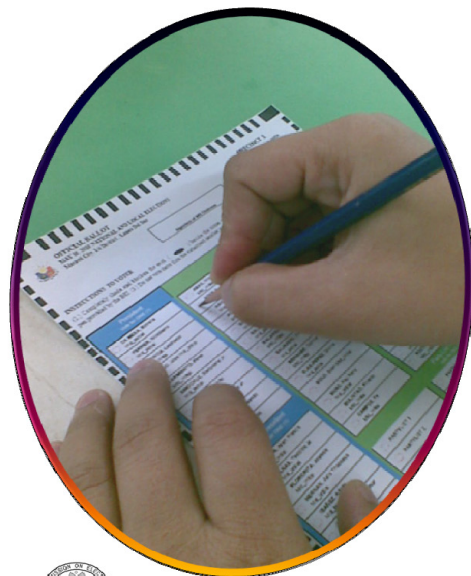
- RA No. 9369 -

From writing....



COMELEC

To shading.....



i.b.a. na ngayon!  
IT'S BETTER 2010 Presidential Elections

**OFFICIAL BALLOT**  
MAY 10, 2004

Fill out this ballot accurately using a ballot secrecy folder. Do not put any distinctive mark on any part of this ballot.

PRESIDENT _____  VICE-PRESIDENT _____  SENATORS 1. _____ S 2. _____ P 3. _____ E 4. _____ 5. _____ C 6. _____ I 7. _____ 8. _____ 9. _____ 10. _____ 11. _____ 12. _____  PARTY LIST _____	CONGRESSMAN/ REPRESENTATIVE _____  GOVERNOR _____  VICE-GOVERNOR _____  MEMBERS SANGGUNIANG PANGALAYUDAN / PROVINCIAL BOARD 1. _____ 2. _____ 3. _____ 4. _____  MAYOR _____  VICE-MAYOR _____  MEMBERS SANGGUNIANG BAYAN / MUNICIPAL COUNCIL 1. _____ M 2. _____ E 3. _____ 4. _____ N 5. _____ 6. _____ 7. _____ 8. _____
--	---

*Select one from among the Political Parties, Sectoral Parties (Labor, Peasants, Urban Poor, Indigenous Cultural Communities, Women, Veterans, Elderly, Disabled, Fisherfolk, Overseas Workers), Youth or Professional, Organizations or Candidates enumerated in the certified list printed on the ballot secrecy folder.*



## Paper Ballot in Manual Elections

- Voters write the names of the candidates in the ballot.
- Around 30 to 35 names to be written on the ballot



## OFFICIAL BALLOT IN AUTOMATED ELECTION SYSTEM

- Pre-printed names of candidates
- 300/600 candidates can be accommodated
- 150/300 names per side of ballot
- Precinct-specific – to ensure rejection of previously scanned ballot



**OFFICIAL BALLOT**  
MAY 21, 2008 NATIONAL AND LOCAL ELECTIONS  
Municipal Office, 21000011, Cebu Del Sur

PRECINCT 1  
DAGANBAYAN, DALAGUETA

Instructions to Voter

1. (1) Check only one name in each box and (2) inside the space of the candidate you wish to vote for. (3) Do not tick the marking box provided by the BEE. (4) Do not vote outside the marked boxes or outside the designated precincts to be used.

President		Governor	
<input type="checkbox"/> 1. DAVID BALBUENA	<input type="checkbox"/> 1. JUANITA D. DELA ROSA	<input type="checkbox"/> 1. EDUARDO TORRES	<input type="checkbox"/> 1. JUANITA D. DELA ROSA
<input type="checkbox"/> 2. JUANITA D. DELA ROSA	<input type="checkbox"/> 2. JUANITA D. DELA ROSA	<input type="checkbox"/> 2. JUANITA D. DELA ROSA	<input type="checkbox"/> 2. JUANITA D. DELA ROSA
<input type="checkbox"/> 3. JUANITA D. DELA ROSA	<input type="checkbox"/> 3. JUANITA D. DELA ROSA	<input type="checkbox"/> 3. JUANITA D. DELA ROSA	<input type="checkbox"/> 3. JUANITA D. DELA ROSA
<input type="checkbox"/> 4. JUANITA D. DELA ROSA	<input type="checkbox"/> 4. JUANITA D. DELA ROSA	<input type="checkbox"/> 4. JUANITA D. DELA ROSA	<input type="checkbox"/> 4. JUANITA D. DELA ROSA
<input type="checkbox"/> 5. JUANITA D. DELA ROSA	<input type="checkbox"/> 5. JUANITA D. DELA ROSA	<input type="checkbox"/> 5. JUANITA D. DELA ROSA	<input type="checkbox"/> 5. JUANITA D. DELA ROSA
<input type="checkbox"/> 6. JUANITA D. DELA ROSA	<input type="checkbox"/> 6. JUANITA D. DELA ROSA	<input type="checkbox"/> 6. JUANITA D. DELA ROSA	<input type="checkbox"/> 6. JUANITA D. DELA ROSA
<input type="checkbox"/> 7. JUANITA D. DELA ROSA	<input type="checkbox"/> 7. JUANITA D. DELA ROSA	<input type="checkbox"/> 7. JUANITA D. DELA ROSA	<input type="checkbox"/> 7. JUANITA D. DELA ROSA
<input type="checkbox"/> 8. JUANITA D. DELA ROSA	<input type="checkbox"/> 8. JUANITA D. DELA ROSA	<input type="checkbox"/> 8. JUANITA D. DELA ROSA	<input type="checkbox"/> 8. JUANITA D. DELA ROSA
<input type="checkbox"/> 9. JUANITA D. DELA ROSA	<input type="checkbox"/> 9. JUANITA D. DELA ROSA	<input type="checkbox"/> 9. JUANITA D. DELA ROSA	<input type="checkbox"/> 9. JUANITA D. DELA ROSA
<input type="checkbox"/> 10. JUANITA D. DELA ROSA	<input type="checkbox"/> 10. JUANITA D. DELA ROSA	<input type="checkbox"/> 10. JUANITA D. DELA ROSA	<input type="checkbox"/> 10. JUANITA D. DELA ROSA
<input type="checkbox"/> 11. JUANITA D. DELA ROSA	<input type="checkbox"/> 11. JUANITA D. DELA ROSA	<input type="checkbox"/> 11. JUANITA D. DELA ROSA	<input type="checkbox"/> 11. JUANITA D. DELA ROSA
<input type="checkbox"/> 12. JUANITA D. DELA ROSA	<input type="checkbox"/> 12. JUANITA D. DELA ROSA	<input type="checkbox"/> 12. JUANITA D. DELA ROSA	<input type="checkbox"/> 12. JUANITA D. DELA ROSA
<input type="checkbox"/> 13. JUANITA D. DELA ROSA	<input type="checkbox"/> 13. JUANITA D. DELA ROSA	<input type="checkbox"/> 13. JUANITA D. DELA ROSA	<input type="checkbox"/> 13. JUANITA D. DELA ROSA
<input type="checkbox"/> 14. JUANITA D. DELA ROSA	<input type="checkbox"/> 14. JUANITA D. DELA ROSA	<input type="checkbox"/> 14. JUANITA D. DELA ROSA	<input type="checkbox"/> 14. JUANITA D. DELA ROSA
<input type="checkbox"/> 15. JUANITA D. DELA ROSA	<input type="checkbox"/> 15. JUANITA D. DELA ROSA	<input type="checkbox"/> 15. JUANITA D. DELA ROSA	<input type="checkbox"/> 15. JUANITA D. DELA ROSA
<input type="checkbox"/> 16. JUANITA D. DELA ROSA	<input type="checkbox"/> 16. JUANITA D. DELA ROSA	<input type="checkbox"/> 16. JUANITA D. DELA ROSA	<input type="checkbox"/> 16. JUANITA D. DELA ROSA
<input type="checkbox"/> 17. JUANITA D. DELA ROSA	<input type="checkbox"/> 17. JUANITA D. DELA ROSA	<input type="checkbox"/> 17. JUANITA D. DELA ROSA	<input type="checkbox"/> 17. JUANITA D. DELA ROSA
<input type="checkbox"/> 18. JUANITA D. DELA ROSA	<input type="checkbox"/> 18. JUANITA D. DELA ROSA	<input type="checkbox"/> 18. JUANITA D. DELA ROSA	<input type="checkbox"/> 18. JUANITA D. DELA ROSA
<input type="checkbox"/> 19. JUANITA D. DELA ROSA	<input type="checkbox"/> 19. JUANITA D. DELA ROSA	<input type="checkbox"/> 19. JUANITA D. DELA ROSA	<input type="checkbox"/> 19. JUANITA D. DELA ROSA
<input type="checkbox"/> 20. JUANITA D. DELA ROSA	<input type="checkbox"/> 20. JUANITA D. DELA ROSA	<input type="checkbox"/> 20. JUANITA D. DELA ROSA	<input type="checkbox"/> 20. JUANITA D. DELA ROSA
<input type="checkbox"/> 21. JUANITA D. DELA ROSA	<input type="checkbox"/> 21. JUANITA D. DELA ROSA	<input type="checkbox"/> 21. JUANITA D. DELA ROSA	<input type="checkbox"/> 21. JUANITA D. DELA ROSA
<input type="checkbox"/> 22. JUANITA D. DELA ROSA	<input type="checkbox"/> 22. JUANITA D. DELA ROSA	<input type="checkbox"/> 22. JUANITA D. DELA ROSA	<input type="checkbox"/> 22. JUANITA D. DELA ROSA
<input type="checkbox"/> 23. JUANITA D. DELA ROSA	<input type="checkbox"/> 23. JUANITA D. DELA ROSA	<input type="checkbox"/> 23. JUANITA D. DELA ROSA	<input type="checkbox"/> 23. JUANITA D. DELA ROSA
<input type="checkbox"/> 24. JUANITA D. DELA ROSA	<input type="checkbox"/> 24. JUANITA D. DELA ROSA	<input type="checkbox"/> 24. JUANITA D. DELA ROSA	<input type="checkbox"/> 24. JUANITA D. DELA ROSA
<input type="checkbox"/> 25. JUANITA D. DELA ROSA	<input type="checkbox"/> 25. JUANITA D. DELA ROSA	<input type="checkbox"/> 25. JUANITA D. DELA ROSA	<input type="checkbox"/> 25. JUANITA D. DELA ROSA
<input type="checkbox"/> 26. JUANITA D. DELA ROSA	<input type="checkbox"/> 26. JUANITA D. DELA ROSA	<input type="checkbox"/> 26. JUANITA D. DELA ROSA	<input type="checkbox"/> 26. JUANITA D. DELA ROSA
<input type="checkbox"/> 27. JUANITA D. DELA ROSA	<input type="checkbox"/> 27. JUANITA D. DELA ROSA	<input type="checkbox"/> 27. JUANITA D. DELA ROSA	<input type="checkbox"/> 27. JUANITA D. DELA ROSA
<input type="checkbox"/> 28. JUANITA D. DELA ROSA	<input type="checkbox"/> 28. JUANITA D. DELA ROSA	<input type="checkbox"/> 28. JUANITA D. DELA ROSA	<input type="checkbox"/> 28. JUANITA D. DELA ROSA
<input type="checkbox"/> 29. JUANITA D. DELA ROSA	<input type="checkbox"/> 29. JUANITA D. DELA ROSA	<input type="checkbox"/> 29. JUANITA D. DELA ROSA	<input type="checkbox"/> 29. JUANITA D. DELA ROSA
<input type="checkbox"/> 30. JUANITA D. DELA ROSA	<input type="checkbox"/> 30. JUANITA D. DELA ROSA	<input type="checkbox"/> 30. JUANITA D. DELA ROSA	<input type="checkbox"/> 30. JUANITA D. DELA ROSA
<input type="checkbox"/> 31. JUANITA D. DELA ROSA	<input type="checkbox"/> 31. JUANITA D. DELA ROSA	<input type="checkbox"/> 31. JUANITA D. DELA ROSA	<input type="checkbox"/> 31. JUANITA D. DELA ROSA
<input type="checkbox"/> 32. JUANITA D. DELA ROSA	<input type="checkbox"/> 32. JUANITA D. DELA ROSA	<input type="checkbox"/> 32. JUANITA D. DELA ROSA	<input type="checkbox"/> 32. JUANITA D. DELA ROSA
<input type="checkbox"/> 33. JUANITA D. DELA ROSA	<input type="checkbox"/> 33. JUANITA D. DELA ROSA	<input type="checkbox"/> 33. JUANITA D. DELA ROSA	<input type="checkbox"/> 33. JUANITA D. DELA ROSA
<input type="checkbox"/> 34. JUANITA D. DELA ROSA	<input type="checkbox"/> 34. JUANITA D. DELA ROSA	<input type="checkbox"/> 34. JUANITA D. DELA ROSA	<input type="checkbox"/> 34. JUANITA D. DELA ROSA
<input type="checkbox"/> 35. JUANITA D. DELA ROSA	<input type="checkbox"/> 35. JUANITA D. DELA ROSA	<input type="checkbox"/> 35. JUANITA D. DELA ROSA	<input type="checkbox"/> 35. JUANITA D. DELA ROSA





**Front (National)**

**Back (Local)**

OFFICIAL BALLOT  
MAY 10, 2010 NATIONAL AND LOCAL ELECTIONS  
PARAAN NG PANGULO

(1) Itinan ang loob ng oval. (2) Gumamit lamang ng "masamang panay" sa pagpipilian ng kandidato. (3) HUWAG bumoto ng labis sa nakatalagang bilang sa napiling posisyon.

1. ACOSTA, Vito	2. ALONSO, Ramon	3. AQUINO, Benigno	4. BAYAN, Jejomar	5. BONGIORNO, Raul	6. CALANCA, Ramon	7. CAYANON, Ramon	8. CHAVEZ, Cesar	9. DE LOS REYES, John Carlos	10. DELA CRUZ, Ramon	11. DELA ROSA, Ramon	12. DELA ROSA, Ramon	13. DELA ROSA, Ramon	14. DELA ROSA, Ramon	15. DELA ROSA, Ramon	16. DELA ROSA, Ramon	17. DELA ROSA, Ramon	18. DELA ROSA, Ramon	19. DELA ROSA, Ramon	20. DELA ROSA, Ramon	21. DELA ROSA, Ramon	22. DELA ROSA, Ramon	23. DELA ROSA, Ramon	24. DELA ROSA, Ramon	25. DELA ROSA, Ramon	26. DELA ROSA, Ramon	27. DELA ROSA, Ramon	28. DELA ROSA, Ramon	29. DELA ROSA, Ramon	30. DELA ROSA, Ramon	31. DELA ROSA, Ramon	32. DELA ROSA, Ramon	33. DELA ROSA, Ramon	34. DELA ROSA, Ramon	35. DELA ROSA, Ramon	36. DELA ROSA, Ramon	37. DELA ROSA, Ramon	38. DELA ROSA, Ramon	39. DELA ROSA, Ramon	40. DELA ROSA, Ramon	41. DELA ROSA, Ramon	42. DELA ROSA, Ramon	43. DELA ROSA, Ramon	44. DELA ROSA, Ramon	45. DELA ROSA, Ramon	46. DELA ROSA, Ramon	47. DELA ROSA, Ramon	48. DELA ROSA, Ramon	49. DELA ROSA, Ramon	50. DELA ROSA, Ramon	51. DELA ROSA, Ramon	52. DELA ROSA, Ramon	53. DELA ROSA, Ramon	54. DELA ROSA, Ramon	55. DELA ROSA, Ramon	56. DELA ROSA, Ramon	57. DELA ROSA, Ramon	58. DELA ROSA, Ramon	59. DELA ROSA, Ramon	60. DELA ROSA, Ramon	61. DELA ROSA, Ramon	62. DELA ROSA, Ramon	63. DELA ROSA, Ramon	64. DELA ROSA, Ramon	65. DELA ROSA, Ramon	66. DELA ROSA, Ramon	67. DELA ROSA, Ramon	68. DELA ROSA, Ramon	69. DELA ROSA, Ramon	70. DELA ROSA, Ramon	71. DELA ROSA, Ramon	72. DELA ROSA, Ramon	73. DELA ROSA, Ramon	74. DELA ROSA, Ramon	75. DELA ROSA, Ramon	76. DELA ROSA, Ramon	77. DELA ROSA, Ramon	78. DELA ROSA, Ramon	79. DELA ROSA, Ramon	80. DELA ROSA, Ramon	81. DELA ROSA, Ramon	82. DELA ROSA, Ramon	83. DELA ROSA, Ramon	84. DELA ROSA, Ramon	85. DELA ROSA, Ramon	86. DELA ROSA, Ramon	87. DELA ROSA, Ramon	88. DELA ROSA, Ramon	89. DELA ROSA, Ramon	90. DELA ROSA, Ramon	91. DELA ROSA, Ramon	92. DELA ROSA, Ramon	93. DELA ROSA, Ramon	94. DELA ROSA, Ramon	95. DELA ROSA, Ramon	96. DELA ROSA, Ramon	97. DELA ROSA, Ramon	98. DELA ROSA, Ramon	99. DELA ROSA, Ramon	100. DELA ROSA, Ramon
-----------------	------------------	--------------------	-------------------	--------------------	-------------------	-------------------	------------------	------------------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	-----------------------

OFFICIAL BALLOT  
MAY 10, 2010 NATIONAL AND LOCAL ELECTIONS  
PARAAN NG PANGULO

(1) Itinan ang loob ng oval. (2) Gumamit lamang ng "masamang panay" sa pagpipilian ng kandidato. (3) HUWAG bumoto ng labis sa nakatalagang bilang sa napiling posisyon.

1. DELA ROSA, Ramon	2. DELA ROSA, Ramon	3. DELA ROSA, Ramon	4. DELA ROSA, Ramon	5. DELA ROSA, Ramon	6. DELA ROSA, Ramon	7. DELA ROSA, Ramon	8. DELA ROSA, Ramon	9. DELA ROSA, Ramon	10. DELA ROSA, Ramon	11. DELA ROSA, Ramon	12. DELA ROSA, Ramon	13. DELA ROSA, Ramon	14. DELA ROSA, Ramon	15. DELA ROSA, Ramon	16. DELA ROSA, Ramon	17. DELA ROSA, Ramon	18. DELA ROSA, Ramon	19. DELA ROSA, Ramon	20. DELA ROSA, Ramon	21. DELA ROSA, Ramon	22. DELA ROSA, Ramon	23. DELA ROSA, Ramon	24. DELA ROSA, Ramon	25. DELA ROSA, Ramon	26. DELA ROSA, Ramon	27. DELA ROSA, Ramon	28. DELA ROSA, Ramon	29. DELA ROSA, Ramon	30. DELA ROSA, Ramon	31. DELA ROSA, Ramon	32. DELA ROSA, Ramon	33. DELA ROSA, Ramon	34. DELA ROSA, Ramon	35. DELA ROSA, Ramon	36. DELA ROSA, Ramon	37. DELA ROSA, Ramon	38. DELA ROSA, Ramon	39. DELA ROSA, Ramon	40. DELA ROSA, Ramon	41. DELA ROSA, Ramon	42. DELA ROSA, Ramon	43. DELA ROSA, Ramon	44. DELA ROSA, Ramon	45. DELA ROSA, Ramon	46. DELA ROSA, Ramon	47. DELA ROSA, Ramon	48. DELA ROSA, Ramon	49. DELA ROSA, Ramon	50. DELA ROSA, Ramon	51. DELA ROSA, Ramon	52. DELA ROSA, Ramon	53. DELA ROSA, Ramon	54. DELA ROSA, Ramon	55. DELA ROSA, Ramon	56. DELA ROSA, Ramon	57. DELA ROSA, Ramon	58. DELA ROSA, Ramon	59. DELA ROSA, Ramon	60. DELA ROSA, Ramon	61. DELA ROSA, Ramon	62. DELA ROSA, Ramon	63. DELA ROSA, Ramon	64. DELA ROSA, Ramon	65. DELA ROSA, Ramon	66. DELA ROSA, Ramon	67. DELA ROSA, Ramon	68. DELA ROSA, Ramon	69. DELA ROSA, Ramon	70. DELA ROSA, Ramon	71. DELA ROSA, Ramon	72. DELA ROSA, Ramon	73. DELA ROSA, Ramon	74. DELA ROSA, Ramon	75. DELA ROSA, Ramon	76. DELA ROSA, Ramon	77. DELA ROSA, Ramon	78. DELA ROSA, Ramon	79. DELA ROSA, Ramon	80. DELA ROSA, Ramon	81. DELA ROSA, Ramon	82. DELA ROSA, Ramon	83. DELA ROSA, Ramon	84. DELA ROSA, Ramon	85. DELA ROSA, Ramon	86. DELA ROSA, Ramon	87. DELA ROSA, Ramon	88. DELA ROSA, Ramon	89. DELA ROSA, Ramon	90. DELA ROSA, Ramon	91. DELA ROSA, Ramon	92. DELA ROSA, Ramon	93. DELA ROSA, Ramon	94. DELA ROSA, Ramon	95. DELA ROSA, Ramon	96. DELA ROSA, Ramon	97. DELA ROSA, Ramon	98. DELA ROSA, Ramon	99. DELA ROSA, Ramon	100. DELA ROSA, Ramon
---------------------	---------------------	---------------------	---------------------	---------------------	---------------------	---------------------	---------------------	---------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	-----------------------

● Shade oval before name(s) of chosen candidate(s)

OFFICIAL BALLOT  
MAY 10, 2010 NATIONAL AND LOCAL ELECTIONS  
ABUJAY, BATAAN

(1) Itinan ang loob ng oval. (2) Gumamit lamang ng "masamang panay" sa pagpipilian ng kandidato. (3) HUWAG bumoto ng labis sa nakatalagang bilang sa napiling posisyon.

Ballot ID: 1  
Clustered Precinct:

Signature of BEEJ Chairperson:

1. ACOSTA, Vito	2. ALONSO, Ramon	3. AQUINO, Benigno	4. BAYAN, Jejomar	5. BONGIORNO, Raul	6. CALANCA, Ramon	7. CAYANON, Ramon	8. CHAVEZ, Cesar	9. DE LOS REYES, John Carlos	10. DELA CRUZ, Ramon	11. DELA ROSA, Ramon	12. DELA ROSA, Ramon	13. DELA ROSA, Ramon	14. DELA ROSA, Ramon	15. DELA ROSA, Ramon	16. DELA ROSA, Ramon	17. DELA ROSA, Ramon	18. DELA ROSA, Ramon	19. DELA ROSA, Ramon	20. DELA ROSA, Ramon	21. DELA ROSA, Ramon	22. DELA ROSA, Ramon	23. DELA ROSA, Ramon	24. DELA ROSA, Ramon	25. DELA ROSA, Ramon	26. DELA ROSA, Ramon	27. DELA ROSA, Ramon	28. DELA ROSA, Ramon	29. DELA ROSA, Ramon	30. DELA ROSA, Ramon	31. DELA ROSA, Ramon	32. DELA ROSA, Ramon	33. DELA ROSA, Ramon	34. DELA ROSA, Ramon	35. DELA ROSA, Ramon	36. DELA ROSA, Ramon	37. DELA ROSA, Ramon	38. DELA ROSA, Ramon	39. DELA ROSA, Ramon	40. DELA ROSA, Ramon	41. DELA ROSA, Ramon	42. DELA ROSA, Ramon	43. DELA ROSA, Ramon	44. DELA ROSA, Ramon	45. DELA ROSA, Ramon	46. DELA ROSA, Ramon	47. DELA ROSA, Ramon	48. DELA ROSA, Ramon	49. DELA ROSA, Ramon	50. DELA ROSA, Ramon	51. DELA ROSA, Ramon	52. DELA ROSA, Ramon	53. DELA ROSA, Ramon	54. DELA ROSA, Ramon	55. DELA ROSA, Ramon	56. DELA ROSA, Ramon	57. DELA ROSA, Ramon	58. DELA ROSA, Ramon	59. DELA ROSA, Ramon	60. DELA ROSA, Ramon	61. DELA ROSA, Ramon	62. DELA ROSA, Ramon	63. DELA ROSA, Ramon	64. DELA ROSA, Ramon	65. DELA ROSA, Ramon	66. DELA ROSA, Ramon	67. DELA ROSA, Ramon	68. DELA ROSA, Ramon	69. DELA ROSA, Ramon	70. DELA ROSA, Ramon	71. DELA ROSA, Ramon	72. DELA ROSA, Ramon	73. DELA ROSA, Ramon	74. DELA ROSA, Ramon	75. DELA ROSA, Ramon	76. DELA ROSA, Ramon	77. DELA ROSA, Ramon	78. DELA ROSA, Ramon	79. DELA ROSA, Ramon	80. DELA ROSA, Ramon	81. DELA ROSA, Ramon	82. DELA ROSA, Ramon	83. DELA ROSA, Ramon	84. DELA ROSA, Ramon	85. DELA ROSA, Ramon	86. DELA ROSA, Ramon	87. DELA ROSA, Ramon	88. DELA ROSA, Ramon	89. DELA ROSA, Ramon	90. DELA ROSA, Ramon	91. DELA ROSA, Ramon	92. DELA ROSA, Ramon	93. DELA ROSA, Ramon	94. DELA ROSA, Ramon	95. DELA ROSA, Ramon	96. DELA ROSA, Ramon	97. DELA ROSA, Ramon	98. DELA ROSA, Ramon	99. DELA ROSA, Ramon	100. DELA ROSA, Ramon
-----------------	------------------	--------------------	-------------------	--------------------	-------------------	-------------------	------------------	------------------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	-----------------------



From manual.....

To automated counting.....



**COMELEC**

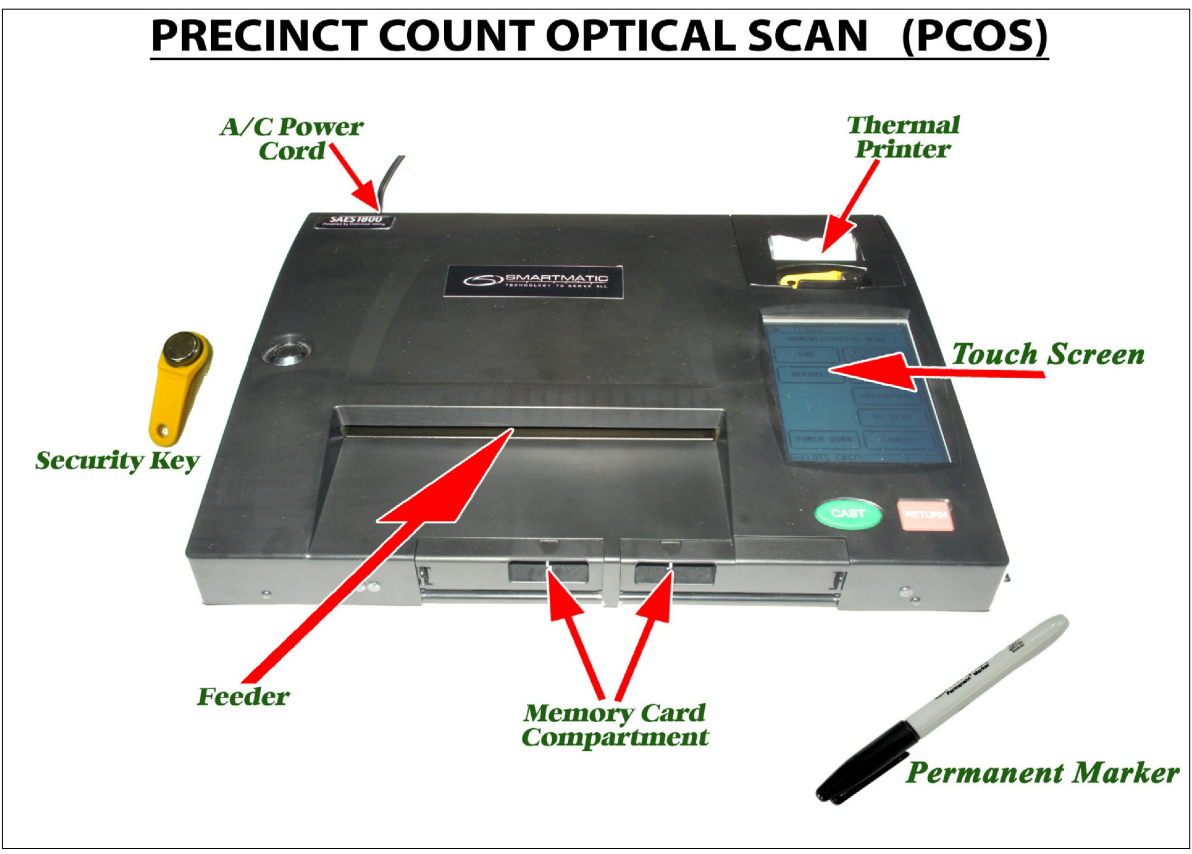
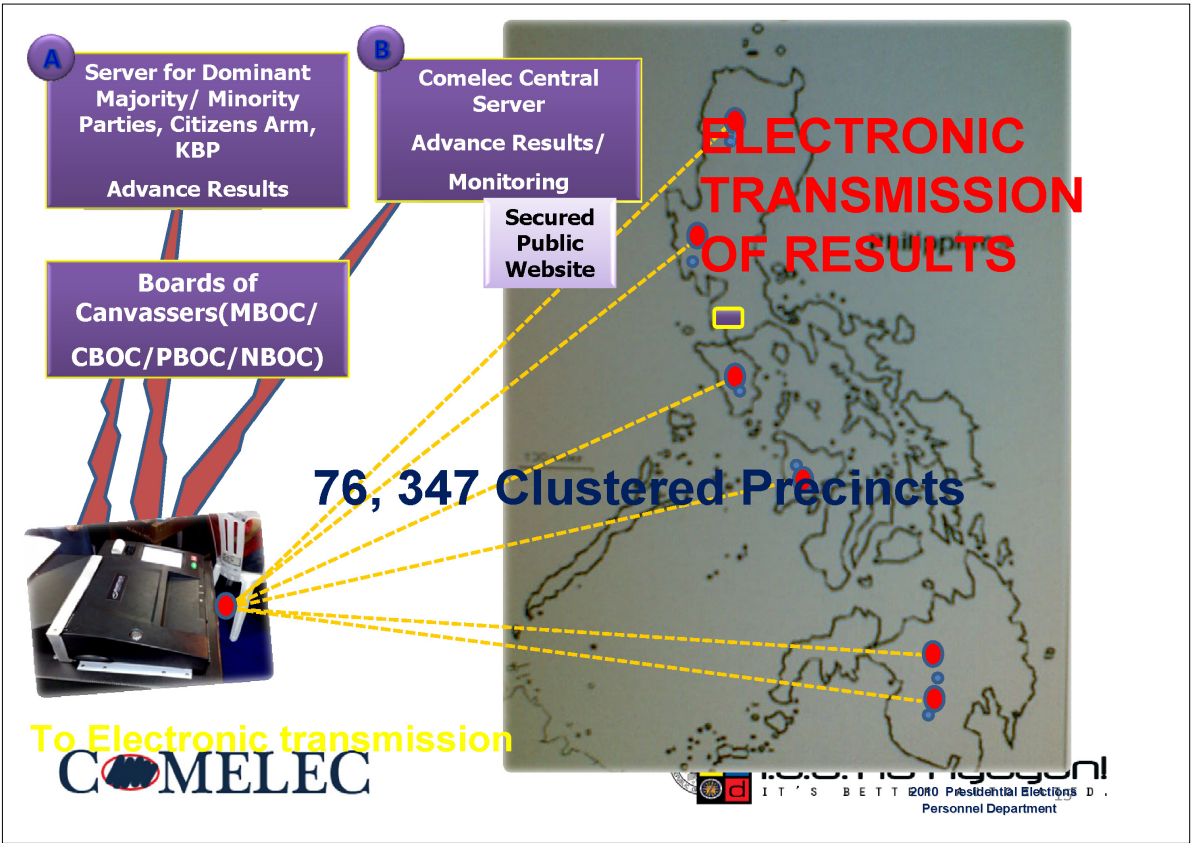
 **i.b.a. na ngayon!**  
IT'S BETT 2010 Presidential Elections D.  
Personnel Department

From physical transporting of results....



**COMELEC**

 **i.b.a. na ngayon!**  
IT'S BETT 2010 Presidential Elections D.  
Personnel Department



## Precinct Count Optical Scan (PCOS) System



- A paper-based technology. It uses a paper ballot where the names of the candidates to be voted are pre-printed in the ballot.
- After voting, ballots will be fed in an automated counting machine (ACM).
- It has a 99.99999% accuracy rate.

**COMELEC**



## PCOS or AUTOMATED COUNTING MACHINE (ACM)



- Counting of votes will be done in the precinct, one PCOS or Automated Counting Machine (ACM) for every clustered precinct
- Scans ballot, both sides of the paper ballot can be read in a single pass
- Takes and stores a digital image of every ballot cast
- Automatically rejects fake, photocopied, invalid and previously scanned ballots
- Runs on a main power source of 220V AC, has a back-up battery that will allow machine to run for 16 hours

**COMELEC**





## **NEW PROCEDURES IN VOTING**

- 1) **Voting hours is from 7:00 am to 6:00 pm.**
- 2) **Maximum of 500 voters per clustered precinct.**
- 3) **One PCOS machine per clustered precinct.**
- 4) **Names of candidates are pre-printed in the ballot.**
- 5) **Voters will shade ovals opposite names of chosen candidates.**
- 6) **Voters will personally insert/feed the ballots in the ACM.**

### **Before voting starts**

- **Show that ballot box is empty**
- **Turn on and initialize PCOS**
- **Print “Zero Report”**

**To show that there is no  
entry/vote in machine’s memory**

## Voting Procedure



**Introduce yourself to the Board of Election Inspectors (BEI) of the precinct where you are registered. After establishing your identity, you will be given the automated ballot which contains the names of the candidates.**

21

## ESTABLISHING IDENTITY OF VOTER

### LIST OF VOTERS WITH VOTING RECORDS

– Photograph

MAGUINDANAO SHARIFF AGUAK (MAGANOY) LABU-LABU I 0064A		COMMISSION ON ELECTIONS LIST OF VOTERS (with voting records) July 30, 2009 Plebiscites to Ratify the Creation of Municipalities of Datu Hoffer Ampatuan and Shariff Saydona Mustapha, Maguindanao			
0121	38080064AB0781MSM100031 MANGINDALAT MOHAMMAD SALAGA				
Ballot SN			Right thumb	Fingerprint	Voter's Signature
					Officer's Signature
0122	38080064AE2190NSM100006 MANTAWIL NURODIN SALUGANDANG				
Ballot SN			Right thumb	Fingerprint	Voter's Signature
					Officer's Signature
0123	38080064AE0369SKM200002 MANTAWIL SADIA KUNSAD				
Ballot SN			Right thumb	Fingerprint	Voter's Signature
					Officer's Signature
0124	38080064AL0283AAM100001 MANTIL ABUHADIS AMPANOK				
Ballot SN			Right thumb	Fingerprint	Voter's Signature
					Officer's Signature

ION! ATED.

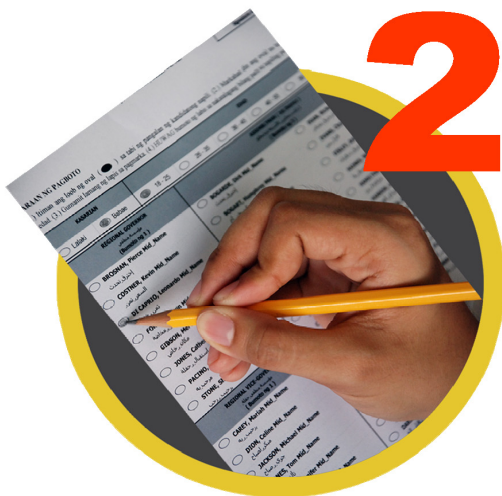
## If identity cannot be established through photograph

- Compare signatures
  - Use Book of Voters
    - Contains applications for registration
      - » Includes specimen signature of voter
- Other methods to challenge and establish identity

**COMELEC**

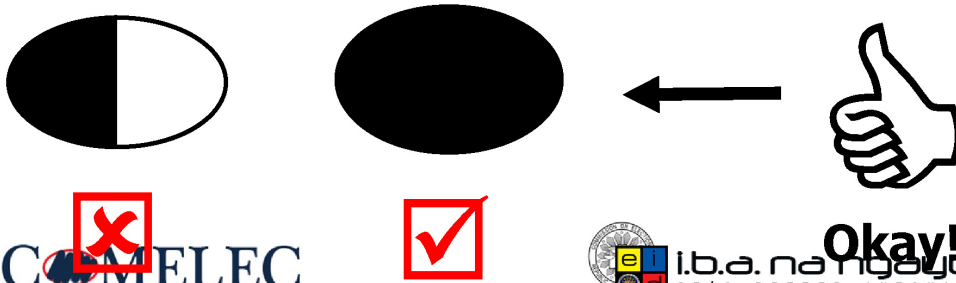
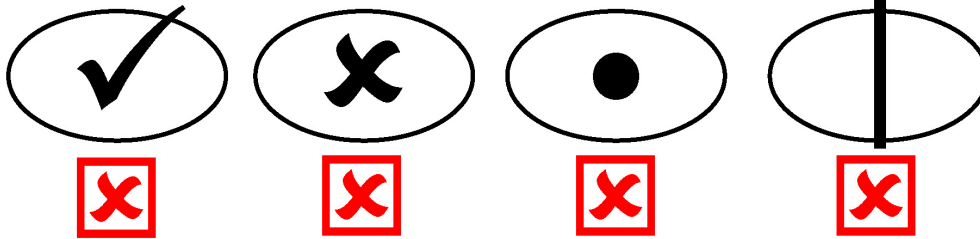
 **i.b.a. na ngayon!**  
IT'S BETTER AUTOMATED.

## Voting Procedure



Using a permanent marker, fully shade the oval at the side of the candidate that you like to vote.

## Right way of shading the ballot



COMELEC

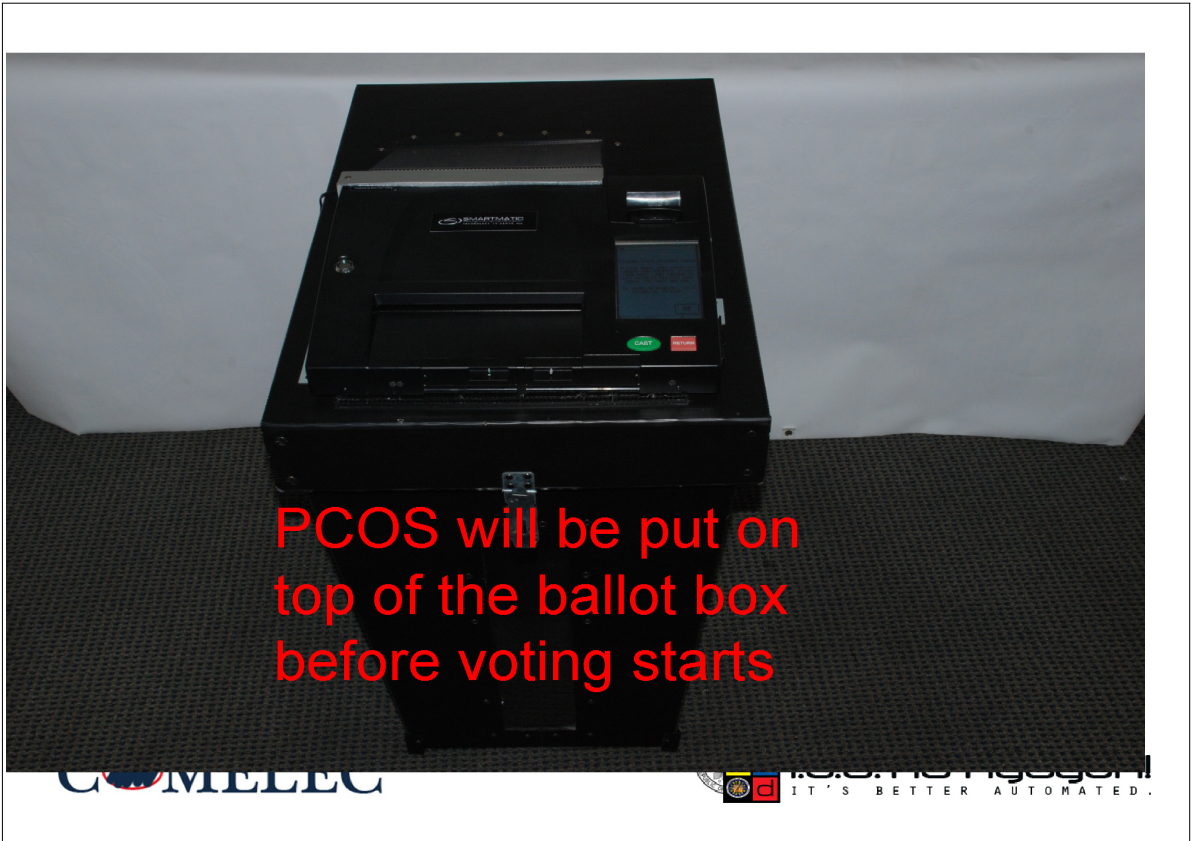
i.b.a. nangayon!  
IT'S BETTER AUTOMATED.

## Voting Procedure



After voting, feed your duly accomplished ballot into the Precinct Count Optical Scan (PCOS) Machine. The ballot will be deposited directly to the ballot box.











## COUNTING

- At close of polls
  - Perform close function
    - To prevent additional ballots from being inserted
  - After close function, PCOS automatically
    - Starts counting process
    - Prints election returns after completion of automated count
      - Eight (8) copies



### Certification

WE HEREBY CERTIFY THAT WE WITNESSED THE VOTING OF THE PRECINCT AND THAT THE VOTES OBTAINED BY EACH CANDIDATE APPEARING IN THIS ELECTION REPORT ARE TRUE AS GENERATED BY THE PRECINCT-COUNT OPTICAL SCAN (PCOS) MACHINE.

Member :

Right Thumbmark

Signature

Name

Chairman :

Right Thumbmark

Signature

Name

Poll Clerk :

Right Thumbmark

## COUNTING

- Insert transmission cable (after printing first eight (8) copies of ER)
  - To eliminate doubts that the PCOS can be manipulated remotely
- Perform electronic transmission function
- Print additional twenty-two (22) copies of ER
  - Automatically performed by PCOS after completion of transmission



## ELECTION RETURNS

Copies of ER	In National Positions	In Local Positions
First copy	city/municipal BOC	city/municipal BOC
Second copy	Congress, directed to the President of the Senate	COMELEC
Third copy	COMELEC	PBOC
Fourth copy	citizens arm who will conduct an unofficial count	citizens arm who will conduct an unofficial count
Fifth copy	dominant majority party	dominant majority party
Sixth copy	dominant minority party	dominant minority party
Seventh copy	ballot box	ballot box
Eight copy	PBOC	Posted on a wall in the polling place or counting center



## ELECTION RETURNS

Copies of ER	In National Positions	In Local Positions
Ninth to Eighteenth copies	ten (10) accredited major national parties	ten (10) accredited major national parties
Nineteenth and Twentieth copies	two (2) accredited major local parties	two (2) accredited major local parties
Twenty-first to Twenty-fourth copies	national broadcast or print media entities	(21 <sup>st</sup> to 25 <sup>th</sup> copies) national broadcast or print media entities
Twenty-fifth and Twenty-sixth copies	local broadcast or print media entities	(26 <sup>th</sup> and 27 <sup>th</sup> copies) local broadcast or print media entities
Twenty-seventh to Thirtieth copies	major citizens' arms	(28 <sup>th</sup> to 30 <sup>th</sup> copies) major citizens' arms

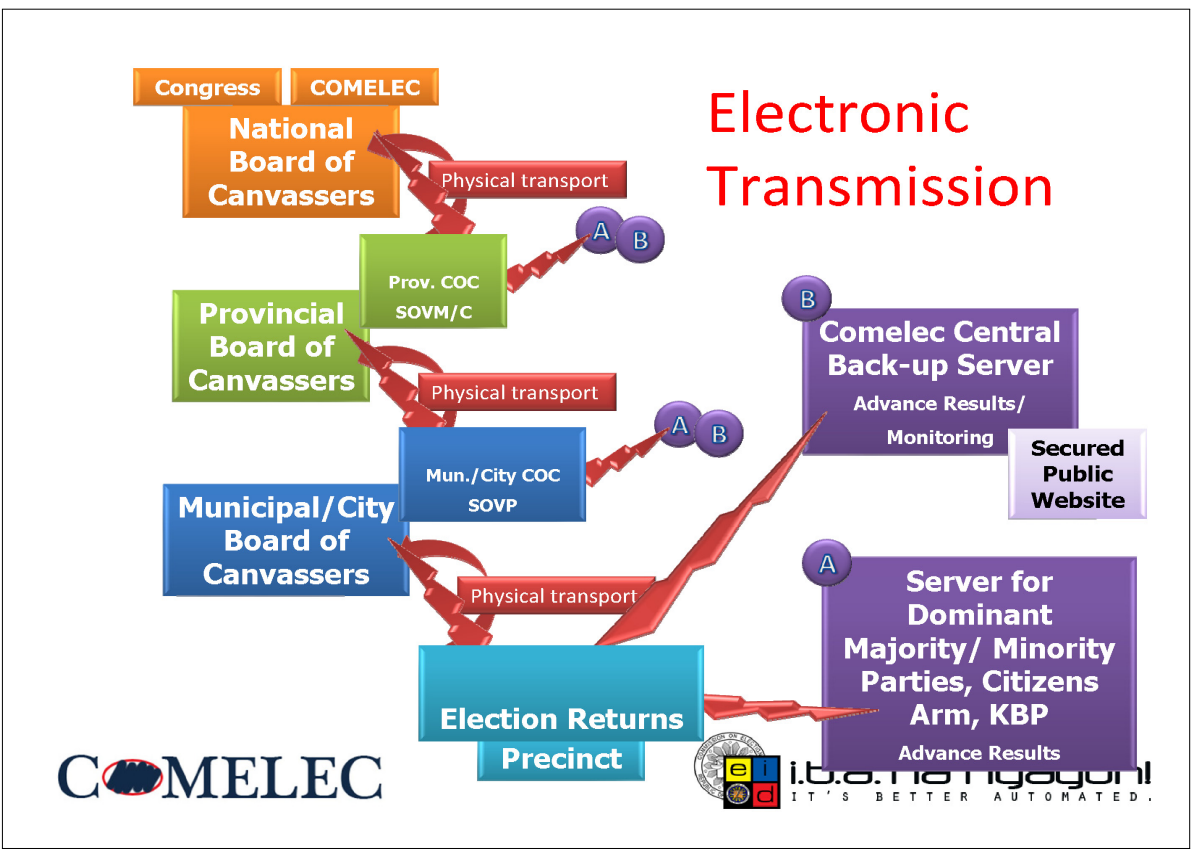
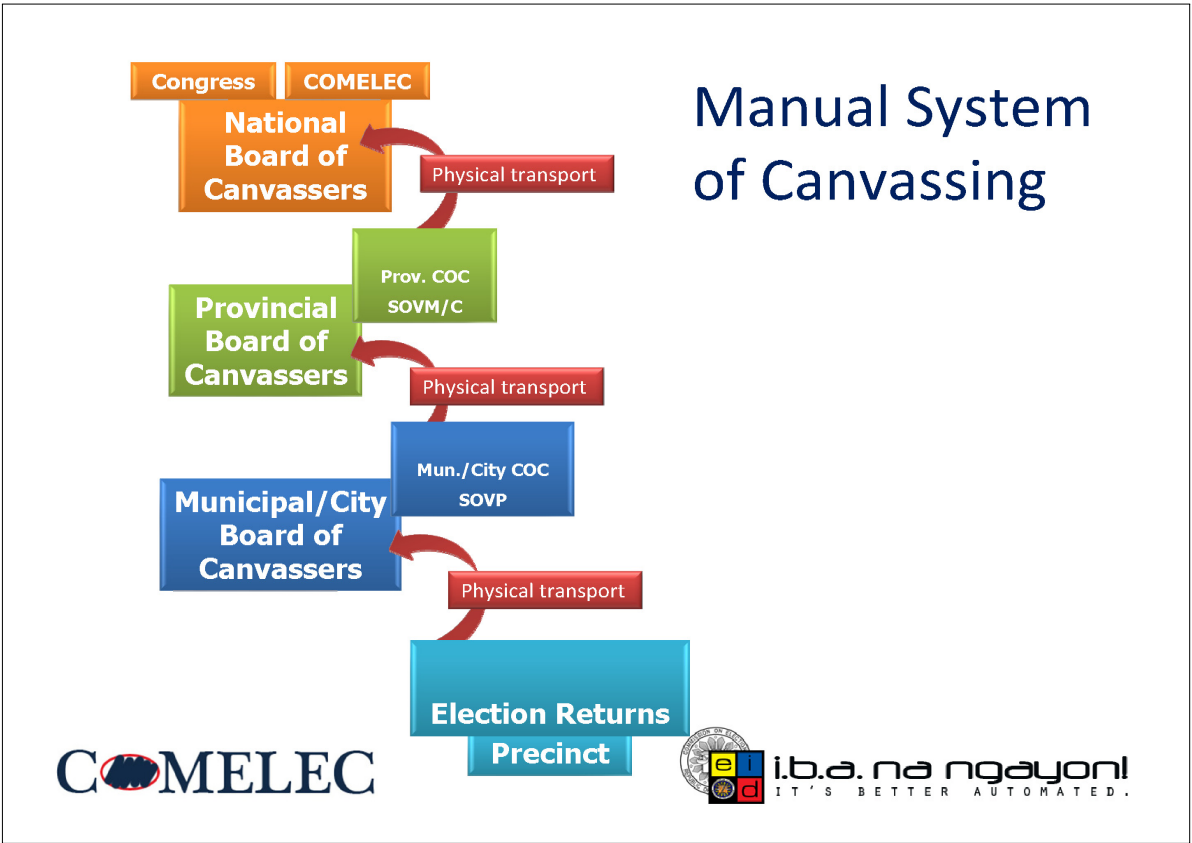


## CANVASSING/CONSOLIDATION

- Electronically transmitted results
  - Used as basis for canvassing/consolidation and proclamation of winning candidates for
    - City/municipal officials
    - Provincial officials
    - Members, House of Representatives
    - Senators and Party-list
  - Congress will also receive electronically transmitted results
    - Constitution authorizes the Congress to promulgate rules for canvassing of results for President and Vice-President







## **STATISTICAL DATA 10 MAY 2010 ELECTIONS**

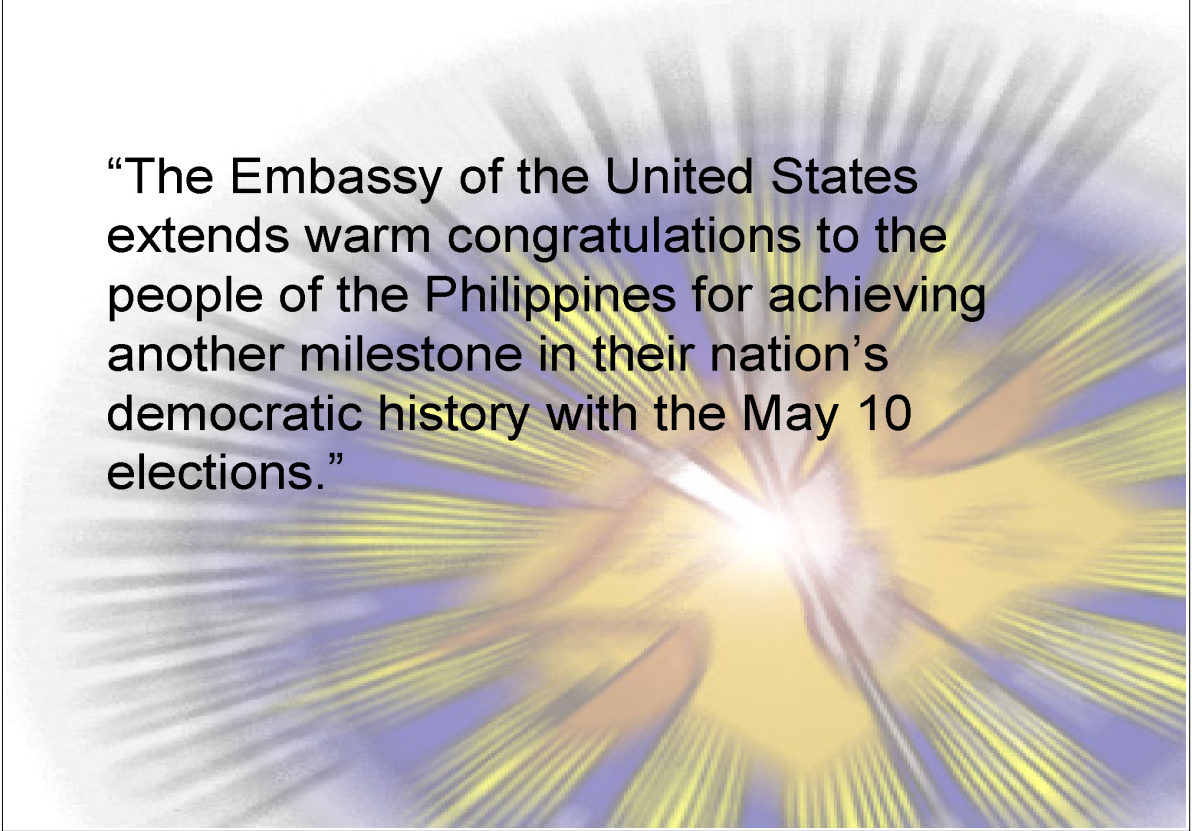
75.01%	-- Percentage of voting
38,070,991	-- Voters who actually voted
50,723,734	-- Registered voters
333,270	-- Established precincts
76,347	-- Clustered/grouped precincts
37,418	-- Voting centers



**COMMISSION ON ELECTIONS**

“I had the privilege of observing the electoral process . . . and was impressed by the manner in which this first nationwide automated election was conducted. Voters seemed generally comfortable with this new system, turn-out was high, and the automated process seemed to work well, with relatively few technical hitches.”

(Alistair Macdonald, EU Ambassador to the Philippines)



“The Embassy of the United States extends warm congratulations to the people of the Philippines for achieving another milestone in their nation’s democratic history with the May 10 elections.”

<http://www.comelec.gov.ph>

<http://bagongbotante.ph>

**COMELEC**

 **i.b.a. na ngayon!**  
IT'S BETTER AUTOMATED.



**MABUHAY**



**RUSSIA**



*Presentation by V.E. Churov,  
Chairman of the Central Election Commission  
of the Russian Federation*

## E-Voting: Assurance of the Balance Between Accessibility of Voting and Citizens' Trusting Voting Systems

The electoral right is the constitutionally guaranteed, effective and periodically recurring possibility of citizens to directly participate in running the affairs of the state and dealing with local problems. Free exercise of the electoral rights, objective and honest determination of the results of the expression of the citizens' will are the fundamental principles of the democratic state system, and elections are the mechanism of representation of the voters' interests and the means of legitimization of the elected state bodies.

E-voting is not a new subject of discussion at international seminars or in the national electoral practice. Nevertheless, this fact does not make this subject less topical, lessen the interest of the states and rule out the existence of various opinions on, and approaches to, this subject.

At the present time, many countries are working on the national e-voting projects, including remote e-voting.

The Russian Federation is actively mastering the information technologies in the organization and administration of elections. In the recent years elections in Russia have become a modern and technological process using the up-to-date technologies for vote casting, counting of votes and determination of the election results.

The Russian Federation is one of those states which are keen to develop e-voting. We have the experience in the use of e-voting, take our own approach to its organization and, most importantly, vitally need e-voting.

Dmitry Anatolievich Medvedev, the President of Russia, has set the task of acceleration of the technical modernization of the country's electoral system, creation of technological support for political competition. The head of the state stressed that "modern organization of the electoral process is a part of the national infrastructure of Russia." To deal with this task a Draft Program for Accelerated Technical Upgrading of the Russian Electoral System has been worked out and presently this program is being implemented along

certain lines.

Automation of the electoral system in the Russian Federation is connected, first and foremost, with the Vybory State Automated System of the Russian Federation (GAS "Vybory"). The development of this system began as far back as 1994 and it was placed into service in 2000. In the world practice GAS "Vybory" has become an example of a mega-scale automated information system realized in such form and on such scale. This system is used to automate the information processes in the preparation and administration of elections and referendums and to provide support for the work of election commissions and referendum commissions.

The large scale of election campaigns in the Russian Federation, the vast territory of the country, the need to ensure quick, accurate and transparent vote counting and determination of the election results made it necessary to develop software and hardware facilities adapted to coping with these tasks. Suffice it to say that from 3 to 8 thousand election campaigns are conducted at the regional and municipal levels on each of the unified voting days, which take place in the Russian Federation twice a year.

The Russian electoral legislation contains the definitions of such concepts as "electronic voting machine," "electronic voting" and "electronic ballot." The total number of polling stations where e-voting may be conducted must not exceed one percent of the number of election precincts formed on the given territory.

In 2005, the first experimental batch of e-voting machines (abbreviated "EVM") was manufactured on the basis of the "paperless" voting technology. The EVMs provide the means for electronic voting without the use of paper ballots; automated vote counting; determination of the voting results compilation of the precinct commission's protocol of voting results.

The EVM uses a touch screen, a micro controller circuit and special data files, which ensures reliable protection of EVMs from possible attempts at unauthorized impacts and virus attacks. The algorithms and interfaces of the touch screen voting machines eliminate the possibility of the voter accidentally missing some electronic ballot in the course of voting. Portable e-voting machines allow voters to cast their votes outside the polling station.

EVMs have been used at 21 polling stations in five subjects of the Russian Federation at the elections of various levels: in Veliky Novgorod, Orel, Saratov, Suzdal, Ryazan, including the parliamentary and presidential election campaigns in 2007 – 2008. On the unified voting day which took place on March 13, 2011 EVMs were used in ten polling

stations in the Republic of Bashkortostan.

In the Russian Federation EVMs are used along with ballot processing machines (abbreviated BPM). Ballot processing scanners were developed in Russia in 2001, the ballot processing machines, in 2003.

BPMs provide the means for automated vote counting at elections and referendums of all levels; simultaneous conduct of elections of up to seven levels with the presentation of separate voting results for each of them; reception of initial data and transmission of the summary protocol to the higher-level election commission by means of an external medium or via dedicated telecommunication channels.

BPMs have been certified and, since 2004, they have been used at elections of various levels at 9112 polling stations in 32 subjects of the Russian Federation. Over 15 million voters cast their votes by means of these machines. On the unified voting day of March 13, 2011 BPMs were used at 798 polling stations in ten subjects of the Russian Federation.

According to the aforementioned Draft Program, in 2011 e-voting machines are to be set up at 1000 polling stations, ballot processing machines, at 5250 polling stations.

Still another technical innovation was used, so far only as an experiment, in the city of Ryazan, at the elections on the unified voting day in 2010. This is an automated workplace of a precinct election commission, which can be used both at polling stations equipped with BPMs and EVMs and when traditional ballots are used. The automated workplace makes it possible to form at the polling station a legally significant electronic protocol of voting results and automatically transmit it to the higher-level commission and, subsequently, to publish it in the Internet.

The experience gained in the use of software and hardware facilities at polling stations has confirmed that such facilities allow the voting results and the election outcome to be presented more promptly, reliably and accurately. At the polling stations where technical facilities were used to count votes the voting results were obtained 5 to 10 minutes after the last voter dropped his or her ballot into the BPM or EVM. In the conditions of traditional voting with the use of paper ballots the average vote counting time is 2.5 – 3 hours. It is also important that the use of technical facilities makes it possible to minimize unintentional errors which are possible in manual vote counting.

The Russian election officials have mapped out large-scale plans to modernize the election system. By the end of 2012 we plan to install new equipment (EVMs and BPMs) at 15 percent of the polling stations, which will enable each sixth Russian voter to vote

with the use of technical facilities; by the end of 2015 ends all polling stations in the whole country will be equipped with modern software and hardware facilities.

The Drat Program for Accelerated Technical Upgrading of the Russian electoral system also provides for the creation of a remote e-voting system to provide additional possibilities for participation of voters in elections without going to the polling station.

The practical need for such method of voting is due to the fact that the number of polling stations where citizens living abroad or in hard-to-reach or remote areas can vote at elections is not less than one percent, and, at federal elections, approximately the same number of polling stations are set up at ships at sea. Neither can we ignore the interest of young voters in modern voting facilities – the young people for whom the Internet, mobile phones have become everyday sources of information and means of communication.

By way of realizing the innovations three experiments in electronic polling of voters in the course of elections have been carried out with the participation of the Central Election Commission of the Russian Federation and the election commissions of the subjects of the Russian Federation. Electronic polling of voters was accompanied by public opinion polls aimed to find out whether voters were ready to use the new method of voting and how much they trusted it. In Russia such public opinion polls were conducted both on the country-wide scale and in separate regions.

The first experiment in the use of the Internet technologies in the Russian electoral practice was carried out in October 2008 at the municipal elections in the city of Novomoskovsk, Tula Oblast, where disks were used for e-voting.

Compared to Russia's countrywide indicators the positive assessments expressed in the course of the public opinion poll in the city of Novomoskovsk were significantly larger, which was due to the appropriate informational and educational activity of the election commission. According to the results of the post-election poll the percentage of citizens who approved and disapproved the introduction of internet voting was 65 percent and 4 percent, respectively.

In March 2009, the same experiment was carried out in five regions in different parts of the country, both in cities and in the countryside, with the use of different voting methods: disks for e-voting in Volgograd and Tomsk Oblasts and the city of Vologda; remote electronic polling by means of GSM 900/1800 mobile communication networks in the city of Raduzhnyi, Vladimir Oblast; electronic social card in the city of Nizhnevartovsk, Khanty-Mansiisk Autonomous Okrug – Yugra. Experimental electronic

polling of voters with the use of mobile communication facilities was also carried out in the city of Kingissepp, Leningradskaya Oblast, in October 2009.

According to the post-election opinion polls conducted in these regions over 71 percent of respondents positively assessed the prospects of the introduction of e-voting and 59 percent believe it possible and necessary. We believe these figures to be good indicators.

The fact that Russian voters trust the new voting systems is demonstrated by the coincidence, with respect to the main parameters, of the results of the experimental electronic polling and the official election results as regards the electoral activity and voter preferences.

Nevertheless, voters also pointed to certain impediments to the use of remote e-voting, particularly, technical difficulties, which were noted by 31 percent of respondents, possible distortion of the results – 27 percent and high financial expenditures – 22 percent. To a certain degree such assessments may be attributed to the inadequate publicity of the technical aspects of the voting procedure.

The experiments made it possible to select the priority technologies of remote voting, which are the technologies using mobile communication means and electronic social cards. At the same time, certain risks have surfaced, which are connected, in particular, with the possible breach of confidentiality of voting or tampering with the votes processing system and the difficulty of assurance of public supervision over the remote e-voting procedure. The following conclusions have been drawn from the results of the trials of the software and hardware voting facilities.

1. The task of automation and introduction of information technologies is practically feasible at all levels of election commissions operating in the Russian Federation.
2. The results of the application of software and hardware voting and vote counting facilities demonstrate the high potential of these facilities.
3. We believe that the promising line of technical modernization of the Russian electoral system is transition from a paper ballot to an electronic ballot and to compilation of a legally significant electronic protocol of voting results of the precinct election commission.
4. The buildup of the technical facilities used in the course of voting and vote counting, introduction of various innovative technologies in the electoral process are not at all an end in itself but are instruments for the support of democracy and promotion of political competition, additional factors of honest and just vote counting, means of increasing trust in the electoral system.

5. On the basis of the results already achieved and considering the need and possibility of the use of the information and telecommunication technologies in modern society and further prospects for their development the e-voting in the Russian Federation is regarded as one of the methods to assure the balance between the accessibility of voting and the citizens' trust in the voting systems.