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The Australian Embassy - The Asia Foundation Partnership in the Philippines

COALITIONS for **CHANGE**

CFC REFORM STORY NO.7



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REVAMPING PHILIPPINE ELECTION SERVICE



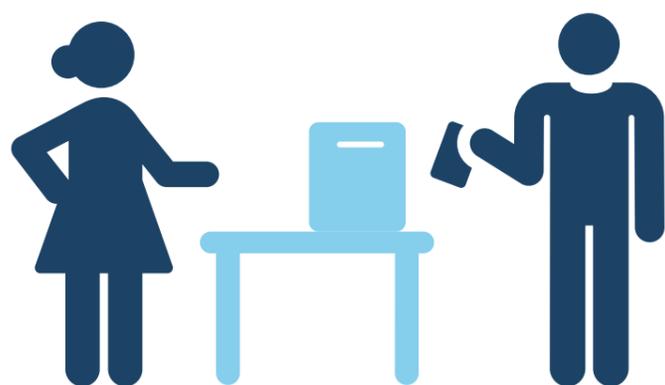


CfC is a centerpiece program of the partnership between the Australian Embassy and The Asia Foundation in the Philippines. CfC encourages civil society, private sector, academe, and government to work together and bring about public policies that contribute to improving the lives of Filipinos and promoting their economic well-being.

CfC focuses on development concerns that are consistent with the Philippine government's agenda: promoting economic growth, reducing vulnerabilities, improving education outcomes, and advocating for effective governance.

In April 2016, the Election Service Reform Act (ESRA) was signed into law by then President Benigno Aquino III. Among its principal goals was a provision allowing public school teachers to opt out of the previously mandatory election service while simultaneously creating the opportunity for ordinary citizens to serve in elections. This brief traces the efforts of the many leaders and organizations who contributed to this major reform.

Four years ago, the Australian Embassy in Manila and The Asia Foundation, through its Coalitions for Change (CfC) program, supported the Legal Network for Truthful Elections (LENTE)¹ to begin an initiative that helped pave way for the passage of the ESRA.



ESTABLISHING THE EVIDENCE BASE

The Electoral Reforms Law of 1987 mandates Philippine public school teachers to serve as Board of Election Inspectors (BEI)². While the law provided a capable and available workforce, it unintentionally created incentives for politicians to influence the hiring, promotion, and placements of teachers. Some officials, for example, would leverage local education fund to choose the BEIs serving in their areas.

Consultations with stakeholders including officials from the Department of Education (DepEd), then Australian Aid managers, education experts, and civil society organizations in 2013 confirmed political interference in DepEd's teaching staff.

LENTE with support from CfC, then embarked on a pilot research project called Project Teacher to better understand the practices of election staff appointment and test the hypothesis that ordinary citizens (non-public school teachers) could serve effectively as election staff.

COMELEC endorsed and supported Project Teacher during the *barangay* elections of October 28, 2013 where ordinary citizens (non-public school teachers) were deployed

to serve as election staff in 20 polling places nationwide.

The pilot project found out that: 1) non-public school teachers were as effective in serving as election staff, and 2) that there was already a widespread, albeit irregular practice of appointing non-public school teachers for election duties.

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In some cases, the appointees were relatives and employees of local government officials, which raised serious questions about the impartiality of election staff and the credibility of election in the areas studied.

¹LENTE is a nationwide non-partisan network of lawyers, law students, paralegals, and other trained volunteers engaged in electoral, legal, and policy reform.

²The Board of Election Inspectors (BEI) oversees the act of voting and its counting in their respective polling places. BEIs act as deputies of the COMELEC in the supervision and control of assigned election polling places.



Reports of media and human rights organizations also confirm the vulnerability of public school teachers to political pressures

- In 1995, teacher Filomena Tatlonghari died of a gunshot wound while protecting ballot boxes, while in 2007, teacher Nellie Banaag was killed when men set her polling precinct on fire.³
- Lawsuits, usually filed by losing candidates, have been persistently used to intimidate BEI teachers. The International Foundation for Electoral Systems reported in 2014 that pending legal cases filed against teachers went as far back as the 1998 elections.⁴ Fear of lawsuits and their limited capacity to hire a lawyer, induce most public school teachers to just overlook irregularities.
- A 2014 report⁵ on education personnel in conflict-affected countries said that while “Attacks [to education personnel] have occurred throughout the country and calendar year”, violence have increased as elections drew near.
- Former DepEd Secretary Bro. Armin Luistro once said “...we [at DepEd] appeal to our candidates for local and national positions to keep our teachers free from pressure and partisan interference. Our teachers have election duties that we need to keep beyond reproach.”⁶

BUILDING SUPPORT

LENTE focused on amending the Electoral Reforms Law of 1987 to address the concerns uncovered in the pilot project. The amendments intended to open election service to non-teachers and introduce objective criteria for selecting ordinary citizens as election staff.

LENTE consolidated⁷ the various bills on electoral reform filed in Congress by then House Representatives Antonio Tinio, Erlinda Santiago, Eric Olivarez, and Maria Leonor Gerona-Robredo⁸ to push ESRA through the House Committee on Suffrage and Electoral Reforms.

LENTE also began to hold forums and workshops to inform various organizations of the proposed reform. Over time, the reform became part of an informal coalition across election-related constituents, including the DepEd, COMELEC, members of the House of Representative’s Committee on Suffrage and Electoral Reforms, National Citizens’ Movement for Free Elections (NAMFREL), Parish Pastoral Council for Responsible Voting (PPCRV), Philippine Business for Education (PBE), Alliance of Concerned Teachers (ACT), Teachers’ Dignity Coalition (TDC), and other organizations.

The alliance with TDC and ACT, two prominent education coalitions in the country, later proved to be fortuitous in shaping ESRA.

The issue of commensurate financial benefits for serving during the elections emerged in the course of its coalition-building efforts. ACT, led by Representative Antonio Tinio, had been advocating a bill that will improve election staff benefits. However, the said bill had financial



LENTE and coalition members huddle at one of Congress’ plenary for ESRA.

implications and needed to obtain the approval of the House Committee on Appropriations.

The team recognized that inclusion of financial benefits was critical to keeping the teacher associations – a broad and influential group – involved in the informal coalition. LENTE worked with allies within the Department of Budget and Management (DBM) and the House Committee on Appropriations to incorporate ACT’s proposal on teacher benefits in the draft ESRA bill.

A significant part of 2014 was spent threshing out the bill’s funding provisions.

Finally, in January 2015, the House Committee on Suffrage and Electoral Reforms issued a Committee Report in January 2015, ready to move on to the second reading.

LENTE and the coalition partners, however, hit a stumbling block when the House Majority Floor Leader, Neptali Gonzales Jr., did not schedule the bill for second reading. It was not outright opposition, but a matter of prioritization of the bills for discussion within the House.

³ Conde, C.H. June 2007. Teachers bear the brunt of election violence in the Philippines. The New York Times. <http://www.nytimes.com/2007/06/07/world/asia/07iht-phils.1.6035854.html>

⁴ International Foundation for Electoral Systems. 2004. Philippines Election Observational Program Strengthening the Electoral Process.

⁵ Global Coalition to Protect Education from Attack (GCPEA). 2014. Protecting Education Personnel from Targeted Attack in Conflict-Affected Countries. Pg 36.

⁶ Alcober, N. October 21, 2015. DepEd chief to teachers: Avoid partisan politics. The Manila Times, Inside News. <http://www.manilatimes.net/dep-ed-chief-to-teachers-avoid-partisan-politics/225009/>

⁷ Consolidation of similar bills was necessary for the amendments to be considered for discussions by the relevant legislative committee.

⁸ ACT Teachers party-list Representative Antonio Tinio filed House Bill (HB) 444, 1-SAGIP party-list Rep. Erlinda Santiago filed HB 3205, Rep. Eric Olivarez from the 1st District, Parañaque City filed HB 3255, and Rep. Maria Leonor Gerona-Robredo from the 3rd District, Camarines Sur filed HB 3514.

HURDLING LEGISLATION

“Missing this window meant starting again and going through the entire process in the next Congress, and this time under a new administration.”

LENTE exerted all efforts to convince Rep. Gonzales to prioritize the bill. LENTE turned to the Teachers’ Dignity Coalition (TDC), a nationwide organization promoting the welfare of education personnel and a vocal ESRA coalition partner, to mobilize the local Public School Teachers Association in Rep. Gonzales’ Congressional district. Teachers’ personal appeals to Rep. Gonzales helped convince him to calendar the ESRA bill. By September 2015, ESRA was passed on the second reading and then passed on the third and final reading just a month after.

The reform moved to the Senate following the passage of the bill in the House. LENTE collaborated with various Senators, including Bam Aquino, Loren Legarda, and the late Miriam Defensor-Santiago.⁹ After a series of hearings, Sen. Koko Pimentel, Chair of the Senate Committee on Electoral Reforms and People’s Participation, issued the Committee report (first reading) in November 2015.

However, time was running out with Congress going to recess by February 15, 2016 and resuming only after the May 2016 national elections. With only nine session

days remaining in the legislative calendar, two critical steps needed to happen: 1) get the Senate to pass the bill on second and third reading, and 2) convene a bicameral conference committee to reconcile the House and Senate versions. Missing this window meant starting again and going through the entire process in the next Congress, and this time under a new administration.

LENTE worked with its coalition and key individual allies to secure Senate approval. With Senator Pimentel’s leadership, ESRA passed the second reading on January 20, 2016 and on third reading just a few days later.

The Senate’s ESRA version differed from the House’s version since it specified a crucial provision on election staff honoraria and allowances and its mandatory review every three years. This would normally be settled in a bicameral conference, which was seemingly impossible due to the adjournment of Congress and the preparations for the May 2016 national elections.

LENTE, however, pursued discussions with House and Senate leaders and reform champions. This resulted to a consensus of adopting the Senate version, making the bicameral conference committee meeting no longer necessary.

President Benigno Aquino III finally signed the Election Service Reform Act on April 8, 2016, which was a remarkable feat as it had to compete with other high-profile priority bills being rushed at the end of the Congressional session, such as the

Bangsamoro Basic Law and the Freedom of Information.

The new law has been well-received. Then PPCRV¹⁰ National Chairperson, Henrietta de Villa, announced that their volunteers are ready to serve as BEIs, even in election hotspots or areas where election-related violence is highly likely.

CfC and LENTE again worked with COMELEC to draft implementing rules to ensure ESRA could be effectively implemented. The process involved nationwide consultations with DepEd Schools Division Superintendents and Election Officers in election hotspots and vote-rich areas. The results were presented to COMELEC’s Commissioner Luie Guia and the Election and Barangay Affairs Department, as well as teachers groups, and DepEd representatives. After further consultations and refinements, ESRA’s draft implementing rules were submitted to the COMELEC on May 25, 2017.

Four months later, on September 5, 2017, COMELEC issued Resolution No. 10194, the *Implementing Rules and Regulations (IRR) of Republic Act No. 10756, otherwise known as the Election Service Reform Act*. Aside from reinforcing ESRA’s provisions, the IRR allows ordinary citizens to serve in cities or municipalities where they are registered to vote. The IRR also includes a gender provision that protects women BEIs, requiring their assignment to consider threats to security and to ensure they are not exposed to physical, sexual, or psychological harm.

⁹ Several versions of the bill were filed in the Senate. Senators Aquino, Santiago, and Legarda filed Senate Bills, 2178, 2443, and 2516, respectively in 2014.

¹⁰ The COMELEC-accredited citizen’s arm for the May 2016 national and local elections



HOUSE

2013 TO 2014

JANUARY 25, 2015

SEPTEMBER 16, 2015

OCTOBER 9, 2015

APRIL 8, 2016



BILLS FILED AND COMMITTEE HEARINGS



FIRST READING



SECOND READING



THIRD READING



PRESIDENT SIGNS ESRA

2013 TO 2014

NOVEMBER 26, 2015

JANUARY 20, 2016

JANUARY 25, 2016

APRIL 8, 2016

SENATE

PROMISING CONTRIBUTIONS

CfC's initial goal for ESRA was to reduce the incentives for political interference in teacher hiring and promotions. While it will likely take several elections before ESRA achieves this goal, the law paves the way for important social outcomes. ESRA allows for:



Public school teachers to opt out of election service. Shielding teachers from political pressures and safeguarding their personal welfare.



Ordinary citizens (non-public school teachers) to serve as election staff. ESRA set a selection criteria that will hinder the enlistment of partisan local government employees and grant election service to the following, in order of preference:

- i. Private school teachers
- ii. National government employees
- iii. DepEd non-teaching personnel
- iv. Other national government officials and employees holding regular or permanent positions
- v. Members of the COMELEC-accredited citizens' arms, or civil society organizations/ non-government organizations
- vi. Any registered voter of the city or municipality of known integrity and competence, with no connection to any candidate or political party



Tangible improvements in teacher welfare. ESRA doubles the honoraria of the chairman of the BEIs from Php 3,000 (AUD 77) to Php 6,000 (AUD 155). Honoraria for Board members shall also increase from Php 3,000 (AUD 77) to Php 5,000 (AUD 128) and increasing the DepEd Supervisor's from Php 3,000 (AUD 77) to Php 4,000 (AUD 103).

Another major benefit is the establishment of a legal indemnification package for BEI members.

FIGURE 1. ESRA LEGISLATIVE TIMELINE



LESSONS LEARNED

The four-year reform effort on ESRA yielded a number of important insights on developing policies in the Philippines:

First, the ESRA experience proved that pilot projects may lead to the identification of potential solutions. LENTE’s pilot research found that ordinary citizens in fact, already share election duties with public school teachers. What is needed then, is a clear selection mechanism that will limit political interventions.

Second, there is significant value in cultivating a broad support base and in working with key gatekeepers – even the opposition. ESRA’s passage actually hinged on select and key

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gatekeepers: the House Committee Chair, the COMELEC Board, and the House Majority Floor Leader. These gatekeepers wield enough political influence to secure approval from the rest of the decision-makers.

With this in mind, LENTE included election-related benefits to the draft ESRA bill. The move won the support of teachers’ groups, made the issue noticeable to Congress, and advanced the bill in spite of its initial lukewarm reception. LENTE also worked through COMELEC’s reservations on the

reform through several years of negotiation, coordination, and bill revisions. COMELEC even trusted LENTE to represent their interests in discussions with other actors in the legislative branch and the civil society.

Third, there are unrelated and unanticipated events that any coalition just have to deal with, whether it works for or against their reform. What is critical is the ability to assess and timely respond to surprises and being committed to the goal.

ESRA was delayed by a host of unrelated events. The most prominent was the failed effort of the Aquino administration to capture a wanted Malaysian terrorist that led to the death of 44 Special Action Forces in Southern Philippines. The incident infamously known as the “Mamasapano massacre” led some legislators to ‘boycott’ the legislative deliberations to establish a new autonomous political entity known as the Bangsamoro Autonomous Region. While the lack of quorum stalled most bills, the creativity and commitment of the LENTE team and their Congress allies eventually identified a way to pass the bill within a very tight timeframe.

Elections are entwined with the concept of democracy: providing the means to give as well as check political power. With ESRA and its implementing rules, CfC helped pave the way towards fairer, cleaner, safer, and more participatory Philippine elections.



For More Information

Development Section (Governance)

The Australian Embassy – The Philippines

Tel: +63 (2) 757 8100

Email: manilagovernance@dfat.gov.au

Website: www.philippines.embassy.gov.au

The Asia Foundation - Philippines

Tel: +63 (2) 722 9999

Email: country.philippines.pmt@asiafoundation.org

Website: www.asiafoundation.org