



# BACK TO THE FUTURE'S PAST: AN OVERVIEW OF THE RECENTLY CONCLUDED 2022 NATIONAL ELECTIONS

*FROM THE EDITORS' DESK*



"People are trapped in history and  
history is trapped in them."

- JAMES BALDWIN



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## **BACK TO THE FUTURE'S PAST:**

*An Overview of the Recently Concluded 2022 National Elections*

*From the Editors' Desk<sup>1</sup>*

### ***Introduction***

With the pandemic placing additional stress on both private and government institutions, the Philippines is at a historic crossroads with the need to elect leaders who can propel the nation toward economic recovery and democratic awakening. Last May 9, 2022, approximately 67.5 million Filipinos went to the polling precincts to decide who the next leaders should be. There were thousands of positions up for election all over the country, ranging from the Presidency, Vice Presidency, seats in the Senate, and up to 18,000 local positions, including provincial governors and city mayors..

As laid out by the 1987 Constitution, those aspiring to be President and Vice President must be natural-born citizens of the Philippines, registered voters, able to read and write, at least forty (40) years of age on the day of the election, and residents of the Philippines for at least ten (10) years immediately preceding such election. Aspiring senators must be natural-born citizens of the Philippines, registered voters, able to read and write, at least thirty-five (35) years of age on the day of the election, and residents of the Philippines for not less than two years before the election day.

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## *Pre-Campaign Period*

The 2022 Philippine National Elections officially opened with the filing of certificates of candidacy (COCs) from October 1 to October 8, 2022, as set by the Commission on Elections (COMELEC). Seventy-seven (77) national positions were on the line in the latest polls, including the positions of President, Vice President, twelve (12) senators, and sixty-three (63) party-list representatives. The filing of the COCs was held in the Sofitel Philippine Plaza Manila in Pasay City to provide enough space in compliance with existing health protocols due to COVID-19. Data from the COMELEC showed a total of ninety-seven (97) COCs for President, twenty-nine (29) COCs for Vice President, 176 COCs for senatorial positions, and 270 COCs for the House of Representatives<sup>2</sup>.

From a legal standpoint, the filing of the COCs is the operative act that enables a person to acquire the official status of being a candidate for an elective position. Any person who attempts to run for an elective office but does not file a certificate of candidacy is not a candidate at all. No amount of votes would catapult him into office.<sup>3</sup>

For the COCs, COMELEC Resolution No. 10717<sup>4</sup> has maintained the same rules put in place for the 2016 local and national elections. Some modifications were introduced to ensure health protocols. The COC must be filed in person by the aspirant or through an authorized representative and

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<sup>2</sup> Vernice Tantuco. “Total number of COC filers for national positions”. October 8, 2021,

<https://www.rappler.com/nation/elections/updates-filing-certificates-candidacy-2022-polls-national-positions-october-1-8-2021/>

<sup>3</sup> Hector S. De Leon & Hector M. De Leon, Jr., *The Law on Public Officers and Election Law* (Philippines: Rex Book Store, 2019), p. 571.

<sup>4</sup> “COMELEC Resolution 10717: Rules and Regulations Governing: 1) Political Conventions; 2) Submission of Nominees... and 3) Filing of Certificate of Candidacy... in Connection with the May 9, 2022 National and Local Elections (August 18, 2021)

[https://COMELEC.gov.ph/?r=2022NLE%2FResolutions%2Fres10717&fbclid=IwAR0t9YJKbS85W-Izn9\\_b21goi1ES1ppFkb77mK1qRHHC\\_LKdf8HnGYm9EtzY](https://COMELEC.gov.ph/?r=2022NLE%2FResolutions%2Fres10717&fbclid=IwAR0t9YJKbS85W-Izn9_b21goi1ES1ppFkb77mK1qRHHC_LKdf8HnGYm9EtzY)

those submitted by mail, email, telegram, or facsimile will not be accepted. A negative RT-PCR (Reverse Transcription Polymerase Chain Reaction) test or antigen test must be taken within the last 24 hours prior to the filing of COC or Certificate of Nomination and Acceptance (CONA) required for aspirants for the positions of President, Vice-President, Senators and their authorized representatives. Though this year's process of filing the COC underwent significant changes due to COVID-19, there were many unforeseen announcements and surprising turn of events.

Former President Rodrigo Duterte failed to file his COC for Vice President, despite earlier announcing his acceptance of PDP- Laban's nomination for the position. This came after Senator Christopher "Bong" Go filed his COC for President. When Ferdinand "Bongbong" Marcos, Jr. filed his COC, the mobile phones of numerous individuals in the vicinity of the Sofitel Philippine Plaza Manila simultaneously received emergency alerts through text messages. However, instead of an alert for a natural disaster, the emergency alert message contained Marcos Jr.'s name.

Unexpectedly, Senator Ronald "Bato" dela Rosa also filed his COC for President. Meanwhile, Senators Emmanuel "Manny" Pacquiao, Panfilo "Ping" Lacson and Francis "Kiko" Pangilinan decided to seek higher office when they filed their COCs for President and Vice President, respectively. On top of these, former Vice President Leni Robredo pulled off a surprise of her own when she formally announced her candidacy for president after several months of keeping her political aspirations under wraps. Even more surprising is the fact that she decided not to run under the Liberal Party (LP) but as an independent candidate.

Perhaps as a means to initially dispel speculations that she was to "succeed" her father, Sara Duterte-Carpio submitted her COC for reelection as Mayor of Davao City. Later on, she withdrew her candidacy and decided to run for

Vice President on November 13, 2021. She ran under the Lakas-CMD (Lakas–Christian Muslim Democrats) banner as the replacement candidate for Lyle Uy. Not long after officially announcing her candidacy, she announced an alliance with Bongbong Marcos, Jr., and that the latter has his full support as running mate for the 2022 elections.

Several political analysts noted early on that the Marcos-Duterte tandem, which was later officially labeled as the “Uniteam” during the campaign period, was a formidable force to reckon with. This could conceivably be owing to the popular perception that both candidates were running as “allies” of the outgoing Duterte administration, which continued to enjoy a high satisfaction rating among the populace even during the last few months of the former President’s term of office, in addition to the fact that the Marcoses command huge popularity in the Ilocos region while the Dutertes hold a tight stronghold in Mindanao.

Furthermore, Sara Duterte’s strategy to make good use of the rules on substitution of candidates seemed to have worked in her favor. It must be noted that the Omnibus Election Code (OEC) allows a person belonging to, and certified by, the same political party to file a COC to replace a candidate who died, withdrew, or was disqualified<sup>5</sup>. Notably, there is nothing in the Code which requires as a condition precedent that the substitute candidate must be a member of the party concerned for a certain period of time before he or she can be nominated as such<sup>6</sup>. Accordingly, Sara Duterte was sworn in as a member of Lakas-CMD just two (2) days before the deadline for substitutions set by COMELEC and was allowed to immediately file her COC as the party’s substitute candidate for Vice President. Her maneuvers effectively shielded her from early political mudslinging, as is typical in almost all democratic elections. It also kept her political opponents in the dark, wondering about her next move, at least up until the last minute.

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<sup>5</sup> Ibid., 578.

<sup>6</sup> *Sinaca v. Mula*, G.R. No. 135691, 315 S.C.R.A. 266 (September 27, 1999). (Phil.)

In contrast, Bongbong Marcos, Jr. was immediately made a respondent in several petitions for disqualification filed with the COMELEC, the earliest of which was dated November 20, 2021, after having filed his COC for President on October 6, 2021. One of the grounds relied upon by the petitioners was that Marcos Jr. made false representations in his COC, claiming that he has not been found liable for an offense, which carries with it the accessory penalty of perpetual disqualification to hold public office. These petitions were later dismissed by the COMELEC due to lack of merit<sup>7</sup>.

While incumbent elective officials can run for elective positions without losing their seats, appointed government officials who file their COCs are deemed to have resigned from their posts. The Supreme Court added that

“elective officials occupy their office by virtue of the mandate of the electorate. They are elected to an office for a definite term and may be removed therefrom only upon stringent conditions. On the other hand, appointive officials hold their office by virtue of their designation thereto by an appointing authority. Some appointive officials hold their office in a permanent capacity and are entitled to security of tenure while others serve at the pleasure of the appointing authority”<sup>8</sup>.

Thus, former Chief Presidential Legal Counsel Salvador Panelo, former Presidential Spokesman Harry Roque, and former Department of Public Works and Highways (DPWH) Secretary Mark Villar effectively resigned from their respective posts when they filed their COCs for Senator.

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<sup>7</sup> Ilagan, et. al. v. Marcos, Jr., SPA No. 21-212 (DC), G. R. No. 260426 (February 10, 2022). (Phil)

<sup>8</sup> Farinas, et. al. v. Executive Secretary, G.R No. 147387 (December 10, 2003) (Phil.)

The mentioned individuals were certainly able to muster enough political capital to avoid even the slightest suspicion of being declared as nuisance candidates. However, this is not the case for many other hopefuls for the 2022 national elections, as COMELEC moved to declare three-fourths of aspiring candidates for the presidency and other national posts in 2022 as nuisance. Section 69 of the Omnibus Election Code allows the COMELEC to *motu proprio* refuse to give due course to or cancel the COCs of nuisance candidates or persons who file their COCs to put the election process in mockery or disrepute, or to cause confusion among voters by the similarity of the names of registered candidates, or by other circumstances or acts which has clearly demonstrate that the candidate has no bona fide intention to run for the office for which the COC was filed, and thus prevent a faithful determination of the true will of the electorate<sup>9</sup>.

Norman Marquez, a senatorial aspirant, was declared a nuisance candidate by the COMELEC on the ground that he was “virtually unknown to the entire country” and had “absent clear proof of financial capability.”<sup>10</sup> He, however, managed to obtain a temporary restraining order (TRO) from the Supreme Court pending the Court’s decision on the petition for review on certiorari he filed questioning the COMELEC’s order cancelling his COC. The issuance of the TRO appeared consistent with the Court’s 2019 ruling in *Marquez vs. COMELEC*, wherein it was established that:

“it was only in view of the dirty practice by unscrupulous politicians of fielding nuisance candidates with the same surnames as leading contenders that the Court proceeded to consider the personal circumstances, including the financial capability, of the nuisance candidate... In contrast, Marquez here was disqualified not on the basis of the similarity of his name with another senatorial

<sup>9</sup> Omnibus Election Code, Section 69. B.P. Blg.881, as amended (Phil).

<sup>10</sup>Dwight de Leon et al., “Senatorial Bet Declared Nuisance by COMELEC Gets SC Relief,” RAPPLER, January 20, 2022, <https://www.rappler.com/nation/elections/norman-marquez-secures-tro-supreme-court-after-declared-nuisance-comelec/>.



candidate, a ground explicitly provided for in Section 69 of the OEC, but for the sole reason that he failed to show proof of his financial capacity to wage a nationwide campaign. This, however, has already been proscribed...<sup>11</sup>

Thus, it is evident that the lack of financial resources cannot be regarded as the sole basis of COMELEC in declaring a particular candidate a nuisance. In fact, the Supreme Court stated that property qualifications were inconsistent with the essence and nature of the republican system ordained in our Constitution and the principles of social justice underlying the same<sup>12</sup>.

### *Campaign Period*

The campaign period for Presidential, Vice Presidential, Senatorial, and Party-list candidates commenced last February 8, 2022, and ended last May 7, 2022; except for April 14 to April 15 (Maundy Thursday and Good Friday), as provided under COMELEC Resolution No. 10695<sup>13</sup>. At the onset, candidates flaunted their colorful posters and toured all over the country to discuss their platforms with the public. Their advertisements were shown on different TV networks and were also heard on different radio stations all over the country.

While campaigning through different media platforms, Republic Act No. 9006, or the *Fair Elections Act*<sup>14</sup>, regulates the use of these different media platforms. Under Section 6, print advertisements shall not exceed one-fourth (1/4) page; in broadsheets, and one-half (1/2) page in

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<sup>11</sup> Marquez v. COMELEC, G.R. No. 244274 (September 3, 2019). (Phil).

<sup>12</sup> Maquera vs. Borra, G.R. No. L-24761 (September 7, 1965). (Phil)

<sup>13</sup>“Official COMELEC Website: Commission on Elections.” Accessed July 23, 2022.

[https://COMELEC.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com\\_res\\_10695.pdf](https://COMELEC.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10695.pdf). The resolution contains significant dates in connection to the May 9, 2022 National Elections

<sup>14</sup> Republic Act No. 9006 (n.d.). Also known as Fair Election Act, the law was promulgated by the Eleventh Congress of the Republic of the Philippines.

tabloids appearing thrice a week per newspaper, magazine, or other publications, during the campaign period<sup>15</sup>. Broadcast media is also regulated in a way that it shall not exceed one hundred twenty (120) minutes of television advertisement and one hundred eighty (180) minutes of radio advertisement whether by purchase or donation<sup>16</sup>. Moreover, the spending of candidates is regulated by Republic Act 7166<sup>17</sup>. Under this law, candidates are only allowed to spend as follows: Ten Pesos (P10.00) for the President and Vice-President; and for other candidates, three pesos (P3.00) for every voter currently registered in the constituency where he filed his certificate of candidacy; provided, that, a candidate without any political party and support from any political party may be allowed to spend Five Pesos (P5.00) for every such voter<sup>18</sup>.

A thought provoking question would be the corresponding penalties for violations of the aforementioned provisions. Another concern is the auditing and verification of campaign-related expenses. From the recent polls, Ferdinand “Bong-Bong” Marcos, Jr., reported that he spent P623,230,176.68<sup>19</sup>. His closest rival, former Vice President Ma. Leonor “Leni” Robredo, declared that she spent a total of P388,347,278.99<sup>20</sup>. Marcos further claimed that he has not spent a single centavo during his campaign and that all of his funds were donated. Meanwhile, Leni Robredo claimed that she spent P19,778.99 of her personal money to fund her campaign and the rest were donations. Marcos almost spent twice as much as her closest rival. His expenditures and machinery were key factors in his

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<sup>15</sup> Ibid

<sup>16</sup> Ibid

<sup>17</sup> Republic Act No. 7166 (1991). The complete title of the statute reads: An act providing for synchronized national and local elections and for electoral reforms, authorizing appropriations therefore, and for other purposes.

<sup>18</sup> Ibid.

<sup>19</sup> Dwight de Leon, “Tracker: Candidates Who Spent the Most in 2022, Based on Their SOCEs,” *Rappler*, (July 22, 2022), <https://www.rappler.com/newsbreak/tracker-candidates-spent-most-statement-contributions-expenditures-2022/>

<sup>20</sup> Ibid

landslide victory. Given the volume of his campaign posters and TV advertisements, it is not impossible that the number is demure. It is interesting to note that he won the elections with a very huge margin.

### *Election Day*

Section 1, Article V of the 1987 Constitution<sup>21</sup> dictates that:

Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year, and in the place wherein they propose to vote, for at least six months immediately preceding the election. No literacy, property, or other substantive requirements shall be imposed on the exercise of suffrage.

The voter turnout in the 2022 elections was overwhelmingly high according to the data provided by COMELEC. A tally of 172 out of 173 certificates of canvass indicated that 55.5 million Filipinos exercised their right to suffrage or around 82.6% of the 67.4 million registered voters. The 55.5 million data of the COMELEC sitting as the National Board of Canvassers (NBOC), accounts for the 83% of the 66.8 million which is the total number of eligible voters in NBOC's official count

The result showed a landslide victory, in favor of Ferdinand Marcos Jr. (BBM), son of the late dictator and military strongman, Ferdinand E. Marcos. BBM received thirty-one (31) million votes, defeating nine other presidential aspirants. His closest rival, Vice President Leni Robredo, secured fourteen (14) million votes.

According to International Observers Mission (IOM) report<sup>22</sup>, the Philippine polls did not meet global

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<sup>21</sup> Const., (1987), Art. V, Section 1 (Phil).

<sup>22</sup>International Coalition for Human Rights in the Philippines, "Interim Report of the Philippine Elections 2022," (July 31, 2022)

“free and fair” standards. Said report states that Filipino voters were deprived of access to reliable information, voting places “without intimidation” and a “credible” vote counting system. Many voters were unable to cast their ballots with the vote counting machine (VCM) allegedly due to automated election glitches.

The Philippine Election 2022 International Observer Mission was established on the recommendation of the INVESTIGATE PH Commissioners in their 2nd and 3rd Report of the Independent International Investigation into Human Rights Violations in the Philippines. This was established in response to the October 7, 2020, decision of the UN (United Nations) Human Rights Council 45th Session (Resolution No. 45/33)<sup>23</sup> For its part, COMELEC denied the findings, contending that the election was relatively peaceful.

Verified media reports paint a different picture however - there were several election-related human rights violations committed in the 2022 polls. Culture of impunity prevails in the country and numerous extrajudicial killings happened at the height of the election. Moreover, there are those whose lives were endangered by armed assailants. These instances are stated in the succeeding paragraphs.

*Two Anakpawis members assassinated, January 15, Sorsogon.* On January 15, 2022, at about 7:45 am Rosemarie Galias, 68, and Silvestre Fortades Jr, 70<sup>24</sup> were killed by four motorcycle-riding gunmen in Brgy San Vicente, Barcelona, Sorsogon. Both were members of Anakpawis, a progressive party list which represents the interests of peasants and workers in Congress as part of the Makabayan Bloc. The

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[https://ichrp.net/wp-content/uploads/2022/05/2022-05-18\\_IOM\\_Inte\\_rimReport.pdf](https://ichrp.net/wp-content/uploads/2022/05/2022-05-18_IOM_Inte_rimReport.pdf)

<sup>23</sup>United Nations Human Rights Council, E subscription to United Nations documents, accessed July 31, 2022,

<https://undocs.org/en/A/HRC/RES/45/33>.

<sup>24</sup> Apo E. Hapa, “Gubat Couple Killed inside Their Residence ,” *The Philippine Examiner*, (January 31, 2022), <https://philexaminer.com/?p=22913>.

murder of the elderly political activist couple was the beginning of state murders during the election campaign period. They were in their tricycle<sup>25</sup>, which was parked along the road, when two pairs of motorcycle-riding men fired at Fortades. When Galias saw that Fortades was shot, she took their four-year-old granddaughter to run for safety. The men, however, also shot Galias. Fortades had received a warning the night before.

*Five massacred by soldiers, Davao de Oro.* Around 9:30 p.m. on February 23, two weeks into the national election campaign, five people including two volunteer teachers of the Save Our Schools Network, were killed at Brgy. Andap, New Bataan, Davao de Oro, Mindanao, by elements of the 101st Infantry Brigade, Philippine Army<sup>26</sup>. These five victims were volunteer teachers Chad Booc and Gelejurain Ngujo II, community health worker Elgyn Balonga and two community volunteer drivers, Tirso Añar and Robert Aragon. In the context of over five years of repression of the Lumad Schools set up by the indigenous peoples of Mindanao and their allies with churches and academe, this massacre was aimed at further terrorizing the IPs (Indigenous Peoples) in the election period. On February 25, the 10th Infantry Division posted a press release on their official Facebook page<sup>27</sup> falsely claiming that the five were killed in an alleged encounter and accusing them as New People's Army fighters. However, information from locals said no encounter took place in the area<sup>28</sup>.

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<sup>25</sup> Mark Ernest Famantigan, "In Sorsogon, Unidentified Men Shoot 2 pro-Farmer Party-List Members Dead," *Yahoo! News*, accessed July 31, 2022,

<https://ph.news.yahoo.com/2-pro-farmer-party-list-members-shot-dead-in-sorsogon-025924984.html>.

<sup>26</sup> Hernel Tocmo, "5 Alleged NPA Rebels Killed in Davao De Oro Clash: Military," *ABS-CBN News*, (February 25, 2022), <https://news.abs-cbn.com/news/02/25/22/5-alleged-npa-rebels-killed-in-davao-de-oro-clash-military>.

<sup>27</sup> Che Palicte, "5 Rebels Killed in Davao De Oro Clash," *Philippine News Agency* (February 25, 2022), <https://www.pna.gov.ph/articles/1168568>.

<sup>28</sup> Anne Marxze Umil, "5 Killed in Davao De Oro Are Civilians, Not NPA, Group Says," *Bulatlat*, (February 27, 2022),

*National Democratic Front Philippines - Peace Consultant Ezequiel Daguman abducted and killed.* According to the National Democratic Front of the Philippines (NDFP)-Southern Mindanao<sup>29</sup>, Peace Consultant Ezequiel “Ka Rey” Cortes Daguman, age 50, was abducted and extrajudicially killed by the Armed Forces of the Philippines (AFP) – not killed in an encounter between the New People’s Army (NPA) and the AFP as claimed by the military. Daguman was allegedly unarmed and had been abducted along with his driver en route to visit peasant communities in Davao del Norte on March 7, 2022<sup>30</sup>. Peace talks between the government and the NDFP are a significant election issue<sup>31</sup>.

*Bayan Muna party-list coordinator Larry Villegas shot at his home.* On 13 March 2022 at around 6:00 am, 64-year-old Bayan Muna Party-list Coordinator Larry Villegas was shot while cleaning his tricycle at his home in General Santos City, Mindanao. Villegas was hit twice in the leg after dodging what appeared to be shots to the head, and was taken to a local hospital for treatment<sup>32</sup>. The attack comes after Villegas and his local chapter of the progressive transport group TIRES-PISTON were red-tagged<sup>33</sup> by the

<https://www.bulatlat.com/2022/02/27/5-killed-in-davao-de-oro-are-civilians-not-npa-group-says/>.

<sup>29</sup> Karina Mamtanggol, “Justice for Ezequiel Daguman! Uphold JASIG!” *PRWC | Philippine Revolution Web Central*, (April 6, 2022), <https://cpp.ph/statements/justice-for-ezequiel-daguman-uphold-jasig/>.

<sup>30</sup> Davao Today, “Missing Peace Consultant Was Abducted and Killed in Davao Del Norte, Spokesperson Says,” *Bulatlat*, (April 13, 2022), <https://www.bulatlat.com/2022/04/13/missing-peace-consultant-was-abducted-and-killed-in-davao-del-norte-spokesperson-says/>.

<sup>31</sup> Jeannette I. Andrade, “Nica Chief: It's Insane to Talk Peace Again with Reds,” *INQUIRER.net*, (January 25, 2022), <https://newsinfo.inquirer.net/1544541/nica-chief-its-insane-to-talk-peace-again-with-reds>.

<sup>32</sup> Nestor Corrales and Allen Estabillo, “Transport Group Leader Survives Slay Try,” *INQUIRER.net*, (March 14, 2022), <https://newsinfo.inquirer.net/1567792/piston-leader-survives-slay-try>.

<sup>33</sup> Kath M. Cortez, “Bayan Muna Coordinator in Gensan Wounded in Gun Assault,” *Davao Today*, (March 13, 2022), <http://davaotoday.com/main/human-rights/bayan-muna-coordinator-in>

National Taskforce to End Local Communist Armed Conflict (NTF- ELCAC), and after he was threatened by uniformed soldiers who told him to stop his “anti-government activities”. Villegas had been leading preparations for a Leni-Kiko rally in General Santos, campaigning for MAKABAYAN senatorial candidates Atty. Neri Colmenares and labor leader Elmer Labog, and was a staunch critique of the government due to oil price hikes<sup>34</sup>.

*Presidentiable Leody De Guzman and indigenous leaders shot.* On 19 April 2022 at Sitio Kiantig, Barangay San Jose, Quezon, Bukidnon, five farmers were shot and injured during a gathering to oppose the seizure of their ancestral lands by the Kiantig Development Corporation, which has ties to re-electionist Mayor Pablo M. Lorenzo III<sup>35</sup>. Presidentiable Leody De Guzman and his senatorial candidates had gone there to amplify their case against land grabbing. De Guzman was standing right beside Nanie Abela – a farmer organizer and advocate for indigenous people – who was shot. Four others were injured, including Datu Didilusan Arroyo, a leader of the tribe<sup>36</sup>. The shots were fired by a group of about fifty men directly at the protesters without warning. On 21 April, the police confiscated eight firearms from Kiantig Development Corporation security personnel, who were unlicensed, out of

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[-gensan-wounded-in-gun-assault/?fbclid=IwAR3UG-MA7UN5sgMZnrGeECItW4\\_ct0BaPHifNXhD9nV9u3QjZWwn-XqhQU.](https://www.philstar.com/headlines/2022/03/14/2167237/chr-probe-shooting-bayan-muna-coordinator-larry-villegas)

<sup>34</sup>Philippine Star Philstar.com, “CHR to Probe into Shooting of Bayan Muna Coordinator Larry Villegas,” *Philstar.com*, (March 14, 2022) accessed July 31, 2022,

[http://www.philstar.com/headlines/2022/03/14/2167237/chr-probe-shooting-bayan-muna-coordinator-larry-villegas/amp/.](http://www.philstar.com/headlines/2022/03/14/2167237/chr-probe-shooting-bayan-muna-coordinator-larry-villegas/amp/)

<sup>35</sup>Jairo Bolledo, “5 Hurt as Shots Fired during Bukidnon Activity of De Guzman,” *Rappler*, (April 19, 2022)

[https://www.rappler.com/nation/elections/gunshots-fired-bukidnon-activity-leody-de-guzman/.](https://www.rappler.com/nation/elections/gunshots-fired-bukidnon-activity-leody-de-guzman/)

<sup>36</sup>John Victor D. Ordoñez, “Several Injured in Shooting at Bukidnon IP Protest Attended by Presidential Bet Ka Leody,” *BusinessWorld Online*, (April 19, 2022)

[https://www.bworldonline.com/the-nation/2022/04/19/443138/several-injured-in-shooting-at-bukidnon-ip-protest-attended-by-presidential-bet-ka-leody/.](https://www.bworldonline.com/the-nation/2022/04/19/443138/several-injured-in-shooting-at-bukidnon-ip-protest-attended-by-presidential-bet-ka-leody/)

uniform, and with no exemption from the gun ban for the 2022 election<sup>37</sup>.

### ***The Marcos Jr. Inauguration and post-election contests***

On the evening of election day, Marcos Jr.'s lead over main rival Robredo was clear yet unconvincing to many - triggering a prospects of post-election controversies such as massive electoral fraud on top of his pending disqualification case at the COMELEC.

What happened thereafter was unprecedented in the electoral history of the Philippines. There were no pre-proclamation nor election contests filed specifically against Marcos Jr. and his inauguration as the 17th President of the Republic of the Philippines went smoothly overshadowing his family's legal theatrics to escape liability from the 21 years dictatorial rule of his father, Ferdinand Marcos, Sr.

Article XX of the Omnibus Election Code defines pre-proclamation controversies as any question pertaining to or affecting the proceedings of the board of canvassers which may be raised by any candidate or by any registered political party or coalition of political parties before the board or directly with the Commission, or any matter raised under Sections 233, 234, 235 and 236 in relation to the preparation, transmission, receipt, custody and appreciation of the election returns. On the other hand, election contests as provided in Article XXI of the same code are those contests relating to the election, returns and qualifications of all Members of the Batasang Pambansa, elective regional, provincial and city officials.

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<sup>37</sup> Froilan Gallardo, "Cops Seize Guns of Men Believed to Be behind Attack on Ka Leody's Group," *Rappler* (April 21, 2022), <https://www.rappler.com/nation/cops-seize-guns-men-believed-behind-attack-leody-de-guzman-group/>.



In this section, we discuss relevant legal issues and disputes that closely resemble to election contests with regard to the proclamation of Marcos Jr. As a case in point, we use the COMELEC *en banc* decision dismissing four disqualification cases filed against Marcos Jr. Additionally, we refer to other election-related controversies that hounded the results of the 2022 national election although no formal pre-proclamation and elections contests were filed before the COMELEC. This section concludes with an overall assessment of the recently concluded national elections tagged as an election heavily influenced by disinformation and possibly initiatives to undermine, worse, revise not only history but our constitutional history that gave birth to the 1987 Philippine Constitution.

*The inauguration of the dictator's son - Marcos Jr. as the 17th President of the Republic of the Philippines.* It took sixteen days after May 9, 2022 for the bicameral Congress to proclaim Marcos Jr. as the president-elect and Sara Duterte as vice president-elect. With the automation of national and local polls in the Philippines, it has been held practice that the results presented in informal tallies are definitive ahead of the formal process mandated by the constitution. Thus, the term *presumptive president* has enjoyed popularity. It is only after the candidate's inauguration that he or she is officially referred to as the "president-elect"<sup>38</sup>. Malacañan's official gazette describes the transition phase as needing "logistical requirements of the transfer of power, coupled with the public's high expectations of a new chief executive create tremendous pressures on the incoming administration as far as communications and administrative and ceremonial tasks are concerned".

Garnering 21,629,783 or 58.77 (Tan 2022) of all votes in the official count of Congress, Marcos Jr. was officially proclaimed president-elect. Marcos topped the official count. After the bicameral proclamation of the

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<sup>38</sup> Official Gazette, "The Transition: GOVPH," *Official Gazette of the Republic of the Philippines* accessed July 31, 2022, <https://www.officialgazette.gov.ph/featured/the-transition/>.

presidential results, the period is called the transition from then on where the incoming president is called the president-elect.

The inauguration of the President of the Philippines is both a constitutional and ceremonial event that marks the commencement of a new six-year term of a Philippine president. Legally speaking, Article VII, Sec 3 of the 1987 Constitution provides that

“The President and the Vice-President shall be elected by direct vote of the people for a term of six years which shall begin at noon on the thirtieth day of June next following the day of the election and shall end at noon of the same date, six years thereafter”<sup>39</sup>.

Marcos, Jr. was inaugurated around noon time of June 30, 2022 at the National Museum of Fine Arts with Supreme Court Chief Justice Alexander Gesmundo administering his oath which read<sup>40</sup>;

“Ako, si Ferdinand Romualdez Marcos Jr., ay taimtim na nanunumpa na tutuparin ko nang buong katapatan at sigasig ang aking mga tungkulin bilang Pangulo ng Pilipinas, pangangalagaan at ipagtatanggol ang kanyang Konstitusyon, ipatutupad ang mga batas nito, magiging makatarungan sa bawat tao, at itatalaga ang aking sarili sa paglilingkod sa Bansa. Kasihan nawa ako ng Diyos.

*(I, Ferdinand Romualdez Marcos Jr., do solemnly swear that I will faithfully and conscientiously fulfill my duties as President of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man, and consecrate myself to the service of the Nation. So help me God).*

Tradition dictates that certain inaugural rites and protocol “accompany the physical transfer of power from the outgoing to the incoming president. The symbolisms may be generally little known or understood, but they can be

<sup>39</sup> Const., (1987) Art. VII Sec.3 (Phil)

<sup>40</sup> Ellson Quismorio, “Tradition Matters: Gesmundo to Administer Marcos's Oath, Says Rodriguez,” *Manila Bulletin*, (June 3, 2022), <https://mb.com.ph/2022/06/03/tradition-matters-gesmundo-to-administer-marcos-oath-says-rodriguez/>.

utilized to lend solemnity, a sense of democratic continuity, and a spirit of national consecration to the occasion”<sup>41</sup>. This includes departure honors in Malacañang Palace for the outgoing president and the reading of the proclamation of election results before taking the oath of office. Upon completion of the oath, a 21-gun salute is provided and the presidential honor music is played.

The new president of the Philippines then delivers his inaugural address, which traditionally consists of the following: (1) Appreciation to the nation for conferring its mandate; and a pledge and appeal for healing and unity; and (2) The administration’s call to action and programs for its first one hundred (100) days<sup>42</sup>.

Marcos Jr. in his address reiterated his promise of a unifying leadership and emphasized that he will be rejecting the politics of division. He provided a purview of what his presidency would look like by stating his economic plan which aims to address food security, the continuation of infrastructure projects and the fixing of the government’s COVID-19 response. His speech included several pieces of information which later on were fact-checked and turned out to be inaccurate including claims of building the Bangui Wind Farm under his auspices. Towards the end, he thanked the people who voted for him by vowing to do his best as President of the Republic.

*The untimely resolution of the disqualification cases of Marcos Jr.* The disqualification case pertaining to the present President of the Republic of the Philippines, Ferdinand Marcos, Jr. sprouted from consolidated petitions filed before the Commission on Election. The main issues raised in the said petitions revolve around the qualifications of Ferdinand Marcos Jr. to run for the highest position in the government. The petitioners alleged in the case that Marcos Jr. cannot run for the Presidency since he has been convicted of a violation of the provision of the National Internal Revenue

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<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

Code of 1977 on account of his failure to file income tax returns. His non-payment of income taxes carries with it perpetual disqualification to run for any public office in the government.

The case was originally lodged at the Regional Trial Court of Quezon City which found the accused Marcos Jr. guilty beyond reasonable doubt for violation of the provisions of the National Internal Revenue Code of 1977 with the penalty of fine and imprisonment. The accused appealed to the Court of Appeals which modified the decision acquitting Marcos Jr. of said charges and instead ordered him to pay his deficiency income taxes with corresponding interests. This was then resolved by the Supreme Court through an Entry of Judgment rendering the decision of the Court of Appeals final and executory.

On the issue of whether or not Marcos Jr. is perpetually disqualified from running for public office, the First Division of the Commission on Election ruled that he is not disqualified based on the premise that failure to file income tax returns was not provided for under the original 1977 NIRC and that the provision on perpetual disqualification was only applicable to unlawful possession or removal of articles subject to specific tax without payment of tax. The Commission was of the opinion that the penalty of perpetual disqualification only came into effect in 1986 after the crime has been committed, ergo, non-filing of income tax returns is not inherently wrong in the absence of a law punishing it<sup>43</sup>.

The Commission on Election *en banc* in an appeal released its ruling in a unanimous decision finding Marcos Jr. not disqualified from running into public office by reason of his failure to file income tax returns from 1982 to 1985. The decision was released a day after the May 9, 2022 elections which seemed untimely. The Commissioners posited that the

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<sup>43</sup> Ilagan et. Al v. Marcos Jr., Akbayan Party et al v. Marcos Jr., Mangalen v. Marcos Jr., SPA No. 21-212 (DC); SPA No. 21-232 (DC); SPA No. 21-233 (DC) COMELEC First Division, separate dissenting opinion of Comm. Rowena V. Guanzon.

reason why the decision was only released a day after the elections is that they cannot promulgate cases on weekdays and holidays<sup>44</sup>.

“[It just wasn’t promulgated] because the following day was a Saturday and then today’s a Sunday, and tomorrow is a special non-working holiday.” “We cannot promulgate, but you can [be] rest assured that by Tuesday, the first working day of next week, we will promulgate yung apat (*the four*) na disqualification cases,” - Chairman Saidamen Pangarungan<sup>45</sup>

Thereafter, the Supreme Court *en banc* in its session last June 28, 2022 also dismissed the disqualification case against Marcos Jr. and affirmed the decision of the Commission on Elections *en banc*. The Court held that in the exercise of its power to decide the present controversy led them to no other conclusion but that respondent Marcos Jr. is qualified to run for and be elected to public office. Likewise, his COC, being valid and in accord with the pertinent law, was rightfully upheld by the COMELEC. The Supreme Court is yet to publish the full text of its decision as of this writing<sup>46</sup>.

Had the disqualification case prospered, there would have been varying legal consequences depending on the grounds for the disqualification. In the case of *Maquiling v. COMELEC 2013*, the votes cast in favor of the ineligible candidate are not considered at all; victory is voided and the

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<sup>44</sup> Philippine Star Person, “COMELEC En Banc Junks Last of Marcos Disqualification, Cancellation Cases,” *Philstar.com* (May 10, 2022), <https://www.philstar.com/headlines/2022/05/10/2180088/COMELEC-en-banc-junks-last-marcos-disqualification-cancellation-cases>.

<sup>45</sup> Philippine Star, “COMELEC Says Decision on 4 DQ Cases vs Marcos out by Tuesday,” *Philstar.com*, (May 9, 2022), <https://www.philstar.com/headlines/2022/05/08/2179634/COMELEC-says-decision-4-dq-cases-vs-marcos-out-tuesday>.

<sup>46</sup>Kristine Joy Patag, “SC Junks Pleas vs Marcos Jr. Candidacy, Clears Path to Inauguration,” *Philstar.com* (June 28, 2022), <https://www.philstar.com/headlines/2022/06/28/2191478/sc-junks-pleas-vs-marcos-jr-candidacy-clears-path-inauguration>.  
<https://sc.judiciary.gov.ph/28242/>

candidate having the next highest vote who does not possess any of the disqualifications shall be the winner of an election<sup>47</sup>. In the case of *Ejercito v. COMELEC 2014*, when a COMELEC offense is involved, the elected official is disqualified from holding an office. Hence, in case of a permanent vacancy in the position of President, then the Vice President will succeed<sup>48</sup>.

### ***The Rule of Law under the Presidency of Marcos Jr.***

While there are many questions regarding the legitimacy of the recently-concluded May 2022 elections, most especially the presidency of Ferdinand Marcos Jr., it is already moot and academic to wage a legal battle against it as the Supreme Court has decided that the elections were just and valid. Nevertheless, we shall be forward-thinkers and hope that this administration will perform for the next six years. More so, we must be vigilant in protecting our rights, especially our human rights. We must oppose any act that threatens our civil and political rights as elections are not the end to what we can collectively achieve as a nation, but a new beginning for nation and citizenship building.

We should all remind ourselves that no one is above the law, not even the President himself. Every Filipino should be a law-abiding citizen even when it comes to adhering to simple rules in our daily lives. The law maintains peace and justice and keeps us away from chaos and futility. Let us all be game-changers in our society by fighting for our causes and advocacies. Let us not succumb to evil intentions and peacefully combat those who are trying to undermine the rule of law. ■

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<sup>47</sup> *Maquiling v. COMELEC et al* G.R. No. 195649 (April 16, 2013) (Phil).

<sup>48</sup> *Ejercito v. COMELEC et al.*, G.R. No. 212398 (November 25, 2014) (Phil)

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