

Electoral Fraud: Structural and Institutional Issues

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The Philippines has the longest history of electoral politics in Asia but electoral fraud has always been an endemic feature of this system. While we are justly outraged by the new revelations about the systematic, large-scale manipulation of the 2004 and 2007 elections, let us not lose sight of the fact that electoral fraud in its varying manifestations has been deeply embedded in our electoral practices. I stress this to reiterate the seriousness and urgency of addressing a problem which has deep structural, institutional, and even cultural roots.

One of the necessary procedural requirements for any regime claiming to be democratic is the institutionalization of elections that are “free, fair, and competitive”. Even a cursory review of our electoral exercises from the postwar era to the present will show a history of elections steeped in cycles of electoral manipulation involving both fraud and violence. Reflecting the violent temper of the times in the 1946 elections, the supporters of Manuel Roxas threatened an uprising if he lost. In the fraud-ridden elections of 1949, Jose P. Laurel never conceded defeat to Elpidio Quirino. In the 1953 presidential contest, Magsaysay’s supporters planned a coup d’etat if he did not win. In 1961, there was the threat of open violence when President Carlos P. Garcia considered not yielding the presidency to Diosdado P. Macapagal (Timberman 1991: 40-41). Electoral violence and manipulation in the pre-martial law period reached unprecedented heights in the 1969 presidential re-election campaign of Marcos when the full range of the “guns, goons, and gold” 3-Gs formula was deployed with impunity. As we all know, the resumption of electoral contests in 1987 did not put an end to the cycles of electoral crises besetting the country with the 2004 and 2007 elections as the most brazen examples of deliberate, systematic projects of electoral manipulation and fraud. We also know that the introduction of automated elections in the country has given rise to a new set of problems and uncertainties that have not been satisfactorily resolved up to now notwithstanding the triumphalist proclamations of the Melo-led Comelec.

In this brief presentation, I will put into its proper context the problem of addressing electoral fraud, examining some of its structural and institutional manifestations. Finally, drawing from some comparative insights on electoral behavior, I will examine how a fairly common and yet intractable practice of electoral manipulation--- vote-buying--- might be addressed.

In democratic systems, elections function as “convenient, practicable ways of resolving conflicts without bloodshed and violence” (Przeworski 1998: 113), thus endowing legitimacy to the elected officials and making them accountable for their actions in the public realm by citizens (Schmitter and Karl 1991:76). Our concrete experience immediately puts this premise to question. Elections in many provinces and municipalities continue to be decided if not by the

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outright use of violence, by wide-scale intimidation and coercion. In 2010, the Independent Commission Against Private Armies chaired by retired Associate Justice of the Court of Appeals, Monina Arevalo-Zeñarosa documented the fact that private armed groups (PAGs), mostly controlled by local powerful politicians in cahoots with the police and military, continue to be active in many provinces and regions. In the 15 provinces with the highest number of PAGs, the estimated members of active PAGs range from a low of 39 and 40 in Nueva Ecija and Palawan, to highs of 700 and 1,496 in Basilan and Maguindanao, respectively. More people get killed in election-related violence during election years compared with the casualties incurred in the armed conflict between the government and its protagonists in the same years.

Combined with this widespread use of violence and coercion during elections is another structural constraint on the ability of citizens to freely cast their vote. I am referring hereto conditions of pervasive poverty and powerlessness which make poor people particularly vulnerable to all kinds of vote manipulation and intimidation.

Understandably, addressing the structural bases of electoral fraud is difficult and protracted but there are institutional responses to the problem that could be immediately activated. One critical institutional response lies in reforming the key institution for electoral governance in the country, the Comelec. A major study on the Comelec has identified what it calls a "three-pronged pathology" that the institution has long suffered from (Calimbahin 2010; 2011). The first pathology is an "externally-motivated clientelistic relationship" where a patron seeks the support of a client from within the Comelec for advantageous electoral outcomes. The 2004 GMA-Garcillano conspiracy is a classic example of this pathology. The second pathology is an "internal clientelistic relationship". Here the patron is inside the bureaucracy (Comelec) itself and the clients occupy subordinate positions within the same bureaucracy. The third pathology concerns the Comelec's organizational inefficiency and lack of capacity. In the 2010 automated elections, this is best illustrated by the problems that overwhelmed the Comelec when it implemented election automation without the requisite organizational and technical capability. In the process, the Comelec had to rely on an external entity, Smartmatic, to ensure the probity of the automation system. But lacking the institutional capacity and the technical expertise to supervise and monitor the system, the Comelec ended up unable to address many problems that cropped up during the entire exercise.

I also think that automation, properly implemented and planned by a professionally reformed, organizationally capable and independent Comelec, is the way to go forward. We have enough lessons to be drawn from the infirmities of the 2010 automated elections and any reform agenda for the Comelec must take these evaluations from bodies such as CenPEG, the Automated Election System Watch (AES Watch), the Computer Society of the Philippines, and NAMFREL, seriously.

But even a successful automation system can only address some aspects of electoral fraud. It can address wholesale fraud but not the more common but no less fatal problems such as compromised voters' registration lists and vote buying. Let me share some observations on vote-buying as drawn from the comparative data on electoral behavior. There are at least four generic categories of motivation for vote-buying behavior. As discussed by Schaffer: One is short-term economic need and this is usually seen in the vulnerability of poor voters to offers of cash or material resources that can be immediately used for individual or family benefit. The second is fear as shown in apprehension about retaliation should the voter decline the offer or vote differently than expected. The third relates to feelings of personal obligation or even "*utang na loob*" to the vote brokers who may be friends, family members, or local officials. The fourth is a belief that vote buying is a sign of virtue that the candidate cares. (Schaffer 2007)

"Demand-side reforms" to address vote-buying has usually revolved around programs of voter education but the comparative data show that it is difficult to identify successful cases of countries where levels of vote buying have been substantially reduced as a result of voter education. And this includes the Philippines. One reason why voter education campaigns have not been successful is that they underestimate the social pressures and expectations that drive vote-selling. (Schaffer 2007)

How about "supply-side reforms" to address vote-buying? Here, the reforms have typically focused on political and constitutional changes such as increasing the size of electoral constituencies to make vote-buying prohibitively expensive. However, the results have been inconclusive since candidates are also able to adjust their vote-buying strategies.

In some countries, the vote-buying problem has been addressed by the simple response of effectively enforcing laws that penalize such acts. One notable case where dramatic improvements were seen because of the vigorous implementation of applicable laws is Taiwan. In fact, the official who spearheaded this successful campaign in the nineties, Ma Ying-Jeou, is now the incumbent president. He started and pursued this campaign vigorously when he was appointed as the justice minister in 1993, investigating and prosecuting hundreds of politicians including those from his own party, the KMT. Hopefully, our own officials can draw some lessons and inspiration from the Taiwanese case.

Because it subverts our institutions and works primarily against the interests of the poor and the disempowered in our society, electoral fraud must be addressed decisively. But because it is driven by both structural and institutional causes, we must all be prepared to do our share in stopping it.

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