

Reality of a Long Covid: Election Administration in the Philippines Under Pandemic Conditions

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Abstract: The Philippines is set to have national elections in 2022. Far from the usual, the 2022 elections will be held during a pandemic. This paper explores the preparedness of the Philippines' election management body to conduct a free and fair election under a health crisis. It will test the credibility and capacity of the Commission on Elections (COMELEC) to deliver a democratic mandate. The aim of the study is to illustrate the kinds of challenges the COMELEC will face in an election under emergency conditions even as it has unresolved capacity and autonomy issues. Using a comparative approach and process tracing, the study will combine capacity considerations along with protocols and procedures proper to the pandemic. This paper explores ways to expand the capacity of the Commission by looking into special voting arrangements (SVA) under pandemic conditions. The COMELEC needs to move past that this is a one-off emergency health crisis. Instead, elections need to be reimaged and use the pandemic as an opportunity both to rethink and reform elections in the Philippines.

Keywords: Election administration, COMELEC, Capacity, Autonomy, Pandemic

Introduction

The Philippines experienced one of the strictest and longest lockdowns to minimize the infection rate of Covid-19. Since the pandemic began, the government's approach is to limit the mobility of its citizens rather than engage in testing, tracing, and isolation. The use of interventions, largely security and military in nature, has instilled in the public that the best way to keep safe from catching Covid-19 is abide by the government's lockdown restrictions, avoid unnecessary activity in public areas. While this might be an effective way to curb further infections, this will pose a problem when the Philippines enters the 2022 election cycle.

Current COMELEC data shows that as of February 2021, the number of new registrants is only at 1.6 million, falling way below the expected 4 million expected new voters for the 2022 elections. The 2022 national election is a synchronized election that will include national, local, and the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) elections. At the end of 2022, the barangay elections are scheduled on December

5. While there is some talk of postponing the BARMM election, attempts by legislators to suggest postponing the 2022 national elections were immediately opposed by stakeholders.

Philippine elections involve a lot of people interaction from poll workers and other deputized agencies. On the side of the candidates, even if campaign rallies are kept to a small number, door-to-door campaigns will involve a lot of face-to-face interaction. Even without the pandemic, having synchronized elections, is already a logistical challenge for any election management body tasked to conduct free and fair elections. This paper explores the preparedness of the Philippines' election management body to conduct a free and fair election under a health crisis. It will test the reliability and credibility of the Commission on Elections (COMELEC) to deliver a democratic mandate. The aim of the study is to illustrate the kinds of challenges the COMELEC will face in an election under emergency conditions using the lens of capacity issues and autonomy concerns. In view of this, the paper will likewise probe what the Philippines can learn from other countries that

pushed through with the electoral exercise despite the difficulties of the pandemic. What are the typical issues faced by countries that went on to have the electoral exercise? What are the crucial election management capacity building that need to be in place to assure the safety of the voting public and avoid low-voter turnout? What are the capacity issues that can dissuade people from voting on election day? What are the autonomy issues that can persuade an election management body to consider postponing elections?

Methodology

In the field of Political Science, election administration is typically separated from the study of political institutions, state capacity and patronage politics (Calimbahin, 2009, p.10). Within the discipline there is so much distinction between the study of the electoral process and electoral outcomes. Up until recently, election administration is set apart because it focuses on the process and often criticized within the discipline as unable to have a theory driven analysis. The performance of election commissions matter. Election administration matters because the electoral process can affect electoral outcomes. Election administration can affect voter behaviour and in turn electoral outcomes (Harris, 2021). This has an impact on democratic institutions and traditions within a state.

This exploratory paper looks mainly at the capacity issues that can affect how the election management body will conduct elections under a health emergency. In a modest way, this paper can contribute by illustrating ways to rethink and reform elections during a health emergency. The Philippines' Commission on Elections (COMELEC) needs to move past that the current pandemic is a one-off emergency health crisis. Instead, elections need to be reimagined. There is a need to review how the various activities within the election cycle, both at the manual and digital level, can be carried out credibly under emergency crisis conditions.

Using a comparative approach and process tracing, the study will examine capacity issues and autonomy considerations to assess the credibility of the electoral process. As mentioned earlier, it is important to consider the capacity of election administration bodies and their ability to enforce election protocols and procedure. With the health emergency under Covid-19, these protocols add an

unexpected layer of procedures that can strain an already challenged and limited administrative capacity of a constitutional commission.

Using a comparative lens, the paper will look at the experience of countries that went on to have elections, such as South Korea, during the pandemic. A total of 13 countries had elections in 2020 while 60 postponed elections. This study will not look at all these individual countries but instead look at patterns gathered by international election observers and election management experts. Official election results, post-election evaluation report and reports from external observers have been shared in various election fora have been invaluable given the developing nature of elections under Covid-19 conditions. Once COMELEC releases its data on the Palawan Plebiscite held last March 13, this will be useful material for the study. Information gathered by the International Democratic Election Assistance (IDEA) and International Foundation for Election Systems (IFES) will also be used and reviewed for the expanded version of this paper. Once feasible, the interview of health experts, especially those who have weighed in on various elections conducted in 2020 will be included as sources. Official reports of the Inter-Agency Task Force (IATF) for Covid-19, the Department of Health (DOH), and World Health Organization (WHO) once made available will be used as well. Secondary data will include reports and articles from national newspapers, and academic journals that specialize in election studies. The immediate and medium-term data gathering for this research will be conducted purely online.

Results

Elections are central in a state like the Philippines. Elections is an arena that allows access to power and it remains a major avenue to private accumulation (Hutchcroft, 1991). We know that access to the state apparatus can mean rent-seeking opportunities. The stakes are high in an election in the Philippines, with or without the pandemic. The centrality of elections puts the spotlight on the Commission on Elections (COMELEC), tasked with delivering fair democratic outcomes to both voters and candidates. And while the COMELEC is a constitutional commission, and brings with it images of independence and autonomy, it is also a bureaucracy which functions and acts as one (Calimbahin, 2010). The COMELEC was not empowered to realistically deliver its mandate. And

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over time, especially with the constantly evolving challenges of elections, this has been the case.

Historical process tracing shows evidence of the COMELEC suffering from two forms of state capture and capacity issues (Ibid). With the health emergency under Covid, protocols add an unexpected layer of procedures that can strain an already weak administrative capacity of a constitutional commission. The Commission on Elections continues to be dragged by capacity issues. These capacity issues have “underlying political causes” (Meier, 2019). The capacity issues of COMELEC are rooted in issues of political autonomy. Political institutions that can build the capacity of the Commission such as the Executive and Legislative branch contribute to the lack of efficacy of the COMELEC. With its annual budget dependent on the Legislative branch, there is often insufficient resources for the COMELEC to address a scope of problems involving the Philippine electoral system. Over time, evidence of appointments of commissioners that have ties to the Chief Executive persist even as it had periods of strong reformist commissioners. Reform efforts are unable to gain traction and hardly sustained.

As an example, previous recommendations of institutional reform have been recognized by the commission, but it has not had any major strategic and modernization reform program. Unlike the Commission on Audit (COA) and the Civil Service Commission (CSC), the election management body has not had any re-organization since 1986. The COMELEC likes to describe itself as a crisis manager. And to their credit, they are. But its goal settings do not go beyond three years, just enough to make it to each election cycle. The commission has difficulty working seamlessly with other agencies due to its “isolation thinking” and “inertia issues” as one COMELEC insider described it.

Discussion

What are the challenges for COMELEC in the 2022 elections? There will be more than 18,000 national and local elective posts that will be contested. Typically, there will be around 45,000 candidates who will vie for those elective positions. According to COMELEC there are 85,769 clustered precincts. In each precinct, there will be five election personnel. This will mean 428,845 election officials and observers involved in the electoral exercise.

This does not account for the other deputized agencies and units on election day which include the Department of Education (DepEd), the Department of Finance (the office of the City or Municipal Treasurer), Department of Transportation and Communication, The National Telecommunications Commission, The Philippine Postal Service, the Philippine National Police to name a few. There are 63 million voters expected based on historical figures of voter turn-out from the COMELEC. In 2019, the Philippines had a 75% voter turn-out. Almost 9 million voters or 14% of the voting population are Senior citizens. A high-risk group for Covid-19 infection. Almost 21 million or 33% of the voting population are between the ages of 18 to 33 years old. With or without the pandemic, this is a logistical challenge for any election management body.

The pandemic adds another degree of challenge to election administration for all countries that will proceed with the conduct of elections. In 2020, 60 countries postponed elections at multiple levels from nationwide, state, to local elections (IDEA, 2021). There were thirteen countries that did go ahead with election with varying outcomes and success. Given the health emergency crisis, precautions need to be taken for safe in-person voting. The election cycle involves a lot of human interaction. Even without the pandemic, voting can already be a tedious and testing exercise. Slight technical glitches, changes in rules can cause long delays that can result in congestion of people and confusion that can disenfranchise some voters or dissuade voters from going to the polls. There are two main considerations with elections under Covid-19. These are to secure the safety of the voters and a successful, large voter turnout. Given the challenge of holding elections in a pandemic, there are important considerations that the COMELEC must come to terms with, along with the voting public, if elections are held without ample preparation. First, the election might become a virus “super spreader” event. That many elections were postponed or cancelled in 2020 was largely due to the fear that it can trigger an increased infection rate. With the health infrastructure of many countries potentially collapsing due to the pandemic, this was a scenario that many states could not afford. Second, the increased probability of a low voter turnout can raise post-election legitimacy issues. Political instability amid a pandemic, is also a scenario that would be detrimental for any country.

While for many Filipino voters, the election is probably the last thing on their minds now. The more urgent concerns remain health, safety, economic security. However, election preparedness of the COMELEC is important and cannot be left to chance. It needs to be examined sooner than later. Earlier I mentioned that election administration affects voter behaviour and election outcomes. Election day lines, voter registration, accuracy of voter data are issues that cannot be brushed aside. These are not negligible or small obstacles to electoral participation. A citizen's commitment to vote on election day comes with an assurance that the voter will be safe and secured throughout the voting process. If we want citizens to show their commitment to participate in a democracy through elections, the responsibility falls squarely on election management bodies. According to Harris, "empirical literature show that voters may be dissuaded from voting by small costs such as long lines and congestion" (Harris, 2021). In a pandemic, long lines and congestion is no small cost. Especially for the 30% of voters who are in the high-risk group.

Six months before the new voter's registration deadline, the COMELEC has reported a low registration turnout. The COMELEC has a modest target of 5 million new registrants out of the 15 million expected qualified new registrants. This should not come as a surprise. The Philippines has one of the longest and strictest lockdowns since the pandemic began. Apart from the security approach of the government, the failure to test, trace and isolate has led periods of surge and unabated infection numbers. With hospitals in full capacity and doctors pleading people to stay indoors, it is unlikely for the number of new registrants to increase. Even as COMELEC claims that registration is now online, the process is not fully online. The online component is in setting for an appointment in the COMELEC office. New registrants bring their completed forms in person for a "personal appearance" in the COMELEC office. COMELEC Commissioner Rowena Guanzon, as early as September 2020, proposed that passport holders be exempted from the need to physically appear in the COMELEC office. This would entail the use of the Department of Foreign Affairs (DFA) records, the biometrics data of passport holders. The proposal of Commissioner Guanzon is supported by the COMELEC en banc with the aim of having a higher turnout of voter registrants. This, however, is dependent on the DFA's approval to allow COMELEC to access their records. In September

2020, Commissioner Guanzon said the COMELEC is waiting for the DFA's response. She was confident that there was no need to pass a law to make this happen adding that, "means and methods of elections are the sole discretion of Comelec, according to Supreme Court rulings". It would be ideal if Commissioner Guanzon's proposal is adopted, but it is unlikely for the DFA to share with the COMELEC their records. The bureaucratic capacity of the COMELEC to secure data has been wanting. In 2016 and 2017, the COMELEC experienced serious data breaches that exposed the personal data of 55 million voters while a server with the data of Filipino voters was stolen.

These are early evidence of capacity concerns and election preparedness. The lack of enthusiasm of new voters to register might also have an impact on voter turnout in the highly urbanized areas where infection rates are high. Voter turnout will be dependent on the timing, effective and equitable distribution of the vaccine in the country. The COMELEC has announced that part of their preparedness includes a pilot election with the Palawan Plebiscite. On March 13, 2021 Palawan will hold a plebiscite to ask the public if the province will be divided into three. COMELEC's plan regarding safety in the polling stations was to limit each precinct with five voters at a time. In terms of adequate infrastructure to accommodate the spacing of voters, the Palawan plebiscite had an Isolation Polling Precinct (IPP) for those who exhibit Covid-19 symptoms. In terms of adequate number of poll workers, the Palawan plebiscite limited the number of poll watchers. The COMELEC report and independent election observer's field reports are not yet available. What we do know so far is that the nature of the exercise, a plebiscite rather than a contest for an elected post, generates a lower voter turnout and less crowds in the polling precincts.

For the 2022 elections, the COMELEC has also announced that training and guidelines for poll workers under a health emergency condition, will come out on the fourth quarter of 2021. The timeliness of this guidelines is important not just for candidates and voters but also for civil society stakeholders, election reform groups who would like to reach out to the public. On the reliability of the vote counting machines, the COMELEC will be using refurbished Vote Counting Machines used in the 2019 elections. The controversial SMARTMATIC is likely to be awarded a Php 400 million contract for the software. Note that the proposed budget of the

COMELEC was cut in half, there are questions if the commission has adequate budget provisions for additional election materials and health related protocols that needs to be in place.

The most successful elections held under Covid-19 conditions include South Korea, New Zealand and despite the hitches, the June 2020 election in Malawi. All were perceived as credible and fair elections. In fact, Malawi is the only country that moved up in the freedom house index. South Korea and New Zealand are stable democracies but also countries that successfully contained or controlled their covid infection rates. In these two countries, voter confidence was high given how their respective governments decisively addressed the infection rate through testing, effective contact tracing, and isolation.

According to election observers and health officials, elections held in 2020 managed to decrease the risk of transmission in polling places when officials successfully enforced health protocols such as physical distance, providing and requiring the use of face masks, increase the ventilation in polling precincts, and frequent sanitation of the common spaces. Another mitigating factor was in providing options for voters like mail-in ballots to help minimize congestion in polling precincts.

Remote voting options in other countries such as mail in voting come in various modalities. One is the universal vote by mail where voters automatically receive the ballot. In some countries it must be a request for an application for absentee voting. In some places, all voters receive an application, this is called a "no-excuse" application. In some countries, voters citing Covid-19 health concerns are permitted to request an application. Another modality to examine is in how the mail ballot is filled and completed by voters. In this case, there are multiple options. In some countries, ballot requires a witness signature, in some no witness signature is required. Some countries require ballots to be filled and returned notarized while some do not. Some require that the ballot comes with a copy of the ID. Regarding the cut-off in submitting a mail-in ballot there are also multiple options. The most common are when a ballot is accepted if postmarked on or before election day and received within 3-5 days. The kinds of channels of ballot submission also vary. Option includes drop-off boxes, through mail, and in-person through satellite locations. It is important for the public to know that

this is not as simple as dropping off a mail. The recipient will be election administrators who need to ascertain that the ballot sent is valid. While others argue that mail in voting is done by overseas Filipinos, this is true in some places. In these places, they rely on the postal system of the host country. For the Philippines, the Philippine Postal Corporation (PhlPost) has weighed in to say they can help if mail in voting is done because the Philippines' postal system will be digital by 2021. This should make policymakers pause and think if the PhlPost is up to the task. They will have a learning curve in familiarizing themselves with their own digital platform. They will also need to work closely with the COMELEC to execute electoral guidelines.

When electoral fraud issues were raised in social media about the 2020 US elections it was largely about vote padding under the mail in voting system. In truth, there was higher number of rejected ballots rather than vote padding. These are rejected because it was late, the ballot lacked signature, the ballot lacked a second signature from a witness and the address of the witness was not listed. There is a matching of signature process that needs to happen as well often resulting in a back and forth that can at times result with the mail in ballot getting lost. In the 2020 primaries 500,000 mail in votes were rejected. In the 2016 elections 300,000 mail in votes or 1% of all votes, were rejected. This does not include or account for those that were lost in the mail. And all this is conducted under credible conditions and reputation of election officials. Resources include CCTV cameras in each process and procedure once the mail in ballots come and layers of audit are conducted before the ballot is tallied. In the case of the US, it was the younger voters, overseas voters, first time absentee voters have a higher tendency to their have votes rejected. Again, remote voting options are not as simple as it sounds.

Conclusion

Long covid is when those who got the virus experience the symptoms longer. The weakness, fatigue, linger. The Capacity issues of COMELEC linger. For as long as the capacity of Comelec to be an independent body is not addressed the possibility of capture likewise lingers. The autonomy of the COMELEC is undermined by lack of resources to strategically re-organize, modernize just like other constitutional commissions have.

The experience of other countries in providing special voting arrangements (SVA) are an option such as extending voting hours, early or late voting, limiting campaign activities is something that can be studied and considered. Suggestions of remote voting, mail-in or proxy voting will be a challenge for the COMELEC to pull off. It is also not as simple as it looks. There are numerous procedures that need to be set in place and even policies. Last minute changes in legislation are discouraged because it will create confusion or create benefits for incumbents.

We need to hold regular, free, and fair elections as a democracy. We need to rethink and reform elections for 2022 and for future election cycles. Democracy is a painful process of proceduralism. We need to seriously think about the reforms within the commission. While election is the last thing on our minds right now. Foremost in our minds is the virus, the surge, and the vaccine. But we need to rethink and reform elections during a health crisis. We have heard, this might not be the last pandemic in our lifetime. COMELEC and stakeholders can use this 2022 election under Covid as an opportunity both to improve election administration and increase the capacity of our election management body. And in the process, strengthen the electoral commission for future election cycles.

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