

차례

환영사	-----	129
일정	-----	130
참가자 명단	-----	131
안프렐 (요약본)	-----	132
필리핀 시민사회의 선거감시 (요약본 포함)	-----	134
한국	-----	141
일본 (요약본)	-----	144
스리랑카 (발췌번역)	-----	145
네팔	-----	149
태국 (발췌번역)	-----	156
한국시민사회의 선거참여	-----	170
일본 (요약본 포함)	-----	179
필리핀	-----	200

안녕하십니까,

참여연대, 안프렐(Asian Network for Free Elections)과 포럼-아시아(Forum-Asia)가 주최하는 국제 워크숍 “선거와 민주주의, 시민운동의 역할”에 오신 참가자들과 여러분들을 환영합니다.

새 천년 들어서면서 아시아 민주주의와 거버넌스는 새로운 국면에 접어들고 이에 따라 시민사회는 새로운 도전에 맞서 잘 대처하고 있습니다. 선거는 민주주의와 거버넌스에 시민이 참여할 수 있는 가장 중요한 수단 중 하나입니다. 비록 우리 아시아인들이 서로 다른 경험과 민주화 과정에 있어 각기 다른 단계에 있지만, 동료 아시아인들과 함께 우리의 활동과 비전을 이번 워크숍에서 서로 나눔으로써 우리는 더 나은 미래를 위해 각자가 속한 사회에 더욱 열의를 갖고 참여할 수 있을 것입니다. 더 나아가 이런 모임은, 우리들의 고투를 더욱 깊이 이해하고 아시아인 동료들간의 연대감을 깊게 하는 기회를 제공합니다.

이 지면을 통해 이번 워크숍을 가능하게 한 후원과 그 밖에 여러 종류 도움에 고마움을 표하고 싶습니다. 그 중 몇몇만 언급하자면, 프리드리히 에버트 재단과 시민의 신문입니다. 장소를 위해 많이 도와주신 성공회대 인권평화센터에도 고맙습니다.

우리 외국 참여자들을 다시 한번 환영하며, 서울에서 성공적이고 유익한 모임이 되기를 바랍니다.

참여연대 공동대표
박상중

일정

9월 1일 일	18:00	환영 리셉션 (참여연대 박상증 공동대표 초청 만찬)
9월 2일 월	9:30	개회식
	10:00	I 부 "부정선거 감시운동, 권력과 돈으로부터 민주주의를 구하라" - 아시아 각국의 사례를 통해 공정한 선거를 확보하기 위한 시민운동의 역할을 모색
	14:00	II 부 "선거참여, 시민운동의 새로운 도전" - 한국의 낙선운동, 일본의 무소속운동 등 선거에 직접 개입하여 민주주의 확장을 추구하는 각국 시민운동의 새로운 도전
	18:00	한국 활동가들과 저녁 식사
9월 3일 화	10:00	III부 Round Table Discussion "연대와 비전"
	12:30	폐회
	16:00	국회 견학
	18:00	민주노동당 방문
9월 4일 수	10:00	중앙선거관리위원회 방문
	14:00	참여연대 방문

참가자

나라이름	발제자	소속단체
태국	Sakool Zuesongdham	Open Forum for Democracy Foundation
필리핀	Damaso Magbual	National Citizens Movement for Free Elections
네팔	Subodh Pyakurel	Informal Sector Service Centre
스리랑카	Kingsley Rodrigo	People's Action for Free and Fair Elections
일본	Shuji Imamoto	Political Forum on the Internet
한국	김기현	한국 YMCA 전국연맹 정책기획 부장
	김기식	참여연대 사무처장
	최방식	시민의 신문 편집국장 (2부 토론자)
	이태호	참여연대 정책실장 (3부 토론자)

안프렐의 활동

Damaso Magbual, Philippines

배경

아시아 포럼(FORUM-ASIA)은 선거감시를 전담할 수 있는 지역 네트워크가 필요함을 알게되었다. 1997년 11월 방콕에서 6개국 30명의 대표로 구성된 자문회의가 열렸다. 이 자문회의에서 실행위원회가 구성되었고 사무국이 태국 방콕에 세워졌다.

안프렐의 목적

안프렐은 다음 사항을 통하여 아시아 지역에 민주화를 향한 주도권을 지지하기위해서 조직되었다.

1. 선거감시 - 선거의 모든 과정
2. 선거감시 훈련
3. 훈련자료(매뉴얼) 개발
4. 연구 - 지역의 다른 선거법들을 비교연구 등
5. 필요한 선거개혁을 위한 옹호/주창
6. 자유롭고 공정한 선거를 모색하기 위해 회원단체들의 경험 공유

활동

A. 선거감시 - 여러 나라에서 국제선거감시단의 존재는 선거 과정의 통전성, 신뢰성과 투명성을 높인다. 안프렐은 두 종류의 감시단을 파견한다.

1. 장기 감시단 - 선거에 대한 보다 정확한 판단을 위해 선거 과정의 처음부터 끝까지 감시한다. 보통 두 달정도 한 장소에 머물고, 보다 심각한 지역으로 흩어진다.

2. 단기 감시단 – 투표와 개표를 감시한다. 국제 감시단이 왔다갔다하면 선거당일 부정행위, 폭력과 협박에 커다란 제지 역할을 한다는 것은 특기할 만하다.

B. 세미나와 워크숍 – 선거감시단체는 상대적으로 이 지역에 새로운 편이다. 그런 이유로 세미나나 워크숍은 배우고 공유하는 경험을 제공한다. 이전에 개최된 세미나와 워크숍은 다음과 같다:

1. 지역의 선거법 비교연구
2. 선거감시에서 기자의 역할 – 매체의 공정성 강조
3. 깨끗한 선거의 필수적인 결과로서의 바람직한 공치(Governance)
4. 바람직한 공치에 관한 지도자 훈련 – 회원단체들이 각자의 나라에서 세미나 내용을 공명시킬 수 있도록 함.
5. “깨끗한 정치”를 가져 올 정치개혁
6. 특별히 캄보디아나 인도네시아처럼 최근에서야 민주주의적 선거를 할 수 있게 된 새로운 민주주의들을 위한 선거개혁
7. 선거감시단을 꾸릴 수 있게 하는 훈련

재정

안프렐은 프로그램과 활동을 위해 재정후원자에게 의존해왔다. 이런 재정후원들의 대부분은 사업마다 받는 것이어서 사무행정 지원은 아시아포럼으로부터 받는다. 재정마련은 점점더 적극적으로 계획된 일년 단위 활동을 추구하게 하는 사업조직의 가장 큰 취약점이다.

결론

안프렐은 이제 겨우 5년째이지만 그 존재가 지역에서 강하게 느껴지며, 자유롭고 공정한 선거를 통해 지역에 보다 더 민주적인 정세를 가져오려는 노력은 그 온당한 업적으로 충분히 인정받고 있다.

투표권의 보호: NAMFREL의 경험

Damaso Magbual, Philippines

들어가는 말

“자유선거를 위한 전국시민운동(NAMFREL)”은 필리핀이 독재자 마르코스의 전제정치 하에 있을 때 시작되었다. 당시 마르코스는 군대, 경찰과 같은 모든 정부 기구를 통제했으며 입법부는 그의 시녀였고 사법부는 부패되었고 언론은 허수아비에 불과했었습니다. 국가선거관리위원회(COMELEC)의 공무원 모두는 마르코스가 지정했고 그의 효과적인 통제 하에 놓여있었다. 사람들은 변화를 가져올 수 있는 수단으로서 선거에 대한 신뢰를 잃기 시작했다. 이런 상황에서 NAMFREL은 선거 절차에 대한 사람들의 신뢰를 되돌리기 위해 형성되었다.

NAMFREL은 1983년 11월 자유롭고 공정한 선거를 통해 민주주의를 수호하려던 시민 운동에서 유래되었다. 1984년 바타산(Batasan) 총선에서는 20만 명, 1986년 스냅(snap) 대선에서는 50만 명의 자원활동가가 현장에 있었다. 당시 정확하고 신속하게 선거결과를 알리기 위해 선진적인 즉석 개표 작전(동시 표기)이 실행되었다. 그 이후 모든 국가적, 지역적 선거에 투표 감시자로, 투표자 교육자로, 선거활동 보고자로 일하는 NAMFREL 자원활동가들이 현장에 있었다. 몇 년 동안이나 선거절차 향상을 위한 법률의 제정이 주창되고 강조되었다. 마찬가지로 올바른 통치과정을 일으키기 위해 당선된 정부 관리들의 수행 실적을 모니터했다. 최근에는 2004년까지 선거절차의 근대화와 컴퓨터화를 위하여 일하고 있다. 무엇보다도 NAMFREL 자원활동가들은 선거 활동 감시에 관한 경험을 전 세계 25개 이상의 나라들과 활발하게 공유하고 있다.

● 활동

A. 선거 전 활동

a. 선거법의 검사 - NAMFREL은 다음과 같은 선거법의 개정과 개혁을 위한 제안으로 시작되었다.

- 1) 중복등록선거자(flying voters) 명부 교정을 위한 새로운 등록제도
- 2) 투표용지의 프린트 과정 보호
- 3) 지워지지 않는 잉크의 사용
- 4) 후보자의 동등한 여론활동
- 5) 자유 집회와 연설을 빼앗는 마르코스의 명령의 금지와 폐지
- 6) 활동영역을 균등하게 하기위한 몇 가지 선거 안전장치

b. 투표자 등록 - 말고 정직한 투표는 깨끗한 투표자 명부에서 시작된다. 투표자 등록 기간동안 NAMFREL은 적절한 투표자를 가려내고 부적당한 투표자가 등록하지 못하도록 각 선거구에 자원활동가를 배치하였다. 중복 등록자 명부를 교정하기 위한 무작위 가정방문도 이루어졌다. "포함과 제외 처분"은 선거권이 박탈된 투표자를 포함시키고 부적당한 투표자를 제외시키기 위한 법정 활동이다.

c. 투표자 교육 - 투표자 교육은 특히 새로운 민주주의에서 의미 있는 선거를 위한 기본 요소다. 이는 마르코스 시절 NAMFREL에 의해 처음으로 모니터된 선거에서 증명되었다. 당시 많은 수의 시민이 보이코트 운동에 속해 있었다. 그들은 마르코스 통치 아래 선거가 한번도 공정한 적이 없었으며 따라서 선거에 참여하는 것 자체가 오히려 그의 통치를 합리화시켜주는 것이라 믿었다. 그러나 NAMFREL은 선거자의 참여는 그들이 가진 정보의 수준에 조건지어 진다고 믿었다.

투표자가 정보를 알 수 있는 수단은 다양하다. NAMFREL은 후보자가 포럼과 논쟁의 기회를 가질 수 있도록 지원하였으며 투표자 교육 세트를 제작하였으며 지방 투표자를 위해 지방 방언으로 쓰여진 만화 팜플렛, 포스터 광고지 등을 출판하여 선거의 중요성, 선거의 권한과 의무 그리고 선거권을 침해당할 경우 대처요령 등을 설명하였다. NAMFREL은 라디오와 TV

에서 중요한 시간 구성인 "국가선거관리위원회 시간"을 광범위하게 활용한다.

d. 캠페인 모니터 - 후보자가 투표자의 지지를 위해 캠페인을 벌일 경우 각 정당은 긴장하게 됩니다. 이 경우 폭력과 위협이 일어날 수도 있다. 긴장을 완화하기 위해 NAMFREL은

- 1) 후보자가 그들의 캠페인을 법과 정직한 관습에 스스로 의무 지우도록 하는 계약에 서명할 것을 요구한다.

- 2) 선거관련 국가기관의 장(長)들이 캠페인과 관련된 문제들을 논의할 것을 요구한다. 이는 선거 공무원, 군인, 정치 정당, 학교 권력(선생님들은 투표활동과 개표과정을 관리한다.) 그리고 언론의 대표들을 포함한다.

- 3) 선거관련 폭력과 위협 그리고 법률 위반 등의 사건을 담은 보고서를 준비한다. 우리는 관련 정부기관이 이에 적절한 행동을 취할 수 있도록 사건들을 조사하고 보고한다.

e. 자원활동가의 모집과 훈련 - NAMFREL에서는 각 선거구 당 최소한 3명의 자원활동가가 필요하다. 지역에 기반을 둔 단체로써 우리는 각계각층의 자원활동가들을 끌어모은다. 즉석 개표 작전을 위한 컴퓨터 기술자, 대변인실을 위한 훈련자, 조직가로서 시민지도자, 자금확보자로써 사업가 등 전문성이 필요한 분야를 고려한다.

우리는 모든 지원자에게 일반적 오리엔테이션을 제공한다. 이후 투표소 감시자, 개표 담당자, 투표자 교육, 후보자 회의와 토론회 개최, 여타의 모니터 활동의 지원 등 세부적인 기능과 역할에 따라 특별 훈련이 주어진다. 마찬가지로 다양한 훈련 프로그램을 강화하기 위해 훈련 매뉴얼을 발전시킨다. 이 매뉴얼은 자원활동가의 의무와 역할 그리고 책임분야를 밝히고 있다.

B. 선거당일 활동

a. 투표소감시 - 이에는 두 가지 목표가 있다. 첫번째는 투표절차가 공정하고 자유로운가를 감시하는 것이다. 두번째는 개표가 정확하고 올바른지 확인하는 것이다. 이를 위해서는 막대한 인적 물적 자원이 필요하다. 이런 활동은 가장 피로한 활동이 될 수도 있다. 1986년 NAMFREL은 전국에 걸쳐 8만 6천 선거구에 30만 명의 투표소 감시자를 배치하였다. 우리의 투표소 감시자 모두는 선거법과 투표 절차 모두에 잘 훈련되어 있었다. 따라서 그들은 그들이 찾아야 할 것이 무엇인가를 잘 알고 있었다. 예를 들어 아래의 조항은 그들이 발견한 가장 공통적인 위반사항이다.

- 1) 투표장에서 캠페인 활동
- 2) 투표인 명부에 이름이 없는 사람의 투표 행위
- 3) 중복 등록자(flying voters)
- 4) 투표자를 위협하는 행위
- 5) 투표서 안에서 권력자의 등장 등

쉽고 간편한 도움을 위해 각 투표서 감시자는 "투표소 감시 매뉴얼"을 제공받는다.

b. 개표활동 감시 - 우리나라에서 개표작업은 선거구에서 이루어진다. 따라서 투표소 감시자는 각 선거구에서 개표가 완료될 때까지 남아있어야 한다. 어떤 경우에는 국가선거관리위원회 산하 개표 센터에서 개표가 이루어지기도 한다. 이러한 경우에 우리 자원활동가들은 중간에 투표함이 뒤바뀌는 것을 막기 위해 투표함과 함께 동행해야 한다.

개표가 완료되었을 때 자원활동가는 공식적인 선거 결과 공문을 안전하게 보호한다.(법에 따라 우리에게 공문 한 부가 주어진다.) 이것은 즉석 개표 작전을 위해 쓰인다.

c. 즉석 개표 작전 - 필리핀에서 개표는 장시간이 요하는 지루한 과정인 반면 사람들은 선거 결과에 대한 정보를 매우 알고 싶어한다. 이것이 근거

없는 뜬소문들이 퍼지는 이유다. 따라서 정확하고 믿을만한 선거 보고를 제때에 제공하기 위해 NAMFREL은 즉석 개표 작전 (동시표기)를 실시하고 있다.

1986년 대선 NAMFREL 은 8만 6천 선거구의 80%의 결과를 모았고 마닐라에 있는 국가 제표 센타에 공표 되었다. 선거 당일 오후부터 개표가 시작한지 몇 시간 후부터 정기적 보고가 공표되었다. 필리핀 민중은 코라손 아키노가 우세함을 보여주는 NAMFREL의 결과를 받아들였다. 마르코스는 국가선거위원회의 공식적 결과에 반대했고 마르코스가 승자임을 선언하였다.

C. 선거후 활동

선거후 모니터링 그룹은 여러 목적을 위한 기능을 수행한다. "선거속의 공정, 정부속의 공정"란 임무 수행을 지키기 위해 NAMFREL은 다음과 같이 정부의 공정과 책임성을 증진시키는 프로그램을 추구한다.

- a) 당선자의 수행실적 모니터 - **국회감시**는 어떤 법안을 지원하는가, 특정 이슈에 어떻게 지지하는가, 출석률은 어떠한가 등 당선된 국회의원의 수행실적을 모니터한다. 월간 보고서가 국회의원과 선거구민 사이에 대화와 포럼이 운영될 때 자료로 제공된다.
- b) 선택된 정부 정책과 프로그램의 모니터 - 북 필리핀 주 현장은 UNDP의 올바른 공치를 증진시키기 위한 그들의 역할과 부정부패를 말소하기 위한 정부차원의 프로젝트를 실행하기 위한 정부의 역할이 담겨있다.
- c) 선거과정 근대화 등 선거개혁을 위한 지속적인 주창활동

결론

NAMFREL은 이제 20세기를 맞이한다. 우리나라의 건강한 민주주의를 유지하기 위해 아직도 해야 할 일들이 너무 많다. 따라서 우리는 의미 있는 변화를 위해서는 지름길이 없다고 스스로 일깨우고 있다. 민주주의란 오직 신의 있고 끈질기며 이타적인 시민들의 활동에 의해 유지될 수 있다.

NAMFREL 경험 (요약본)

Damaso Magbual, 필리핀

서론

1. NAMFREL 형성 시기의 정치적 환경
2. NAMFREL 조직 동기와 방법

활동 내용

1. 선거전 활동
 - a. 선거법의 재검토 - 동등한 기회를 제공하기 위해 선거개혁을 아리고 “활동 영역의 균일화”
 - b. 새로운 선거인 등록 - 다중등록되어있는 선거인들을 정리. 깨끗한 선거는 깨끗한 선거인 명부로부터 출발
 - c. 유권자 교육 - 선거 참여를 격려하고 충분한 지식으로 결정을 내릴 수 있게 도움
 - d. 캠페인 감시 - 정치적 라이벌의 긴장을 완화; 대중매체의 공정성을 보증; 폭력 사건 발생시 조사하고 증거를 입증한 뒤 당국에 보고
 - e. 인력동원과 자원활동가 교육 - 자원활동가의 전문적 지식이 충분한지, 감시 직무를 잘 수행하기 위한 조직이 필요한지 고려
2. 선거 당일 활동
 - a. 투표소 감시 - 투표의 과정이 자주적이고 올바른지 확인. 또한, 개표가 정확하고 정직한지 확인
 - b. 개표 감시 - 유권자가 투표한대로 득표가 합계되었는지의 여부
 - c. 즉석개표 작전(Operation Quick Count) - 신속, 정확하고 신용할 수 있는 선거의 결과를 공공에 알리기 위함
3. 선거후의 활동
 - a. 당선자 활동 감시 - 정부가 깨끗한지, 당선자가 책임을 다하는지 확

인. “정직한 선거, 정직한 정부”

b. 정부 프로그램과 계획 사업의 감시 - 정부 계획 사업시 필연적으로 발생하는 부패 척결

c. 선거권 개혁 지지 - 선거법을 향상시키고 현대와의 관련성을 높임

결론

1. 왜 NAMFREL이 계속 활동해야 하는가

2. 미래의 비전

한국 시민단체의 부정선거 감시운동

김기현 (부장/ 한국YMCA전국연맹)

1. 1987년 제13대 대선, 공정선거 감시단 활동

1) 목표: 군부독재를 끝내고 선거를 통한 민간정부 수립

2) 활동

- 공정선거감시단 구성, 운영
- 투개표 참관활동
- 부정선거 고발센터 설치운영
- TV 모니터 활동 (9시 뉴스를 중심으로)
- 장병 자유투표 운동 : 군 장병들에게 자유투표 격려하는 편지보내기

3) 상징적인 사건: 구로구청 농성사건 - 투표일에 부재자 투표함의 뚜껑이 열려있는 것을 확인한 공정선거 감시관이 농성을 시작, 농성 사흘만에 경찰 진압, 농성자 중 1034명이 연행되고 이중 208명이 대통령선거법 위반, 폭력행위 등 처벌에 관한 법률 위반, 방화 등의 혐의로 구속

2. 1992년 제14대 총선, 공선협(공명선거실천시민운동협의회) 활동

1) 목표: 관권, 금권, 불법선거 종식

2) 활동

- 시민캠페인
- 선거부정 고발센터 운영 - 1,000여건이 고발
- 시민논단
- 선거보도 모니터 (TV, 주요신문)

3) 상징적인 사건

- 이지문 중위가 공선협 사무실에서 군 부재자 투표시의 부정행위 폭로

4) 공선협은 전국 250여개 단체가 참여한 당시 최대규모의 시민연대를 구성하였으며, 공선협의 중립성과 공정성에 대한 국민적 공감대가 형성, 그럼에도 불구하고 노골적인 금품향응 제공행위가 만연

3. 1992년 제14대 대선, 공선험(공명선거실천시민운동협의회) 활동

- 목표와 활동은 제14대 총선 공선험 활동과 유사
- 공명선거 스티커 부착식
- 후보자 선택 채점표 배포
- 대선후보 공명선거 서약식

4. 1996년 제15대 총선, 공선험 활동

- 1) 목표: 돈안드는 깨끗한 선거, 연고주의 선거문화 개혁, 정책중심 선거
- 2) 활동
 - 후보자 3:1 감시활동
 - 선거부정고발센터
 - 연고주의 배격 캠페인
 - 후보자 초청 토론회

5. 1997년 제15대 대선, 공선험 활동

- 1) 목표: 깨끗한 선거(금권선거 청산), 성숙한 유권자
- 2) 활동
 - 선거법 개정운동
 - 깨끗한 선거를 위한 거리썰기 캠페인
 - 선거부정 고발센터
 - TV 토론위원회의 공정성 확보와 TV 토론 모니터
 - 대선 후보 공명선거 서약식
- 3) 대선 전 선거법의 상당한 개정(세세한 규제 중심의 선거법)이 이루어짐,
선거법 개정으로 공명선거의 기본적인 조건은 마련됨

6. 2000년 제16대 총선 총선연대 활동

- 부패정치 청산

7. 2002년 지방선거 YMCA 유권자위원회 활동

- 1) 목표: 선거문화 개혁, 참여적 유권자 조직 구성

2) 활동

- 시민정치교육
- 후보자 평가활동 (정책, 자질)
- 선거법 개정운동
- 선거자금 시민옴부즈만

8. 제16대 대선을 앞둔 새로운 모색

- 대선감시 시민옴부즈만

9. 평 가

1) 1987년 대선 공정선거 감시단 ~ 1992년 대선 공선험 활동

- 선거의 공정성 확보 자체가 가장 큰 사회적 과제
- 불법, 관권, 금권 선거, 연고주의와 지역감정이 모두 문제
- 선거감시단, 선거부정고발센터가 큰 사회적 영향력

2) 1996년 총선 공선험 활동 ~ 1997년 대선 공선험 활동

- 금권선거가 가장 큰 과제, 불법 선거는 여전하나 예전에 비해 약화, 관권 선거는 주요 이슈에서 사라짐
- 미흡하나 선관위가 자기 역할을 하기 시작
- 선거부정 고발센터의 효과성이 약화
- 1997년 선거법 개정으로 공명선거의 미약한 토대는 형성

3) 2000년 총선 이후

- 시민단체의 활동이 선거부정 감시보다는 유권자의 직접 행동으로 선회
- 정책적 검증작업이 시작
- 선거법뿐 아니라 정치자금법, 정당법 등 정치개혁 전반의 법개정이 중요

일본 시민사회의 선거감시

Shuji Imamoto, 일본

일본에서 현재 진행되고 있는 선거 감시 활동은 없다. 나는 그 이유가 모든 선거가 비교적 공정하게 치뤄지고 개표 합산이 비교적 정확하게 이뤄지기 때문이라고 생각한다. 선거 기간 중 불법적인 행동은 엄격하게 법에 따라 처벌을 받고 국가 선관위와 경찰이 완벽하게 수사한다. 게다가 후보의 포스터와 표어가 몇 장이나 허용되는지, 엽서와 팜플렛은 몇 장을 찍어 낼 수 있는지 등에 관해 정하고 있는 법도 있다. 반면에 문제도 많이 있다.

예를 들어, 경찰과 국가 선관위는 여당이나 큰 야당에 의해 지지를 받는 후보들의 불법적인 행동에 대해서는 너그러운 반면, 무소속 후보들을 조사하는 데 있어서는 지나치게 엄격하다. 경찰은 예전에 출마했던 후보들을 의도적으로 눈감아 주었는데, 그들은 계속해서 불법적인 선거 운동을 벌였고 지방 선거에서 뇌물과 많은 검은 돈을 사용하였다. 심지어 어떤 지역구에서는 지역 주민 사이에서 특정 후보를 지지하는 데 암묵적인 동의가 이뤄져서 유권자의 반대표가 쉽게 알려지고, 그 결과 반대 투표를 한 사람은 지역 사회에서 매장되었다.

이러한 사실들에도 불구하고, 대중 매체는 그들의 불법성을 고발하는 어떤 조치도 취하지 않고 있다. 정부의 압력을 두려워하기 때문이다. 경찰과 검찰 또한 정부와 여당의 압력을 받고 있어서, 시민 사회의 수준에서 이뤄지는 어떠한 반대 행동이나 선거 감시가, 심지어 사례 조사로서도 존재하지 않는다. 따라서 우리가 할 수 있는 활동은 기존 정치인들이 불법 활동 목록을 작성하는 것인데, 이를 다음 선거에서 웹사이트에 게시할 것이다. 어려운 점은 신문이나 다른 매체를 통해서 그런 사실들이 많이 알려지지 않아서, 그들의 불법성이 드러난다 하더라도, 거기에 관심 있는 유권자들이 많지 않다는 점이다.

선거 감시 - 금권과 관권개입 없는 민주주의

Kingsley Rodrigo, 스리랑카

서론

2차 세계 대전 이후, 정치적인 참정권이 인간의 기본권으로 여겨지기 시작했다. 그리고 자유롭고 공정한 선거를 통해 참정권을 행사하는 것 또한 인간의 기본권으로 여겨졌다.

스리랑카에서 가장 의미 있는 정치적인 발전은 1931년에 있었던 보통 선거제(universal adult franchise)의 도입이다. 이후 스리랑카의 독립 헌법은 자유, 평등, 비밀 선거의 원칙을 보증했다. 21세 이상의 성인은 누구나 투표할 권리가 있다.

결과적으로 독립 이후 스리랑카 국민들은 보통 선거와 비밀 선거의 원칙에 바탕을 둔 국민선거제를 향유할 수 있는 제 3세계의 몇 안되는 국가 국민임에 틀림없다.

1947년에 있었던 최초의 총선거 이후, 헌법의 구조와 선거 절차에 있어 몇 가지 변화가 생겼다. 영국에 의해 입안된 Soulbury 헌법은 Ceylon 의회 선거의 틀을 제공했다. 후일 1972년부터 1978년 사이에, 1972년 제정된 최초의 공화주의 헌법, 1978년의 제 2차 공화주의 헌법, 1980년의 선거 등록에 관한 44조, 그리고 1981년 의회 선거에 관한 1조 등이 합법적인 법적 절차를 결정지었다.

1972년 헌법의 공포와 함께, 18세 이상의 모든 사람은 유권자가 될 자격을 얻게 되었다.

스리랑카의 선거 제도에 있어서 두드러진 점은, 민주 사회주의 공화국 스

리랑카의 헌법(1978), 대통령선거 시행령 2조(1981)년, 국민선거제 시행령 7조(1981), 의회제 시행령 1조 (1981), 투표자등록 시행령 44조 (1980), 지방의회선거 시행령 2조 (1988)과 지방관청조례(262장)이다. 1978년 제 2차 공화주의 헌법의 도입 이후, 대통령 선거와 국민투표제가 도입되었다.

의회 선거, 주의회 선거, 지방 자치 단체(지방의회, 시의회와 Pradeshiya Sabhas) 선거 등이 비례 대표제에 의해 이루어진다.

국내 여론을 보다 적절하게 반영할 수 있는 선거제도를 만들기 위해서, 1978년 헌법은 비례대표 (Proportional Representation -PR) 제를 도입하였다. 그에 따라, 전국이 22개 선거구로 나뉘어서 225명의 국회의원을 선출하게 되었다. 그 중 196명은 각 정당이 각각의 선거구에서 얻은 투표수에 비례하여 선출되었다. 196석 중, 36석은 지역적 안배를 통해 할당되었고, 160석은 선거구에 등록된 유권자 수에 비례하여 분배되었다. 나머지 29석은 선거에 출마한 각 정당의 국내 총득표에 따라 선출되었다.

비례 대표제가 유권자의 기대를 충족시켰는지의 여부는 아주 흥미로운 주제이고, 보다 광범위한 토의를 필요로 한다. 비례 대표제가 경고정치 (monitory politics)로 이어진 것은 아닌가의 여부도 현재 스리랑카의 정치 토론에서 가장 관심 있게 다뤄지는 주제이다. 시민들은 자신들이 선택한 선거 제도를 정착시키는 데 있어 근본적인 책임이 있다.

현재 선거 감시에 관한 조항을 명시하고 있는 법은 없다. 그렇지만, 시민 혹은 시민 단체가 가능한 범위 내에서 선거 감시를 수행하는 것을 금지하고 있지는 않다. 현행 선거법에 따르면, 투표소 안에는 선거업무를 수행하도록 임명된 공무원들, 투표소에서 근무중인 경찰들, 선거진행요원, 각 정당에서 나온 후보 한 사람, 투표를 하고 있는 유권자만이 있을 수 있게 되어 있다.

이러한 상황에서, 비정부 단체가 수행할 수 있는 선거 감시의 성격은 현행 선거법상 국민들에게 부여된 자유와 권한에 기반하고 있다. 투표자 교대 (voter-relay)가 현재의 한계를 극복하는데 도움이 될 것이다.

(* 사정에 의해 서론 이하의 내용은 소제목만 번역되었습니다. 편집자 주.)

- 감시의 목적
- 감시자의 행동 수칙
 - 감시자들이 하지 말아야 할 일들
 - 감시자들이 해야 할 일들
- 선거 캠페인 감시
- 선거 관련 폭력
- 포스터와 현수막 전시
- 행진과 집회
- 국가 자원 남용
- 대중 매체
- 법과 명령의 준수
- 공정 자유 선거에 해가 되는 다른 조건들
- 공무원 및 정당 관계자와의 접촉
- 투표 감시
- 투표 감시를 위한 준비
- 이동 감시팀
- 주둔 감시자
- 감시자들이 반드시 알고 준수해야 할 사항들
- 심각한 위법 사항을 발견한 감시자들이 취해야 할 행동
- 올바른 절차의 준수
- 감시 보고서 제출
- 선거 행정

독립 이후 스리랑카의 돈, 선거 그리고 정치 개혁

- 선거위원회에 의해 지출된 비용
- 선거운동과 금권 선거
- 정치 비용
- 정당에 대한 재정 지원
- 라디오와 텔레비전을 통한 정치 선전
- 무료 발송 선거 관련 자료
- 홍보
- 매표행위
- 정치 자금의 출처
- 기부
- 정부 직접 보조
 - 간접 지원
 - 기타 출처들
- 개혁

금권 선거 개혁을 위한 동력으로서의 17번째 헌법 개정

- 국가 재원 오용
- 지역 감시단의 역할과 감시정치의식 고무

참고 문헌

네팔 시민사회의 역할과 민주주의

Subodh Pyakurel, 네팔

서두

현재 네팔에서 이해되고 있는 시민 사회는 비국가적, 비정부적인 자발적인 사람들의 포럼, 단체들과 풀뿌리 차원에서 조직된 운동들로 이루어져 있다. 이는 자신들의 이익, 열정, 사상 등을 표현하고 정보를 교환하고 공통의 목적을 성취하고, 국가에 대해 요구하고 책임을 지는 관직을 유지하기 위해 집단적으로 행동하는 시민들을 포함한다는 점에서 일반적인 의미의 ‘사회’와 구별된다.

상황 경험에 의존하고 있기 때문에 시민 사회는 매우 중요한 의미를 갖고 있다. 예를 들어 네팔에서 시민 사회는 뿌리 깊은 반봉건 사회에 살고 있는 대중들의 기본적인 필요를 충족시킬 수 있는 민주주의적 공간, 인권, 환경 문제, 자치, 자존, 지속 가능한 개발을 이루어낼 필요와 결부되어 있다.

시민 사회의 기원과 민주화 과정

네팔에서 시민 사회의 기원을 밝혀 내는 것은 쉽지 않다. 역사적인 증거에 따르면 공통의 이익과 정의에 따라 조직된 연합체가 먼 옛날부터 존재했다. 네팔에서는 그와 같은 몇 개의 시민 사회들이 규칙, 가치, 신념, 믿음, 카스트 제도 등을 유지하고, 종교와 개인의 탄생과 죽음에 있어 그 가족들에게 필요한 의식을 주관해야 하는 등의 의무를 성공적으로 수행하면서 몇 개의 서로 다른 공동체를 이루고 있었다. 그러한 시민 사회들이 관개 시설을 위한 운하를 건설하고 의료 서비스를 제공하는 데도 관여하고 있었던 것으로 밝혀 졌다.

속국들과 연합체로부터의 개입은 아주 적었다. Balung, Parbat과 다른 공국들

에 있던 시민 사회는 왕, 공동체의 지도자를 선출하기 위한 토너먼트를 조직하는데 적극적으로 참여 했으며 왕립 의회를 도왔다. 또한 자신들의 사회 활동을 위해 자신들만 소유했던 자원을 활용했다. 그래서 현재 네팔에서는 시민 사회와 국가가 각각 다른 부분에서 강력한 공동체를 건설하는데 있어 적극적이다. 하지만, 중세에는 공국들의 이 같은 기능에 변화가 있었다. 시민 사회는 재산권, 자유, 평등과 연합에 관한 개인권에 대한 요구와 연관되어 있었다. 시민 사회가 가족 네트워크에 의해 조직된 체계적인 정치 조직으로서 기능하기 시작했다. Thakali, Gurung, 그리고, Newar의 공동체들은 “dhukuti”라고 불리는 연합을 도입하였는데, 이는 같은 공동체에 속해 있는, 적게는 다섯 명부터 많게는 스무 명 이상의 구성원으로 이뤄진 일종의 비공식적인 신용 협동 조합이다. Kathmandu 계곡에 있는 Newars의 Panchali 시스템은 운하를 건설하거나 여러 종교, 문화적 행사를 추진하는데 있어서 공동체 내에서 발생하는 분쟁을 해결하는 사법 기관으로서의 역할을 했다. Newars의 Guthi제도는 관계 운하, 사원, 급수 시설과 공동체를 위해 필요한 다른 기반 시설을 건설하기 위해 도입되었다. Raj Guthi가 국가에 의해 완전히 통제되었던 데 반해 Chhut Guthis는 준공무 지위를 유지하고 있었다. 유사하게, 지금도 네팔의 여러 시골 지방에서 행해지고 있는 Parma라는 전통적인 관행은 소중한 사회적 관습으로 간주되어야 한다. Parma 제도에서 각 가정은 가족의 규모에 따라 공동체 필요한 노동에 자발적으로 기여하고 있다. 이런 관습은 농업 부문에서 현저하게 나타나지만, 다른 분야에서도 크게 다르지 않다.

다른 공동체에서 전통적으로 발전했던 시민 사회는 대개 살아 남지 못했다. 하지만, 살아 남은 단체들은 여전히 네팔에서 영향력 있는 조직으로서 기능하고 있다. 예를 들어 Dhukuti, Guthis, Paropakar등이 있다.

시민 사회, 정치 정당들, 사회 조직들이 연합해서 1950년 Rana 체제의 104년간의 독재 정치를 뒤엎고, 민주주의 지향적인 지배 체제를 구축한 역사적인 근거가 있다. 시민 사회의 강한 압력과 움직임 때문에, 뿌리 깊은 착취 제도인 Zamindari(지주) 제도가 법에 따라 폐지되었고, Hill, Terai,

Kathmandau 계곡 지역에서는 개별적으로 땅 값의 상한가를 정하는 토지 개혁이 함께 이루어졌다. Rena 체제 이후, 학교가 개방되고, 병원이 지어졌다. 법이 개정되고, 사람들의 민주주의적인 권리를 정착시키기 위한 시도가 여러 차례 있었다. 시민 사회가 근본적인 기본 권리를 정착시키기 위해 정당과 상업 조합으로 조직화되었다. 시민 사회가 민주적인 권리를 공공연하게 요구하기 시작했다. 하지만, 1961년, 민주적으로 선출된 정부가 전복되고, Panchayat 지배 체제가 도입됐다. 모든 정당과 시민 사회 조직이 금지되었다.

왕의 적극적인 역할로 도입된 Panchayat제도는 1990년까지 계속되었다. 그 30년간, 네팔 사람들의 대부분의 시민권과 정치적인 권리는 축소되었다. 하지만, 그 동안에도 몇몇 조직체들은 어려움 속에 활동을 계속해 나갔다.

시민 사회는 1990년의 민주주의 지향적인 운동의 촉매제로서 역할 했다. 게다가 시민 사회의 구성원들은 민주주의가 복원된 뒤에도 활동을 멈추지 않았다. 네팔의 시민 사회는 복수 정당제를 강화하고 인권이라는 문화를 정착시키기 위해서 노력하고 있다. 1990년 이후의 시민 사회의 역할은 다음과 같다.

- 새 헌법을 민주주의와 인권에 관한 모범이 되는 헌법으로 만들기 위한 노력
- 정치 내에 진정한 대표성을 만들기 위한 유권자인식 고양을 위한 운동 전개
- 새로운 민주주의 정치 제도 속에서 대중이 자신들의 권리를 주장할 수 있도록 격려
- 민주주의의 파수꾼으로서 국민과 국가에 봉사하고 풀뿌리 민주주의를 형성하기 위한 노력

이상의 활동에서 INSEC는 언제나 시민 사회의 다른 구성원들과 함께 그 전면에 나서 왔다. 민주주의가 도입되기 이전에, INSEC는 불이익을 당하고

있는 공동체에서 삶의 질을 향상시키기 위한 비공식적인 교육에 관여하였다. 그러나 INSEC는 기본적으로 사회, 경제적인 정의와 더불어 정치적인 자유의 시대를 불러 오는 정치적인 변화 과정을 보조적인 역할을 수행했다. 그 과정에서 INSEC는 조직화되지 않고 소외된 노동 분야인 수레꾼들 사이에서 의식을 고취시켰다. 또한 문맹 퇴치, 위생, 건강에 관한 강좌를 진행하였고, 카트만두에 있는 지게꾼들을 위한 무료 건강 진단을 실시하였다.

INSEC는 1988년의 어려운 상황 속에서 설립되었다. 탄압이 심한 정치적인 체제하에서 시민 사회의 주목할만한 업적은 주로 지역 기반 조직과 비정부 기구와 적십자 등을 통한 복지, 빈민 구제, 재건축 활동 등이었다. 민주주의 시대가 도래한 이후, 시민 사회는 민주주의가 사회에서 민중의 수준으로까지 혜택을 미칠 수 있도록 캠페인을 시작했다. 민주주의가 회복된 이후, 다른 단체들과 마찬가지로, INSEC도 국내의 인권 관련 문제에 초점을 맞추어 보다 효과적이고 공개적으로 일할 수 있게 됐다.

1980년대에 이르러서야 네팔에도 선거 감시를 조직하는 것이 알려졌다. 그러나 1986년 Panchayat 제에서 치뤄진 선거에서는 15명으로 구성된 시민 협의체가 등장하였다. 정치가, 대학 교수, 변호사, 저널리스트와 그 밖의 양식 있고 지적인 이들이 그 협의체의 구성원들이었다. INSEC는 시민 협의체에서 주도적인 역할을 했으며 민주주의를 수복한 이후에도 그 역할을 계속했다.

네팔에서 민주주의가 회복된 이후, 시민 사회는 시민들의 기본권을 보호하고 증진시키는데 주목할 만한 영향력을 미쳐 왔다. 주요한 업적으로는 정치 정당과 시민 사회 조직의 적극적인 활동을 통해 헌법이 준비된 것을 꼽을 수 있다. 또 다른 업적들은 다음과 같다.

가) 모든 정치 정당, 조직, 연합, 상업 조합, 새로 만들어진 NGOs, CBOS등이 합법적으로 활동하기 시작했다.

나) 1991년에 처음으로 선거가 치루어졌으며, 민주적으로 선출된 정

부가 형성되었다. 가장 기본적인 권리들이 नेपाल 왕국의 헌법 (1990)에 의해 확립되었다.

- 다) 민주주의 정부는 지금까지 대부분의 중요한 국제 조약을 비준하였다. 이제 정부는 국제 형사 재판소를 비준하는 과정에 있다.
- 라) 시민 사회는 사회, 경제, 정치, 인권, 문화 및 종교 관련 분야 몇몇 개발기관들과 함께 NGOS와 CBOs를 통해 조직화되고 활발하게 활동하고 있다.
- 마) 헌법에 정보에 대한 권리가 보장되었으며 언론도 독립적으로 활동하고 있다.
- 바) 시민 사회는 이 나라에서 법에 의한 지배와 민주주의 제도화를 확립하기 위해 로비를 하거나, 압력을 행사하거나 옹호/주창 활동을 적극적으로 벌여가고 있다.
- 사) 시민 사회는 후원자와 국제 단체들이 사람들의 필요를 인식하고 효과적으로 활동하기 이전부터, 압력을 행사하고 옹호하는 활동을 적극적으로 펼쳐고있다.
- 아) 시민 사회는 점차 증가하고 있는 시국 불안, 부패, 실치 (mismanagement), 자원의 오·남용, 시민권리 위반 등에 대해 우려하고 있으며 नेपाल의 여러 다른 지역에 살고있는 취약집단에게 기본적인 식량과 의약품을 제공하기 위해 국제 인권 윤리규정을 효과적으로 이행하고 नेपाल의 평화를 유지하고 국내외적인 관심을 유도하고자 로비도 하고 정부에 압력을 가하고 있다.
- 자) 지도자적인 인권 단체로서 INSEC는 정부를 설득하여 국가 인권 위원회를 설립하고, 일종의 근대적인 노예 제도였던 Kamaiys system을 폐지하였다. INSEC이 추진했던 캠페인의 결과로 정부는 농업노동자들의 최저임금을 정했다.
- 차) 시민 사회는 여성과 어린이 매매 근절에 관해 현행 법을 효과적으로 시행하도록 정부에 압력을 넣고 있다.
- 카) 시민 사회는 국내외적으로 미성년자들과 달릿(Dalits)의 기본적인 권리를 지키기 위한 관심을 불러 일으키고 있다.
- 타) नेपाल의 시민 사회 단체들은 WTO와 GATs의 착취적인 성격에 대해

반대하고 있다.

12년간의 일반적인 정치적 흐름

1. 시민의 권리와 정치적인 권리를 위해 헌법 정신을 해석하려는 정치적인 노력의 결여.
2. 국민들의 삶과 재산 자유를 보호하는 동시에 사회, 경제, 정치적인 삶을 포함한 국내적인 삶의 모든 측면에서 정당한 제도를 확립함으로써, 열린 사회의 기초적인 원칙에 바탕하여 복지 상황을 증진시킨다는 국가의 주요한 목적을 담고 있는 헌법의 지배원리(Directive Principles)에 대한 무지
3. 이러한 미흡한 통치가 모택동주의라는 정치적인 색채를 띤 폭력을 낳았다.

결론

인도와 중국 같은 큰 나라들 사이에 끼어 있는 주권국가 네팔은 현존하는 복잡한 사회 경제적 구조 하에서 민주주의적 권리를 확립하기에는 여전히 미숙하다. 네팔은 전 경제의 60%는 화폐 경제이고 나머지 40%는 화폐 경제가 아닌 반봉건 국가이다. 그러한 상황에서 네팔은 가난, 불안정, 실치와 같은 심각한 문제에 봉착하고 있다. 시민 사회는 이러한 사회경제적 정치적 복잡성을 아주 잘 인식하고 있다. 정부가 네팔을 더욱 발전시키기 위해 필요한 민주적인 통치와 평화적인 환경을 위한 기반을 만들기 위한 몇 가지 주목할만하고 근본적인 권리를 획득하였다.

그렇지만, 12년간(1991-2002) 민주주의 정치가 지난 Panchayat 시대에 만연했던 상황으로부터 근본적인 개선은 하지는 못했다는 것이 전반적인 인식이다. 국민의 대표에 의해 계승된 정부는 평화와 안정, 정치적인 안정성을 지탱하지 못했다.

네팔 시민 사회는 네팔에 이해와 평화가 있는 환경을 되돌리기 위한 효과

적인 역할을 끊임없이 모색하고 있다. 이제는 잊혀져 버린 대화의 문화를 되살리기 위해 최선의 노력을 다하고 있다. 이제까지 여러 가지 문제점을 야기했던 다양한 사회 동력들 사이의 간격을 좁힐 수 있을 것이다. 그 일은 쉽지 않다. 그러나 평화와 번영의 장을 열기 위한 시민 사회의 역사적인 역할이 기대되고 있다.

태국 선거 감시

Sunai Phasuk, ANFREL 소장
Sakool Zuesongdham, Pollwatch Foundation 이사

1. 선거제도의 맥락에서 살펴 본 타이의 민주주의 : 대략의 역사

1932년 민간인에 의한 민주주의 정부를 수립하려는 일단의 사람들에 의해 태국의 전제 군주제는 막을 내렸다. 그러나 이후로도 40년 이상, 태국 민주주의 역사는 쿠데타와 군사 독재 정권으로 얼룩졌다. 1991년 2월 23일 최후의 군부 개입이 일어났을 때까지, 태국에서 시도된 쿠데타의 총 횟수는 17회에 달했는데, 이는 같은 기간동안 태국에서 치러진 선거 횟수와 동일한 숫자이다. 그 기간동안 세워졌던 46개의 정부 중에서 8개는 군 주도 정권으로, 46개는 군사 정권으로 분류되었으며 민간 정부는 오직 15개에 불과했다.

이 같은 통계 수치는 지난 몇 십년간 태국의 정치 상황의 진면목을 적나라하게 드러내고 있다. 절대 군주제가 무너진 직후, 선거제도가 도입되었지만, (첫 간접 선거는 1933년 치러졌고, 첫 직접 선거는 1937년 실시되었다.) 선거는 국민들이 정부를 선택하고 공공 정책의 방향에 영향을 미칠 수 있는 민주주의적인 권리를 효과적으로 행사할 수 있는 주요한 수단이 되지 못했다.

본질적으로 권위주의적인 당시의 권력 구조에 합법성을 부여하기 위한 수단으로 선거가 실시된 경우가 여러 차례 있었다. 군부의 후원을 받는 정치가들이, 선출직인 하원과 임명직인 상원에 모두 진출했으며, 그들의 후원자가 정치 권력을 합법적으로 유지할 수 있도록 도왔다. 반면 여타의 정치

집단들의 활동은 탄압을 받았다. 이러한 시스템은 정부에 대한 국민들의 불만과 사회적인 긴장을 극에 달하게 했고 그 결과 폭력으로 분출되기에 이르렀다.

1973년 군사 정권이 학생들의 시위에 의해 무너졌다. 비록 군부가 1976년 다시 정권을 잡기는 했지만, 민주주의적인 이상과 관행에 대한 경험을 통해 사람들이 부당한 지배에 항거하고 권위주의적인 지도자들을 권좌에서 끌어 내릴 수 있음을 깨닫게 됨에 따라 태국을 보다 자유로운 형태의 정치 제도쪽으로 나아갈 수 있게 됐다.

엄청난 경제적 성공도 태국에서의 민주주의 발전에 기여했다. 국내에서는 관료 조직과 다양한 사회 조직간의 유착이 존재했다. 특히 기업들은 정책 결정 영역에서 큰 목소리를 낼 수 있게 되어 참여적인 정치로 나아가는 길을 닦아 놓았다. 세계 경제의 변화 추세 또한 군부 독재를 공공 정책의 결정에 있어 다양한 사회 성원들의 참여를 허용하는 보다 포용적인 정치 체제로 변화시켰다.

군사 정권이 해외 투자자들을 태국으로 끌어들이 수 있는 전문적, 윤리적인 자격을 갖추지 못하고 있다는 사실이 드러난 1980년대 후반을 즈음하여, 대기업과 점점 큰 영향력을 발휘하게 된 중산층 계급이 보다 포용적인 정치 체제를 요구하게 시작했다. 비록 태국의 정치가 여전히 군부 출신 인사들과 정부 관료의 영향력하에 있긴 하지만, 중요한 역할들은 점차 전문 정치인, 기업가, 변호가, 정치 활동가, 도시 중산층, 종교 지도자 및 다양한 사회 집단들에게 이양되어 가고 있다. 이러한 과정에서 몇몇 기업들은 강력한 기업 연합을 형성한 후 정당들을 후원하여 결국에는 정치적인 영역으로까지 진출하게 되었다. 1980년대 이후, 도시 기업가들과 부유한 지방 유지 출신의 신세대들이 의회와 내각에서 의석을 차지하기 시작했다.

그러한 변화와 더불어 선거 과정의 중요성이 부각되었다. 선거에서의 승리는 정치적 정당성을 확보할 수 있는 주요한 수단이다. 1991년 예상치 못했

던 군사 쿠데타의 발발과, 그 뒤를 이어 발생한, 1992년 5월의 친 민주주의적인 시위대의 무력 진압에도 불구하고, 태국의 정치 의식 수준은 정기적으로 선거를 치르는 것이 통치 시스템의 제도화된 요소라는 합의를 이루어 놓았다.

점증하는 정치적 자유화가 민주주의적인 선거 문화와 의회에 의한 지배를 태국 정치의 제도화된 요소로 자리 잡게 했다. 선례를 찾아 볼 수 없을 정도로 많은 국민들이 개혁 과정에 참여한 결과 1997년 헌법의 공표로 이어졌고 새로운 정치적 기준이 세워졌다. 1932년 절대 군주체에서 탈피한 이후 처음으로, 국민과 의회의 양원에 속한 주권은 민주적인 선거 절차를 통해서만 존재해야 한다는 헌법적인 인식이 생겼다.

이와 함께, 1997년 헌법은 또한 민주주의란 정부와 입법부가 선출되는 과정 이상의 의미를 갖는다는 새로운 인식을 확립하고자 했다. 민주주의란 공적인 일들을 해결하는 절차이다. 다시 말하면, 태국의 정치 구조는 대의 민주주의에서 참여 민주주의로 변화하고 있는 것이다. 정부 관료와 정치인들은 더 이상 국민들의 주인이 아니며, 사회에서 그들의 정책과 행동들이 가져온 결과를 무시하고 있다.

이제는 다원주의가 민주적인 통치의 특징으로 받아들여 지고 있다. 이런 점에서, 정부의 관료와 의회의 구성원들이 전문가적인 기대를 충족시키고 있는지 확인하기 위해, 국민들은 헌법의 명령에 따라 (선출직과 임명직을 포괄하는) 관료와 의회 성원들이 수행하는 공공 행정에 참여하고 감시할 자격이 있다.

1997년 헌법과 의회의원 선거 시행령 에 따라 태국 선거 관리 위원회 (ECT)가 선거 과정을 조직하고 운영할 독자적인 기구로서 설립되었다. ECT는 당파적인 이익을 떠나서 공정하고 자유로운 선거를 보장하고, 수십 년간 태국의 민주적인 제도의 효율성과 정당성을 훼손시켰던 금권 정치의 확산을 막을 수 있을 것이라는 기대를 받고 있다.

2. 태국의 선거 감시 기구

형식적인 면과 내용적인 측면에서 사회가 정치적으로 다원화됨에 따라, 1997년 헌법은 선거 과정을 통해 민주주의를 공고화 하는데 국민들이 기여할 수 있음을 인식하고 있다. 이 같은 민주적인 통치 패러다임하에서, 정부 영역과 비정부 영역이 상호 독립성을 전제로 동등한 자격의 파트너십을 갖도록 고안되었다. 하지만 그 이행의 과정에서 도전은 불가피한 것이다. 반면, ECT는 민주적인 선거를 증진시키는 데 있어 공개적으로 “국민 중심”의 전략을 채택하였다. 그렇지만, 동시에 ECT는 점점 비정부 민간 단체의 활동에 제제와 통제를 가하고 있다. 대부분의 경우, ECT는 NGOs가 시민 교육 차원의 전통적인 역할을 넘어서 실제 선거 감시 활동에서 전략적인 역할을 수행하는 것을 용납하지 않는 관료적인 마인드를 여전히 유지하고 있다.

2.1 선거 관리 위원회

경제적인 부가 도시 거주자들의 정치적인 힘으로 이어진 것은 분명하다. 중산층 계급은 미디어, 학계, NGOs 등을 통해 정치적인 토론의 의제들을 형성해 왔다. 하지만, 유권자와 선거구에 숫자에 있어서 도시가 차지하는 비중은 소수에 지나지 않는다. 그리고 의회 정치에서는 숫자가 중요하다. 전체 선거구의 80% 이상을 차지하는 지방 인구는 선거에 관해 독특한 견해를 가지고 있다. 민주주의는 정치적인 이상이 아니라 정치지도자 들로부터 개인이나 각 공동체에 이권을 끌어 올 수 있는 수단일 뿐이다. 선거는 표를 다양한 이권과 교환하는 지방의 행사에 불과하다.

이러한 투표 성향이 현존하는 사회 문화적인 맥락에 뿌리깊게 자리잡고 있다. 지방에서 유권자들은 지역 공동체에 진보와 번영을 가져다 주는 반면 일상적인 어려움을 해결하는데 도움이 되고 우호적인 후보들에 대한 보답으로서 표를 행사해야 한다는 의무감을 느끼고 있다. 투표가 정치적인 원칙이나 정책 강령에 따라 행해지지 않고 있는 것이다. 선거에서 승리하기

위해서, 후보는 선거 운동 기간 뿐 아니라 일상적인 활동에 필요한 자금을 대기 위해 충분한 현금을 공급받아야 한다. 마찬가지로, 후보들은 선거구에서 유권자에게 자신들의 물질적, 도덕적인 “관대함”을 전할 수 있도록 실제 작동하는 후원-보호 관계의 네트워크를 구성하고 유지해야 한다.

비공식적인 조사에 따르면, 선거 운동에 투자하기 위해서는 적어도 3천만 바트가 필요하다. 사실, 두당 100바트의 가격은 유권자에게 지불하기에 많은 금액은 아니다. 선거구에서 행해지는 사교적인 행사에 후보와 대표자가 정기적으로 참여하는 것은 정치적인 후원 관계를 형성하기 위한 최소한의 조건이다. 유권자들이 지역의 물질적인 발전, 예를 들어 관계 시설, 공동 우물, 가로등 시설, 버스 정류장, 마을 회관이나 직업 훈련소 시설 등을 마련해 줄 것을 요구할 때 대규모의 투자가 필요하다.

매표행위를 태국의 선거에서는 만연해 왔다. 유권자의 매표 행위와 “대부 정치”를 통해 함량 미달의 부패 정치인들이 권력의 장에 등장하게 됐다. 이러한 관점에서, 매표행위를 지원하기 위한 대담한 부패행위나 국고 횡령들을 피할 수 없게 됐다. 게다가 유권자를 매표 행위하는 것이 가능하기 때문에 자금은 풍부하지 않지만 충분한 자격을 갖춘 후보들이 의석을 차지하는 것을 거의 불가능하게 함으로써 부에 의한 정치적 불평등을 심화시켰다. 다수의 유권자들이 뇌물을 받고, 그 결과, 의회에서 일할 대표자를 선출하는데 있어 독립적이고 책임감 있는 판단에 따라 권리를 행사하는데 실패하고 있다.

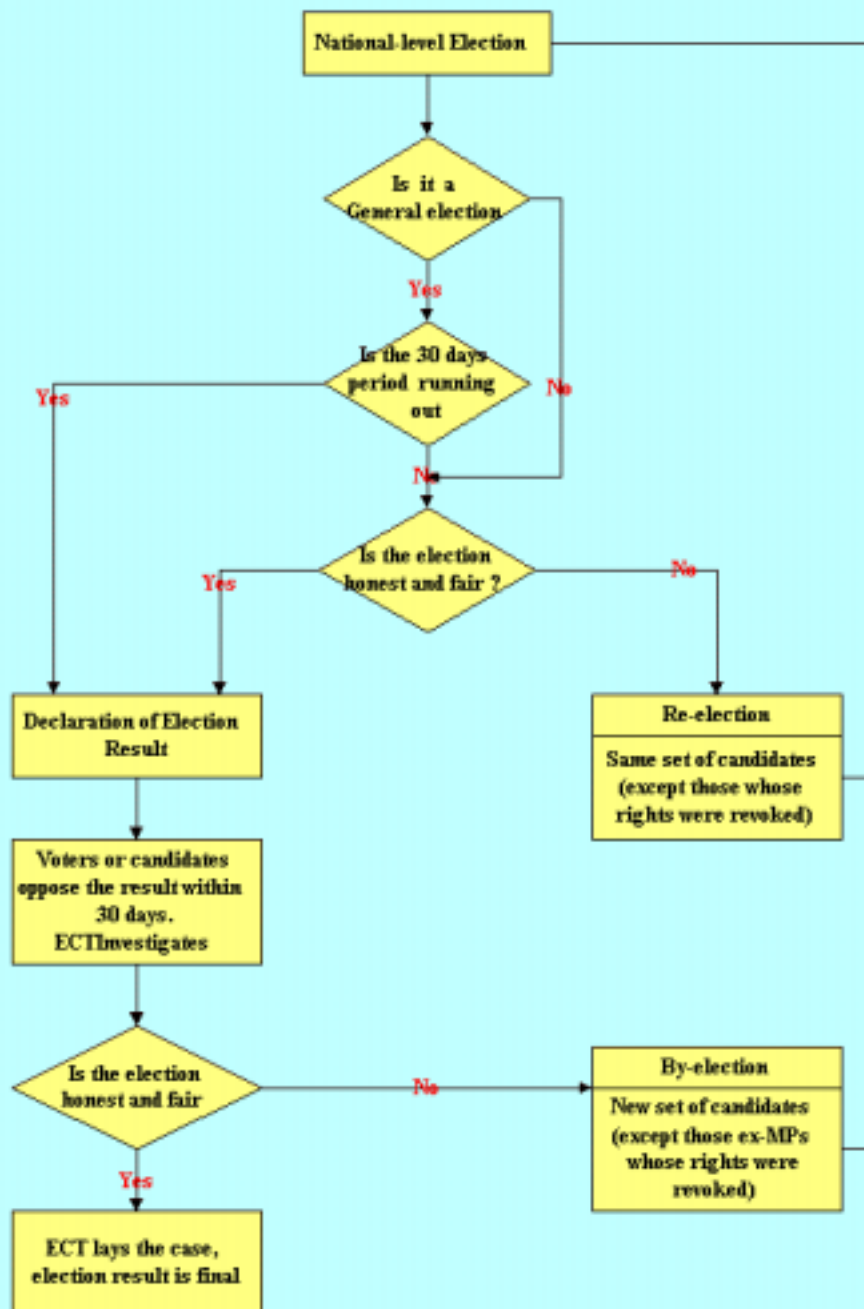
금권 정치 확산의 결과로, 스캔дал로 얼룩진 선거에 대한 반감이 점차 커지고 있다. 매표 행위를 최소화하려는 견해를 가진 수천명의 사람들이 유권자들의 그릇된 행동을 막고 매표 행위를 최소화하려는 캠페인에 동참하고 있다. 대중 매체도 유일하게 합법적인 득표 운동은 대중 연설이고 후보자를 선택할 때 고려해야 할 유일한 사항 역시 후보자의 정책뿐이라는 사실에 대한 국민들의 인식을 높이기 위해 중요한 역할을 수행하고 있다.

국민의 민주주의를 이루기 위해, 국민들은 충분히 알아야 하고, 공공 의식이 있어야 한다. 충분히 안다는 것은 유권자들이 후보자가 취하고 있는 정치적 입장이 갖는 의미를 이해하고 이를 기준으로 삼아 투표해야 함을 의미한다. 공공을 인식한다는 것은 유권자들이 개인적 또는 지역적인 이해 관계를 넘어서서 선거를 자신들의 편협하고 개인적인 이익을 얻기 위한 수단이 아니라 입법자와 정치적인 행정가로서 봉사할 수 있는 정직하고 유능한 사람을 뽑는 수단을 만들어야 함을 의미한다. 무엇보다도 투표의 결정은 어떤 의무감과는 별개로 이루어져야 한다. 1997년 헌법은 선거에서 투표하는 것을 국민의 의무로 하고 있다. 투표를 자발적인 행동이 아니라 의무적인 것으로 규정함으로써, 이러한 조건이 매표 행위가 없이 민주적으로 선출된 정부를 수립할 수 있기를 희망하고 있다.

선거 과정을 감시하는 사람들의 측면에서도 큰 변화가 있었다. 1997년 헌법이 제정되기 이전에, 선거법은 고발, 반대, 청원 등을 사법부에 맡겨 놓았다. 그러나 재판의 진행에 너무 많은 시간이 소요되어서 법원은 의회가 해산하기 이전에 한 건도 해결하지 못했다. 매표 행위의 문제를 해결하는 것이 점점 불가능해짐에 따라 재선거 문제에 관련해서는 ECT가 선거 관련 범죄를 처리할 수 있는 사법권을 가져야 한다는 결정이 내려졌다. 형사적인 범죄는 여전히 법원의 사법권 하에 놓여 있다. 게다가 ECT는 의심을 넘어서는 증거가 필요한 법원과는 달리, 판결을 내리는데 확실한 증거만이 요구된다는 점에서 보다 더 신속할 수 있다.

ECT는 선거 과정이 정직하고 공정한 방식으로 치러지도록 할 의무가 있다. 선거의 결과를 발표할 수 있는 권한이 있다. 선거가 정직하고 공정하게 진행되지 못했음을 발견한다면, ECT는 새로운 선거를 명령할 수 있는 힘이 있다. 만약, 선거 결과를 발표하고 당선자가 정해진 이후에야 선거법 위반 사례가 발견되었다 하더라도, ECT는 그 선거가 무효임을 선언하고 보궐선거를 명할 수 있는 힘이 있다. 이러한 과정은 정직하고 공정한 방식을 통해 이루어진 최종 결과가 나올 때까지 몇 번이고 반복될 수 있다.

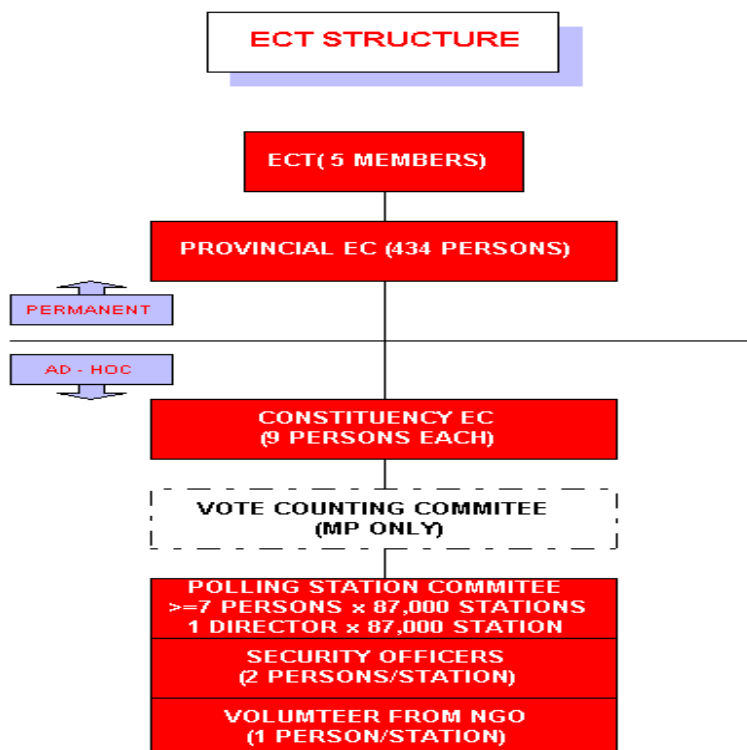
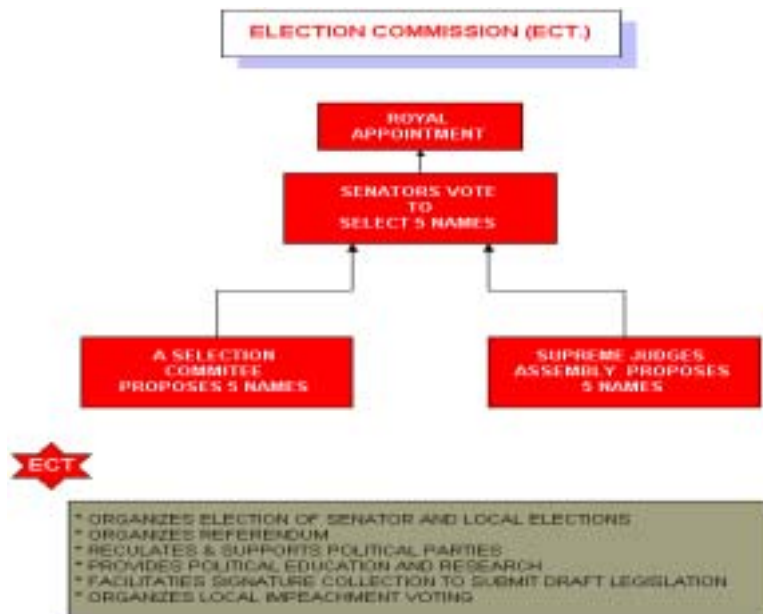
Figure I The Possibilities Of Several Rounds Of Election



도표를 통해 알 수 있듯이, 문제가 최종적으로 해결될 때까지 선거가 몇 차례에 걸쳐 치러질 수 있다. 처음에 ECT는 정지(ECT가 의회의 구성원이 될 수 있다는 승인을 해 주지 않거나, “경고”를 받은)된 후보자가 다시 선거에 참여할 수는 있지만, 만약 한 번 더 정지에 해당하는 일을 저지른 것이 발견될 경우 더 이상 출마할 수 없도록 하는 규제 조치를 통해 과정을 단축시키려 하였다. 이런 경우에 그는 명백하게 범법 행위를 반복하였으므로 그는 퇴장 조치를 받게 된 것이다. 그러나 헌법 재판소는 이러한 규제가 위헌이라고 판결했다. 그러자 후보자나 현직 의원이 부정한 행위를 지원하거나 혹은 그런 행위를 범한 사람과 공모하였음을 뒷받침하는 확실한 증거가 있다면, 그들의 투표권을 1년동안 보류할 수 있는 권한을 ECT에 부여하는 방향으로 선거법이 개정되었다. 만약 투표권이 없다면 후보가 될 수 없다. 이것도 여전히 다른 형태의 “퇴장 명령”으로 여겨지고 있다.

그럼에도 불구하고, ECT는 두 차례 연속으로 불법적인 행동을 저지른 사람들에게 대해 입후보 자격을 금지한 ECT의 결정에 대해 헌법 재판소가 위헌적이라는 판결을 내린 이후 심각한 신뢰성의 위기를 맞고 있다.

1997년 헌법의 공포 이후, 선거 과정에 관한 새로운 규제가 의회에서 국민들의 참 이익을 위해 일할 새로운 세대의 대표자들을 선출할 것이라는 기대가 국민들 사이에서 확산되고 있다. 이는 청렴하고, 효율적인 그리고 국민들에게 책임을 지는 새로운 시스템의 정부를 만들기 위한 중요한 발걸음이 될 것이다.



그럼에도 불구하고, 선거 과정에 있어서 이상과 실제 현실과는 괴리가 존재하고 있다. 2000년 상원의원 선거와 2001년 총선은 1997년 헌법에 반영된 민주주의적인 노력에 대한 중요한 시험대가 되었다.

비록 상원의원 선거의 대체적인 분위기는 비교적 평화로웠지만, 표를 매표 행위하고 투표소에서의 부정행동은 많은 선거구에서 여전히 만연했다. 많은 구조적인 장벽들이 ECT와 독립적인 선거 감시자들의 그릇된 투표 행동을 뿌리뽑으려는 노력에 장애가 되었다.

구조적인 관점에서, 1997년 헌법이 ECT가 선거 과정을 관할하고 조직할 수 있게 했다. ECT가 그 독자성과 청렴성을 바탕으로 당파의 이익에 영향을 받지 않고 공정하고 깨끗한 선거가 진행될 수 있게 하기를 기대했다. 하지만, 선거에서의 규칙 위반과 부정행동을 뿌리 뽑기 위한 ECT의 통일된 노력 또한 금권 정치와 후원 제도의 유착을 바탕으로 효과를 발휘했다.

많은 지역에서 후원 제도가 깊이 뿌리를 내리고 있기 때문에, 법 집행관과 지방 선관위 구성원들의 중립성의 결여 뿐만 아니라 수동성도 존재한다. 비정부 영역 출신의 독립적인 감시자들은 심지어 투표소를 지키는 관리들에 의해 방해받거나 소외당하기도 했다. 법 집행관, 지방 선관위의 구성원들, 투표소 관리들의 협조 없이는 독립적인 선거 감시자들이 매표 행위와 투표소에서의 불법 행동을 규제하고 억누르는 노력을 효과적으로 전개하는데 어려움이 따른다.

ECT는 문제가 있는 선거구에서 나온 투표 결과를 무효화하는 결정을 내릴 수 있다. 그러나 부정을 저지른 후보자가 재선거에 참여하는 것을 막을 충분한 힘이 없는 상황에서, ECT는 상원의원 선거에서 선거의 최종 결과가 전문적인 자격과 정치적인 합법성을 가지고 국민을 대표할 의회의 구성원을 선출하는데 어려움을 겪었다.

몇 차례의 상원 의원 선거에서 드러났듯이, 구태를 벗지 못한 정치와 계속

되는 재선거는 유권자들이 선거에 참여하고자 하는 열정을 식혀버렸다. 그러므로 선거 과정의 투명성과 청렴성을 보장하고, 1997년 헌법과 함께 시작된 민주화의 동력을 유지할 수 있는 방법을 모색하기 위해 ECT와 독립적인 선거 감시자들이 보다 열심히 일하는 것이 매우 중요하다.

2.2 선거 감시 재단 (Pollwatch Foundation)

Pollwatch Foundation은 태국에서 대중 민주주의에 대한 국민의 열정이 최고조에 달했던 때에 설립되었다. 1991년에 발생한 군부 쿠데타의 교훈 중의 하나가 “나쁜 선거”는 “나쁜 정치인”을 낳는다는 점이다. 나쁜 선거가 부패한 정부가 들어서고 결국은 정치에 대한 군부의 개입으로 끝을 맺는 최악의 고리가 만들어 지는 근본적인 원인이었다. 민주주의 질서를 회복한 1992년 5월의 봉기 이후, 대중들은 태국에서 치러지는 선거는 정부 영역과 비정부 영역간의 협력을 기초로 하여 공정하고 정직한 방식으로 치러져야 한데 공감하게 되었다. 1992년 1월 Pollwatch Foundation이 설립된 것은 이러한 정신이 바탕이 됐다. 이후, 재단은 선거 감시는 물론 지방, 지역, 전국적인 수준에서 시민을 교육하는데 중요한 역할을 담당해 오고 있다. 재단의 주요 목표는 “자유롭고 공정한”선거를 치르기 위한 환경을 조성하고, 선거 과정의 전 영역에서 국민들의 참여를 후원하고 격려하는 것이다.

과거에 다른 NGO들이 선거를 감시하였지만, 재정적인 한계와 조직상의 제한으로 인해 그들의 활동은 지역적인 차원을 넘어서지 못했다. Anand Panyarachun 총리는 이러한 문제를 극복하기 위해 내무부를 통해 Pollwatch Foundation가 전국적으로 선거 감시와 시민 교육 업무를 수행할 수 있도록 정부 재원을 제공하였다. 하지만, 인적 구성에 있어, Pollwatch Foundation의 선거 감시자들은 주로 NGOs 출신이다. 이러한 선거 감시자들은 임시로 활동하는 자원봉사자 들이며 선거가 있을 때마다 매번 충원되어야 한다.

매 선거에서, Pollwatch Foundation는 전국적으로 대략 50,000여 명의 자원

봉사자들을 동원하여 시민 교육 프로그램을 운영하고 선거 감시 활동을 수행하였다. 시민 교육 프로그램을 운영하기 위해, Pollwatch Foundation은 후보자들이 유권자들을 만나 정당을 설명하고 질의 응답을 할 수 있는 기회를 제공하는 “민주주의 포럼”을 시작하였다. 이는 뿌리깊은 후원자 관계와 금권 정치를 근절하고 후보와 유권자 사이에 “양방향”의 민주적 상호작용을 가능하게 한 의미 있는 발전이다.

선거 감시의 영역에 있어서, Pollwatch Foundation의 자원봉사자들은 선거 과정을 감시하고 선거 관련 위반 사례에 대한 고발을 접수했다. 그들은 태국 전역의 모든 투표소에 배치되었다.

다른 한 편으로, Pollwatch Foundation의 강점은 다른 NGOs 및 모든 주에 있는 지방 단체들과의 연계다. 특히, Pollwatch Foundation은 태국에서 주도적인 역할을 수행하고 있는 민주주의 옹호(Advocacy) 단체인 Campaign for Popular Democracy(CPD)와 Union for Civil Liberty(UCL)과 협조하고 있다.반면, Pollwatch Foundation은 선거 과정의 청렴성을 보장하고, 유권자들의 뜻이 선거 결과에 그대로 반영될 수 있도록 하는 독립적인 단체로서 국민들의 신뢰를 받고 있다. 대중 매체도 유권자의 선거 참여율을 높이고 매표 행위에 반대하는 캠페인 등을 전개하여 유권자들의 의식 수준을 높이는데 기여하였다. Pollwatch Foundation은 매표 행위와 그 밖의 위반 사항에 대하여 5,000건 이상의 고발을 접수했는데 그 중에 50 퍼센트 이상이 사실로 확인되었다. 비록 범법자를 체포하고 구속할 수 있는 힘은 없지만, Pollwatch Foundation자원활동 변호사들을 통해 내무부와의 협조하에 접수된 사건에 대한 조사에 착수할 수 있었다. 1992년부터 1996년까지, Pollwatch Foundation은 태국 역사상 가장 효과적이고 독립적인 선거 감시 단체로 평가 받았다.

하지만, 1997년 Pollwatch Foundation이 독립적인 단체가 된 후, 재단은 내무부로부터 더 이상의 재정 지원을 받을 수 없었기 때문에 중대한 위기에 봉착했다. Pollwatch Foundation은 유권자 교육 프로그램과 NGOs 네트워크와 지방 단체를 통해 선거 과정을 감시하는 과정에서 ECT를 보완하고자 노력

했다. 새로운 상황에서 맞이한 난관에 대응하기 위해, Pollwatch Foundation은 북부 지역, 북동부 고산지역, 북동부 저지대 지역, 중부 지역, 남부 지역 등, 다섯 개 지역에 있는 단체들의 네트워크로서 People's Network for Election(P-Net)를 설립하였다.

사실, P-NET사이의 협조, Pollwatch Foundation과 ECT의 관계가 원활하지는 않다. ECT는 선거를 치르는 과정에서 점차 관료적인 이념을 채택하고 있다. ECT 또한 일반인들에 대한 통로로 활용하기 위해 NGO Coordinating Center를 설치하였다. 이는 P-NET이나 Pollwatch Foundation과 같은 독립적인 단체들의 선거 감시 역할을 효과적으로 제한하는 역할을 했다. P-NET 및 Pollwatch Foundation과 협력하고 있는 독립 단체들은 예산, 자원, 행정적인 협조에 있어 ECT로부터 합리적인 수준의 지원조차 받지 못하고 있다. 2000년의 상원의원 선거와 2001년의 총선에서 일부 지역의 P-NET과 Pollwatch Foundation 자원활동 감시자들은 투표소에 주재하는 관리들에 의해 소외당했다. 그들이 접수한 고발은 ECT에 의해 “비공식”이므로 기각될 수 있는 것으로 간주되었다.

이러한 난관에 대처하기 위해서, Pollwatch Foundation과 P-NET은 전국적인 수준에서 훈련과 감시 노력을 유지할 수 있는 기반을 조성하고 구성원들의 능력을 향상시켜야 한다. 그러나 문제는 Pollwatch Foundation과 P-NET이 주도한 일들을 후원해 왔던 사람들도 선거 과정에서의 민주적인 개혁이 관료주의적인 ECT의 설립을 통해 이미 달성되었다는 견해에 공감하고 있다는 점이다. 물론 이는 현실과는 거리가 멀다. 시민 사회로부터 멀어져서 시민 단체를 적대시하는 것은 별개로 하더라도, 고도로 관료주의화된 ECT는 현재 존재하고 있는 후원자 정치 체제에 흡수되어 버렸다. ECT 위원장의 선출은 고도로 정치화된 나머지 아무도 그 중립 기구로서의 신뢰성을 믿지 못하게 됐다. 그렇지만, 동시에, Pollwatch Foundation과 P-Net은 예산에 있어 대중적인 지원을 받지 못해 심각한 타격을 받았다. 그들은 그 차이를 극복하고 돈과 힘의 정치에서 민주주의를 보호하는데 있어 국민 활동의 중심지로서 다시 등장할 수 있는 준비가 되어 있지도 않고 능력도 없다.

(*이 이하부터는 소제목만 번역했습니다. 편집자 주.)



참조 1 : 선거 과정에서 나타나는 속임수와 규칙 위반의 방식

매표행위

거짓 정보

협박, 살인 그리고 폭력 행사

선거 감독관과 정부 관료의 편파적인 행동

참조 2 : 국가 반부패 위원회

2000년 총선시민연대 낙선운동의 성과와 한계

김기식 (참여연대 사무처장, 총선시민연대 사무처장)

1. 낙선운동의 배경

○ 반세기가 넘게 지속되고 있는 분단냉전체제, 30년간의 군사독재, 뿌리깊은 정치적 지역주의로 인해 국회와 정당이 대의기구로서의 기능과 역할을 못해 온 역사적 배경하에서 광범위한 국민적 정치 불신이 존재

○ IMF 경제위기는 정치적 독재, 정경유착, 재벌체제로 상징되는 30년간의 개발독재의 필연적 결과임. IMF 경제위기로 인해 대다수 국민은 사상 초유의 대량실업과 소득감소, 빈부격차 심화로 고통받았음에도 불구하고 위기의 가장 1차적 책임이 있는 정치권은 스스로의 자정을 통해 개혁의 주체가 되기는 커녕 개혁의 가장 큰 걸림돌이라는 인식이 국민적으로 확대, 심화되면서 정치권에 대한 불신과 분노에 기반하여 낡고 부패한 정치에 대한 변화의 욕구가 팽배

○ 80년대까지 한국은 군부통치하에서 선거와 같은 절차적 민주주의를 통해 정치적 변화와 민주화를 모색하는 것이 원천적으로 불가능하였음. 그러나 87년 6월항쟁을 통해 직선제 개헌을 쟁취한 이후 절차적 민주화가 전진함에 따라 선거와 관련된 운동이 본격화되었음. 80년대까지 한국의 민주화운동을 이끌어온 민중운동을 중심으로 한 구사회운동은 진보정당 창당을 통해 선거참여를 통한 정치세력화를 모색한 반면 90년대 이후 활성화된 시민운동은 정치개혁 차원에서 공명선거감시, 후보자 검증, 정책캠페인등의 활동을 전개해 왔음. 그러나 91년 95년 지방선거, 96년 총선, 97년 대선에서 이런 활동은 국민적 관심과 참여를 이끌어내지 못하여 선거에 별다른 영향을 주지 못함. 이를 통해 선거시기의 운동이 후보자에 대해 직접적인 의사를 표시하지 않는 한 효과적일 수 없다는 인식이 시민운동내부에 형성됨. 참여연대에서는 95년 지방선거부터 낙선운동에 대한 검토와 제안이 있

었으나 당시에는 대다수의 시민단체가 위법성 문제와 정치적 부담등을 이유로 소극적이었음

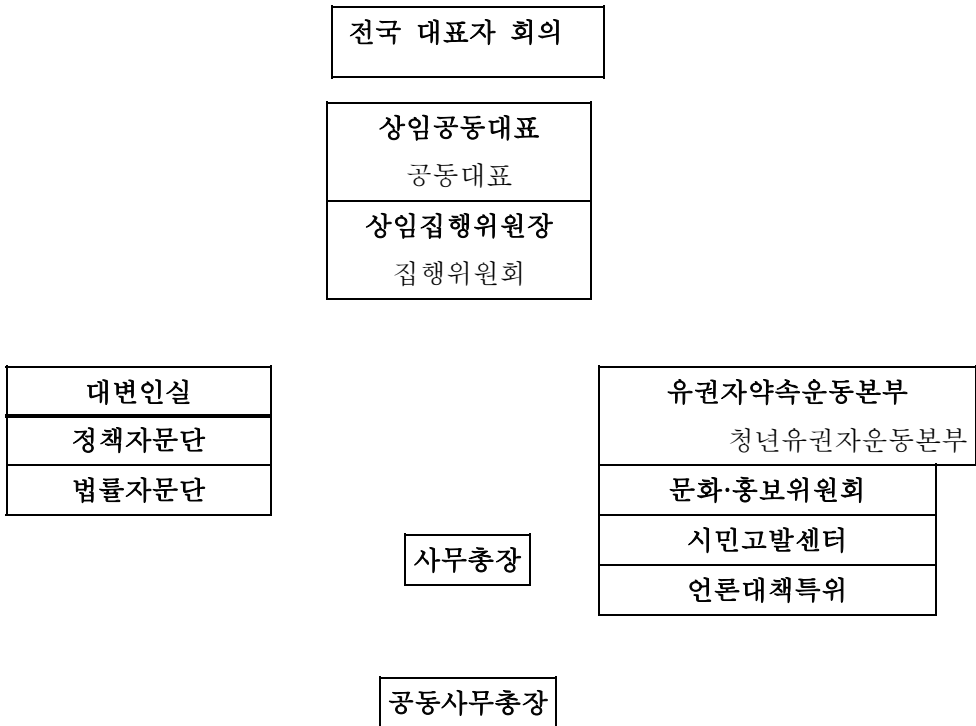
○ 1999년 40개 시민단체는 정기국회 국정감사를 모니터하기 위해 국감시민연대를 결성하고 국회 상임위별로 역할을 분담하여 방청 모니터를 통해 BEST, WORST 의원을 선정, 발표하고, 국정감사의 문제점을 지적하고자 하였음. 그러나 정치권은 여, 야 공히 이에 반발하여 방청자체를 불허하였음. 이 과정을 통해 시민단체 내부적으로 보다 강력한 방식과 형태의 정치개혁운동이 필요하다는 공감대가 형성되었으며 그 결과 1999년 12월 정기국회 폐회후 수차례의 준비모임을 거쳐 2000년 1월 12일 412개 단체가 참여한 총선시민연대를 결성하였음.

2. 2000년 총선시민연대 낙천·낙선운동 개괄

○ 참여단체 현황

- 총선시민연대 중앙 및 지역조직에 총 971개 단체 참가
서울(161), 인천(63), 경기(170), 광주·전남(81), 부산(42), 경남(66), 대구(49), 경북(61), 전북(71), 대전·충남(109), 충북(50), 강원(36), 울산(12) 등 지역별 조직과
천주교(77), 기독교(33), 불교(17), 보건의료(6) (종교계 3개 / 부문 1개)
- 광역 시도별 10개의 협의체, 기초단위 52개 협의체로 자생적인 중층협의체계를 갖추

○ 조직 구성(4월13일 현재)



○ 낙천, 낙선대상자 선정 기준의 결정과정

- 기초자료조사와 여론조사 기관과 공동으로 '공천반대자 기준 여론조사' 실시
- 이때 조사자료는 국회의정활동 기록 및 의정평가자료, 관련 언론자료, 각종 단행본, 각종 판례 등 법률문헌, 시민사회단체 의정활동 모니터 보고서 일체, 정치인 소명자료, 각종 제보자료임
- 공천반대자 기준 여론조사를 통해 유권자들은 부패와 관련된 인사를 가장 우선적인 공천반대 대상으로 판단하고 있음이 밝혀짐 (시민단체가 부패 무능 정치인에 대해 공천반대 및 낙선운동을 펼치는 것에 응답자의 79.8% 찬성, 지역구의 지지후보가 부패 무능 정치인이라고 발표할

때 49.6%가 지지를 철회하겠다는 의사를 밝힘)

○ 공천반대 선정기준의 내용과 적용방식

- 공천반대선정기준 : 부패행위 / 선거법 위반행위 / 민주헌정질서 파괴 및 반인권 전력 / 의정활동의 성실성 / 법안 및 정책에 대한 태도 / 정치인의 기본자질을 의심할 만한 반의회적 반유권자적 행위
- 공천반대자로 판단되는 이들에 대해서는 직책의 고하, 여야의 차이 등 정치적 고려를 하지 않고 선정, 위의 7가지 기준 중 우선적으로 고려하는 기준과 종합적으로 고려하는 기준을 나누어 적용 (부패 전력과 선거법 위반, 헌정파괴 반인권 전력 우선 적용)

○ 시기별 활동내용

- 준비과정 : 낙선운동 제안에서 총선시민연대 발족까지 (1999. 12. 18. - 2000. 1. 11.)
낙선운동 토론회와 제안단체 대표자 간담회를 거친 후 참가제안서를 발송, 전국 시민사회단체 간담회를 통해 의견을 수렴
부패정치 추방 집회 '아듀 20세기, 함께 가라 낡은 정치'를 병행
- 낙선운동 : 공천반대자 발표와 공천철회운동 (2000. 1. 11. - 3. 1.)
1월 24일 1차로 15대 국회 전현직 국회의원을 대상으로 한 66명의 공천반대자 명단 발표, 2월 2일 2차로 46명의 공천반대자 명단 발표, 이어 민주적 공천을 위한 10가지 제안을 담은 제안서를 각 정당에 보내고 이들의 상당수가 공천을 받은 상황에서 부적격 공천자에 대한 공천철회운동을 시작, 공천된 인사들을 대상으로 한 공천무효확인소송과 공천효력정지가처분신청 (정당의 당원 및 대의원을 대상으로 소송원고인단 모집), 동시에 낙선운동 합법성 논란에 따라 선거법 87조(시민단체의 정치활동 금지) 개정 촉구 운동을 벌임
- 유권자 참여운동 : 지역감정 추방운동 및 국민운동으로의 전환 (2000. 3. 2. - 4. 2.)
공천철회운동이 마무리되는 시점에서 낙선운동을 준비, 이 과정에서 지역감정이 극도로 부각되자 지역감정이 낙선운동의 심각한 장애물로 작

용할 것으로 판단, 서울과 지역에서 동시에 지역감정 추방운동을 전개하기로 결정, 기존의 낙천운동을 낙선운동으로 발전시키기 위해 총선연대의 운동을 국민운동 또는 국민적 대중운동으로 발전시키기 위한 준비를 진행, 유권자 서약과 총선연대 대표단의 전국버스투어 활동, 광역과 기초자치단체 수준에서 지역총선연대가 속속 조직됨

- 낙선운동 : 낙선대상자 발표와 본격적인 낙선운동 (2000. 4. 2. - 4. 13.)

4월 3일 낙선대상자 86명의 명단 발표 (기존 공천대상자 중에서 공천된 64명에 22명을 추가하는 형태), 낙선대상자 중 22명을 집중낙선대상자로 특별히 선정하여 일대일 낙선운동을 전개하기로 결정, 중앙총선연대와 광역·기초 협의체가 입체적으로 낙선운동 진행, 젊은 층의 참여를 낙선운동의 관건으로 보아 대학로 우드스탁과 연예인 사인회 등 다양한 문화행사 개최, 정치개혁과 사법개혁의 과제 등 시민사회단체 공동의 과제를 수록한 정책자료집 발간·배포, 후보자 서약 추진(450명의 후보자가 서약에 동의)

○ 운동 결과

- 1·2차 공천반대자 중 43.1% 낙천
공천반대자 총 102명 중 1차 67명 중 60명, 2차 48명 중 42명 명단에
서 제외
- 전국 낙선율 : 68.6% (86명 중 59명)
- 22개 집중지역 낙선율 : 68.2% (22명 중 15명)
수도권 : 95.0% (20명 중 19명)
중부권 : 78.3% (23명 중 18명)
호남권 : 75.0% (8명 중 6명)
영남권 : 45.7% (35명 중 16명)

○ 사이버 총선연대 (www.ngokorea.org)

- 접속건수 : 총 925,000건 (2000. 1. 12. - 4. 18.)
- 1일 평균 : 10,569건

- 운영자 이메일 : 8,000여 통(1일 평균 88통 수신)
- 시민참여 게시판 : 45,674건
- 지지서명 : 28,319명

○ 성금

- 후원인 수 : 총 5667명
- 모금액 : 총 350,191,652원
- 지출액 : 총 328,851,681원

3. 낙천·낙선운동을 둘러싼 쟁점

○ 낙선운동의 진행방식을 둘러싼 논의

- 준비단계에서 낙천, 낙선운동의 위법성 논란과 정치적인 강력한 반발을 고려하여 점진적으로 접근하여 명분과 국민적 공감대를 형성하자는 견해와 위법성 논란은 정면돌파해야 하고 정치권과의 대립은 오히려 증폭될수록 유리하는 점에서 처음부터 낙선운동을 선언하자는 견해간에 시기와 방식을 둘러싼 약간의 논란이 있었으나 후자로 쉽게 정리됨

○ 위법성 시비

- 당시 한국의 선거법은 시민단체가 선거에서 후보자에 대해 지지, 반대의 의사표시를 하는 것조차 금지하고 있었음. 따라서 법적으로 낙천, 낙선운동은 불법이라는 공격이 정지권 및 보수언론을 통해 바로 제기되었으며, 시민단체중 일부도 위법성을 이유로 총선연대를 비난하기도 했음(시민단체중 일부는 시민운동은 합법적인 활동만 해야한다는 견해를 갖고 있었음)
- 그러나 총선시민연대는 낙선운동이 헌법상 보장된 국민 참정권의 일환으로 당시 선거법이 위헌이며, 국민의 절대 다수가(여론조사상으로 2/3이상) 시민단체의 낙선운동을 허용하도록 선거법이 개정해야 한다는 의견을 갖고 있다는 점에서 국민적 정당성이 있고, 낙선운동은 시민불복종 운동으로 국민 저항권 차원에서 정당하다고 주장하였음. 오히려 문제는 헌법과 국민의 여론을 무시하고 자신들의 이익을 위해 선거법을 개정하지 않는 정치권을 공격하여 부분적으로 선거법을 개정시키는 성과를 얻었음.

- 하지만 개정 선거법이 낙선운동을 전면 허용하지 않음으로 인해 총선 시민연대 7인 지도부를 포함하여 전국적으로 00명이 형사처벌되었음.

○ 공천반대자 선정의 기준에 관한 논쟁

- 낙천, 낙선 대상자 선정시 대상자의 공과 과를 종합적으로 고려하지 않고 선정기준에 해당하는 사유가 있으면 일률적으로 낙천, 낙선대상자를 선정하는 것은 문제라는 지적이 있었음. 그러나 총선시민연대 지도부는 긍정적인 측면에 대한 평가는 주관적인 것으로 국민적 공감대를 형성하기 어렵다는 점에서 선정기준에 해당하는 사유가 있음에도 불구하고 대상자의 긍정적인 측면을 고려하여 낙천, 낙선 대상자에서 제외할 경우 대상자 선정의 공정성과 객관성을 공격받을 수 있다고 판단하였음

- 낙천, 낙선 대상자 선정시 의정활동을 주된 기준으로 하지 않은 것에 대한 비판이 제기되었음. 그러나 총선시민연대는 국회의원 개개인이 자신의 소신에 따라 의정활동과 표결을 할 수 없고, 당론이라는 미명하에 정당 지도부가 소속 국회의원의 모든 활동을 통제하는 한국의 정치현실에서 의정활동을 개인별로 평가하는 것 자체가 불가능하고 무의미하다고 판단하였음.

○ 음모론과 유착설

- 당시 야당과 보수언론에서는 총선시민연대 낙천, 낙선운동이 집권 여당의 비밀리에 공조하여 전개되고 있다고 음모론과 유착설을 제기하여음. 총선시민연대는 TV 토론회등을 통해 직접 국민에게 호소하고, 일체의 정치적 고려를 배제하고 선정기준에 따라 공정하고 객관적으로 낙천, 낙선대상자를 선정함으로써 이를 극복하였음.

4. 낙선운동의 성과

○ 낙천·낙선운동의 직접적 효과

- 공천반대운동으로 몇몇 정치인들이 정계은퇴 및 선거불출마 선언을 하였고 112명의 공천반대자중 58명을 공천에서 탈락시켰음. 공천이 된 86명의 낙선대상자중 59명을 낙선시켰으며(낙선율 68.6%), 특히 수도권 낙

선대상자 20명중 19명을 낙선시켰음(수도권 낙선율 95%). 집중낙선대상자 22명중 15명이 낙선되었으며(낙선율 68.2%), 수도권 집중낙선대상자 7명 전원을 낙선시켰음.

○ 낙천·낙선운동의 간접적 효과

시민단체의 정치활동을 막는 선거법 제87조를 부분적으로 개정하였으며, 선거구 26개를 감축시켰음. 또한 밀실공천의 비민주적 관행에 제동을 걸었으며 지역감정을 공공연히 조장하는 행위를 차단시켰음(3당 서약 및 방송사 합의 유도).

○ 낙천·낙선운동의 중장기적 효과

유권자 스스로 자신의 힘을 자각하도록 하였으며, 정치적 변화의 욕구를 보다 증폭시킴(최근 대선을 앞두고 나타나고 있는 노무현, 정몽준 바람도 이런 변화의 욕구를 반영하는 것임). 특히 유권자 운동의 새지평을 개척하여 정치권에 대해 시민사회가 개입할 수 있는 토대를 마련하였음.

○ 낙천·낙선운동의 시민운동 내적 효과

시민운동의 정치, 사회적 위상을 강화하여 시민운동에 대한 국민적인 평가를 제고시켰으며 시민운동의 질적 발전의 기반을 마련하였음. 동시에 80년 민주화운동과는 달리 연대활동에 소극적이고 경험이 부족했던 시민운동의 연대성을 강화하였음.

5. 낙천·낙선운동의 한계

○ 가장 근본적인 한계는 낙천, 낙선운동이 개별적인 후보자의 낙선을 넘어서 낡고 부패한 정치세력을 추방하고 새로운 대안적 정치세력을 형성하도록 함으로써 정치를 근본적으로 개혁하는데까지 나아갈 수 없었다는 점임. 낙천, 낙선운동은 대안적 정치세력에 대한 전망이 없는 상황에서 출발하여 지지운동/후보전술을 포기하고 반대운동에 국한한 네거티브 방식이었음. 56.4%의 낮은 투표율은 낡고 부패한 정치권에 대한 유권자의 집단적 경고의 의미도 있으나 한편 젊은 유권자층이 '대안부재' 상황에서 선거에

불참한 결과임.. 당시 민주노동당이라는 진보정당이 후보자를 출마시켰으나 국민적으로 대안적인 정당으로 인정되지 못하였음. 이러한 한계는 분단냉전체제로 인해 진보정당에 대한 국민적 지지가 미약하고, 시민운동이 조직적으로 후보를 낼 수 없는 조건에서 앞으로도 상당기간 극복하기 어려울 것임.

○ 여전히 지역감정의 벽을 넘지 못하였음. 경상도를 제외한 다른 모든 지역에서 낙선운동이 결정적인 영향을 주어 낙선운동이 지역감정의 완화에 어느정도 기여하였다고 평가됨. 그러나 경상도 지역에서는 예상대로 오히려 지역감정이 강화되어 주요낙선대상이 된 경상도 지역의 한나라당 후보는 단 한 사람도 낙선되지 않았음. 이는 경상도당, 전라도당으로 지역적으로 확연히 구분된 한국의 정치지형에서 대안적 정당의 부재에서 비롯된 것임.(투표하지 말아야 할 후보자는 제시하였지만 투표해서 당선시킬 후보자를 제시할 수 없는 상황의 반영)

○ 총선시민연대의 성과를 지속적인 유권자운동, 정치개혁운동으로 발전시키지 못한 것도 한계임. 총선시민연대의 성과를 개혁연대로 발전시키려는 시도는 시민운동 내부의 문제로 좌절하였으며, 1년동안의 우여곡절 끝에 만들어진 시민사회단체연대회의라는 연대기구도 운동성이 미약하고 내부의 합의 기반도 취약함.

일본에 있어서 선거에의 시민참가 현황에 대해

이마모토 슈우지 (인터넷 정치포럼 사무총장)

사례연구로서, 일본에서는 수 년 전부터 다음 4가지 타입의 선거참가형태 행동이 시민단체에 의해 실시되고 있다. 첫번째 형태는 기성정당의 힘에 의하지 않고, 시민단체와 NGO등에 의한 무당파(無黨派) 후보자를 옹립해 당선시키는 운동, 두번째는 공개토론회의 실시, 세번째는 각종 양케이트등에 의한 후보자 상호의 정책과 사상신조를 비교시키는 운동, 네번째는 낙선운동이다. 이러한 시민운동에 의해, 조금씩이기는 하지만, 선거에 있어서 후보자에 관한 정보공개와 자신이 요구하는 후보자를 뽑으려고 하는 일반시민의 관심은 일본에 있어서도 계속 높아가고 있다.

(1) 무당파 후보자 옹립·지원운동 (자료1)

일본의 경우, 정치는 공공사업의 이권에 의존하는 건설업계 및 그 밖의 여러 산업계와 여당 정치가와와의 유착이 정치개혁의 가장 커다란 장애가 되어 왔다. 그리고 선거에서는 항상 파벌화 된 기성정당이 지역집단으로부터 전국의 이익단체에 이르기까지 조직적인 집표를 행사하여 승리해, 주민 대다수의 의견을 무시해도 지지를 받은 이익단체와 기업의 이익을 최우선으로 보호하는 정책을 전개해 왔다. 따라서 시민레벨에서는 이러한 기성정당의 선거에 대한 반발로부터 정당과 이권에 의존하지 않는 정련결백(精鍊潔白)한 후보자를 찾아 지역주민에 의한 「전국캣페렌연합회 勝手連¹」 그룹에 의해 응원하는 선거운동이 각지에서 일어나고 있다.

그 중에서도 4년 전, 통일지방선거 때, 무당파 입후보자의 전국네트워 크로서 결성된 「무지개와 녹색의 500인 리스트」는 철저한 지역주의와

¹ - : , , , 28 , ,
- : " ! !"
- : , 가 .

민주주의, 반이권주의를 내걸고, 평화·환경·인권·복지·고용 등의 정책을 요구하는 후보자를 상호지원했다. 또한, 올해에는 새롭게 「맹약(盟約) 2002」라는 전국적 운동이 시작되었다. 이것은 최대다수의 시민을 위한 특정의 정책을 공약으로써 내거는 후보자와 맹약을 맺어 그 정책을 실현시키는 대신, 선거에서 그들을 응원한다는 새로운 행동구상이다. (자료1참조)

(2) 공개토론회 보급운동

이에 반해, 선거를 직접 응원하는 것이 아니라 후보자가 어떤 인물인가 하는 점을 유권자의 눈 앞에서 직접 보게 하여 비교·판단 할 수 있는 자료로 삼기 위해 시민의 뜻으로 「공개토론회」를 개최한다고 하는 행동이 수년 전부터 일본전국에서 유행하고 있다. 이것은 「링크포럼」이라는 단체가 제안하기 시작해, 전국의 선거에서 조직적으로 지원·응원체제를 만들고 있어서, 작년의 국정선거까지 전국에서 400여 개소의 장소에서 「공개토론회」를 성공시켰다. 이 「공개토론회」는 종래의 선거 시에 행해지고 있던 「개인연설회」와는 달리, 그 지역구 후보자 전원이 함께 모여 각자가 선거 무렵에 자신의 포부를 한정된 시간에 연설함과 동시에 주재자 혹은 회장으로부터 던져진 임의의 질문에 각자가 답변해 나간다는 형식이다. 이에 따라, 후보자 전원이 함께 모이기 때문에 청중은 각각의 후보자의 인품과 연설의 좋음, 정책과 공약내용의 차이점 등을 서로 비교할 수가 있다. 많은 토론회의 경우, 후보자의 실력과 능력의 차이는 질문응답과 연설에서 명백히 보여지기 때문에 누구라도 쉽게 그 우열을 분별할 수 있는 것이 일반적이다.

(3) NGO에 의한 정책 양케이트 공표 (자료2)

선거 입후보자에 대해, 각 정책에 관심을 갖는 각종의 NGO도 수년 전부터 후보자에게 직접, 정책 양케이트를 실시해 그 회답을 홈페이지와 기관지 상에서 공개하는 행동을 전개하고 있다. 예를 들면, 회원 수 12만명으로 일본최대규모를 자랑하는 지구환경문제의 해결을 겨냥한 NGO 「네트워크 지구촌」은 다른 환경 NGO와 협력해 작년에 있었던 국정선거에서 전국의 후보자 전원에 대해 환경세와 재이용 에너지 도입의 시비(是非)

에 대한 것 등, 환경정책의 시비를 항목별로 앙케이트를 실시했다.

이에 더해, 문화인(우리나라의 문화계 인사를 의미)과 평론가 등에서 구성된 「**정치가 평정(評定)회의**」에서는 작년에 당시 여론을 들끓게 했던 「정치와 돈」, 「주민투표」 문제 등을 주제로 몇 가지의 항목에 대해 국회의원 전원에게 앙케이트를 실시, 그 결과를 정당별로 공표했다(**자료2참조**). 이러한 시도에 있어서는 후보자가 속한 각 정당의 정책 차이가 다소 명확하게 결과로서 나타나 있다.

(4) 낙선운동 (자료3)

다만, (1) ~ (3)의 어느 경우에도 문제가 되는 것은 확고하고 적극적인 후보자로서의 자질과 기준이 명확하지 않다는 것이다. 특히, 유권자는 그 당시의 분위기와 후보자의 인기, 지명도, 외관 등에 아무래도 주목하게 되어, 그러한 점들을 투표 시의 판단기준으로 삼아버리는 경향이 있다. 시민 단체에 의한 운동은 아무래도 이러한 주관성을 벗어나지 못하기에, 선거운동을 통해서 어떠한 정치를 겨냥해야 하는 것인가, 어떤 후보자가 바람직한 것인가를 제시할 수 없는 것이 작금의 현실이다.

다만, 그 중에서도 **낙선운동**은 예외이다. 일본에서도 한국의 참여연대가 행한 낙선운동이 유명해진 그 해에 간사이(關西) 지역에서 우리들이 행한 낙선운동 「**결함의원을 낙선시키는 시민연대**」는 부정과 공여, 독직과 다른 범죄에 관여했는지 아닌지 등의 항목에 근거해 후보자를 7 ~ 8개 판정기준으로 평가해, 20여명의 입후보 부적격자를 언론에 공표했다. 예를 들어, 2000년 선거에서 실시한 평가기준은 다음과 같다.

결함기준

- (1) 범죄·부정·뇌물수뢰에의 관여 (특정업자와의 유착과 알선, 담합관여, 현금의혹 등)
- (2) 공직선거법 위반 (향응 등)
- (3) 정치자금규제법 위반 (자산은닉, 수지보고 허위 등)
- (4) 반인권적·차별적 발언 (특정개인 및 법인에 대한 비방증상,

성희롱 발언포함)

- (5) 선거공약 위반 (소속정당 이적도 포함)
- (6) 의원활동 태만 (결석횟수가 많다)
- (7) 질병 등 의원활동이 물리적으로 곤란
- (8) 공사혼동·비상식적인 행동, 활동의 불투명성(정보공개도가 지극히 낮은 점 등)

다음 해인 2001년 선거에는 더욱 상기의 판정기준을 정밀하게 하여 정보공개도, 부정도, 의원활동도의 3가지 관점으로 분류해, 플러스·마이너스 평가기준을 설정하고 국정선거의 모든 후보자를 대상으로 점수평가를 실시, 인터넷상 등에 공표했다(자료3참조). 일반적으로 「낙선운동」 이라고 이름을 붙이면, 시민들에게 이미지가 좋지 않게 연결되기 때문에, 우리들은 굳이 「후보자 감정단」 이라는 명칭으로 활동했다.

이 「감정단」 활동은 유권자가 선거에 즈음하여 단순한 인기와 첫인상 또는 아는 사람이니까 라는 식의 이유가 아니라, 후보자를 보다 객관적인 「정치가·의원으로서 필요한, 최소한의 능력, 자질, 실적」 에 비추어 선출할 수 있도록 공정함과 객관적인 기준이 되는 데이터로 작성해 유권자의 후보자 선택에 참조되는 것이 목적이었다. 따라서, 데이터에 대해서는 신뢰할 만한 신문기사와 잡지기사의 출전을 분명히 해, 모든 후보자에 대해 「중립·공정」 한 태도로 감정(鑑定)에 임하도록 신경썼다.

후보자도 데이터 자료가 부족한 후보자를 제거하고, 정치가로서의 자질과 능력을 묻기 위한 객관적인 데이터가 수집 가능한 각 후보자에 한정해 (현직 중심, 신인을 불문하고), 각각의 후보자 「감정서」 (통지표)를 일정한 평가기준에 근거해 작성했다. 그리고, 평가가 가능한 해당 후보자에 대해서는 각각 평가점수와 5단계 평가를 부여했다.

채점결과에 대해서도 물론, 그것이 후보자의 가치를 결정하는 유일한 절대기준은 아니다. (채점)결과에 대해서는 유권자가 그것을 보고 스스로 판단해야 한다고 하는 컨셉이며, 이 쪽(감정단)에서 후보자 개인의 상대평가에 의한 랭킹, 인기투표, 코멘트 류의 행위는 일절하지 않기로 했다. 홈페이지를 본 유권자가 각각의 판단에서 스스로의 투표행동을 할 경우에 하

나의 참고가 되도록 하자고 호소하는 것이다.

유감스럽게도 작년에 있었던 선거에서는 언론의 이해도가 낮아, 이 「**후보자 감정단**」 운동은 확대되지 못했지만, 앞으로도 필요한 작업의 하나로써 계속해 나갈 예정이다.

<자료1>

맹약(盟約) 2002 (가칭) 결성준비회 발족까지의 지침

● 모임의 목적에 대해

무당파(지지정당 없음) 시민의 정치참가·정치개혁 의욕을 활성화하는 밑받침이 되어 맹약을 구현화 하는 의원과 수장(首長)을 다수 탄생시킨다.

● 모임의 명칭에 대해

「맹약 2002」를 가칭(假稱)으로 계속해서 사용한다. 결성총회까지 정식 명칭을 결정한다.

● 맹약의 내용에 대해

[1] 일본을 「비전(非戰)국가」로 새로이 한다.

현행 일미안보체제를 단계적으로 해소해, 시민수준의 평화외교를 확립하는 등, 헌법9조의 정신에 입각해 새로운 평화정책을 확립한다.

[2] 주민투표·국민투표를 법제화한다.

중요안건에 대해서는 일정수의 주권자로부터 청구가 있으면 의회의 권한을 억누르고, 자치체 주민과 국민의 직접투표에 의해 그 시비(是非)를 정하는 제도를 만든다.

[3] 부정공공사업을 중단한다.

주민이 참가하여, 공공사업을 진행하기 위한 기준을 작성함과 동시에 기존의 장기계획, 착공완료 사업도 포함, 모든 공공사업을 제로베이스에서 재검토한다.

[4] 탈원전을 진행함과 동시에 경제성장 제일주의에서 벗어난다.

대량생산·대량소비·대량폐기를 개선하고, 기업과 가정을 불문, 사회전체의 에너지 소비량을 대폭 줄여, 새로운 가치관에 기반하는 경제스타일을 확립한다.

[5] 철저한 정보공개와 행정감시를 한다.

권력에 의한 가치있는 정보의 조작과 은폐를 허용치 않고, 외무성(사태)에서 보여지는 관료 등의 반국민적인 작금의 행태를 철저히 감시·적

발한다.

- 각 항목의 구체적인 정책에 대해서는 12월 결성총회까지 계속해 간다.

- 어떻게 해서 목표에 도달할 것인가

중의원 및 참의원과 자치체에 대항해, 맹약을 맺은 독자후보자를 세워, 의원·수장(首長)을 탄생시킨다.

정치적인 상황·조건에 따라, 위의 독자후보자 뿐만 아니라 다른 무소속 후보자와 기성정당에 속한 후보자 개인과도 맹약을 체결하도록 추천한다. 예를 들어, 민주당 소속의 후보자라면 추천하지만, 자민당 소속의 후보자는 추천하지 않는다고 했던 소속정당에 의한 연줄행위는 하지 않는다. 그 개인이 우리들과의 사이에서 맹약을 맺고 당선 후 당의 뜻에 구속되기를 거부한다고 해도, 맹약을 끝까지 이행할 것인지 아닌지로 추천을 결정한다. 추천한 후보에게는 자신의 선거용 전단지 등에 맹약의 제안자 이름을 추천자로서 실을 수 있도록 허가하는 등의 행위를 통해, 가능하면 집표에 협력한다.

다만, 안이하게 추천지원결정을 하지 않는다. 추천지원을 요구한 후보자가 맹약을 지킨다고 말하는 것만으로는 충분치 않다. 면접을 겸하든지 해서 신뢰할 만한 인물인지 아닌지를 엄격하게 체크한다.

개별안건에 대한 후보자의 정치자세를 구체화 한다. 예를 들어, 도쿠시마(徳島) 선거에 있어서, 지사선거와 현(우리나라의 道에 해당) 의원선거, 국정선거에서도 「요시노 강 제방건설은 부정 공공공사(公共工事)」라고 인식하고 이 건설을 중단한다는 정치자세를 취하는 후보자가 아니라면 불가하다. 그렇게 하지 않으면, 선거 후에 「저는 吉野川可動堰 건설은 좋은 공공공사라고 생각하고 있습니다。」라는 식으로 말바꾸기를 할 지도 모르기 때문에.

시민과 언론에 대해 우리들이 무엇을 하려고 하는 것인가를 잘 이해시키기 위해 홈페이지나 전단지 등에 의한 PR을 추가해, 구체적인 「사례」를 보여준다. 당면한 도쿠시마(徳島)를 중점추진지역으로 해서 내년 봄, 현의원선거에서 시민과 후보(약 15명)와 맹약을 맺어 현의회를 쇄신하도록 힘을

모은다. 또한, 어느 곳의 지사선거에서든 무소속 후보와 맹약을 맺어 강력히 지원한다.

<맹약>을 실행하기 위해, 보다 구체적인 정책을 짜내는 강력한 전문가 집단을 형성해서 우리 모두가 지원하는 의원과 수장(首長)을 서포트한다.

- **어떻게 해서 회원(仲間)을 늘릴 것인가**

매력적이고 본격적인 홈페이지와 메일매거진을 만들어, 많은 「무당파 시민」에게 일본의 리뉴얼(RENEWAL)을 위한 정보와 메시지를 발신한다. 교류모임을 각지에서 개최한다. 제안자 역할을 맡고 있는 학자와 작가, 시민활동가 등을 중심으로 다채로운 연설자를 각지에 파견해서 교류모임을 개최. 여기에서 회원을 확대. 정치자금도 모은다.

- **재정기반에 대해**

선거에 임할 때는, 그 용도에 맞는 자금수집책을 세워야 하지만, 우선적으로 왕성한 일상활동을 전개하기 위해 사무국(상근자 1명 + 자원활동가 스태프)을 유지하는 재정기반을 어떻게 확립할 것인가에 대해.

12월8일, 창립총회까지 500명 태세를 확립. 회비는 6개월에 6천엔 (연간 회비를 일괄납부 시에는 1만엔 = 학생은 반액으로 5천엔). 이 금액으로 사무국을 유지한다.

- **「제안자가 되지 않으렵니까」라는 방식으로**

유명하건 아니건 상관없다. 취지에 찬동하고 적극적으로 참여하고 싶어 하는 사람은 누구라도 환영한다. 「제안자가 되겠다」라고 하는 분에게는, 경비에 충당하기 위한 자금으로 10만엔을 받는다.

[앞으로의 전개에 대해]

- **멤버를 팀별로 나누고, 개별적으로 활동을 진행한다.**

멤버는 반드시 어떤 조에 가입한다.

1. 「정책조」 5개의 맹약에 대응하는 구체적인 정책을 작성하는 팀
2. 「재정조」 안정된 재정을 위한 재정확립팀. 회원확대와 거액의 정치자금 획득, 시민그룹과의 제휴 등, 자주적이고도 적극적으로 자금획득에 나서

는 팀

3. 「스카우트조」 지사후보와 의원후보 등 맹약 체결대상자를 만족시켜 스카우트하여 대화를 진행함과 동시에 후보자 추천지원을 결정하는 절차, 기준을 작성한다. 또한 후보자에게 어떤 편의를 도모하고, 후보자를 어떻게 붙잡아 두는가에 대해서도 정한다.

4. 「제안자 획득조」 매력적인 사람이 제안자가 될 수 있도록 하기 위해서, 편지를 보낸다든가, 발로 뛰어서 성실하면서도 끈질기게 교섭하는 팀

5. 「홈페이지조」 콘텐츠의 충실과 갱신을 지체하지 않고 진행해 나가는 것이 임무

6. 「리베로조」 대량 인쇄물이나 그 속에 끼워지는 광고, 그리고 우편물 발송과 비품조달 등의 경우에, 역동적으로 이러한 일들을 해내는 팀.

- 자신이 어느 조에 들 것인가를 8월 말까지 결정해 주시기 바랍니다. 일이 기다리고 있습니다. 조장에 대해서도 8월 말까지 결정하겠습니다. 자천·타천 불문합니다. 적극적으로 참여해 주시기를 바랍니다.

- 8월 하순 기본적인 사안을 확정. 홈페이지 개설

- 9월 초순 「對후보자조」의 후보자 추천지원을 결정하는 절차기준안을 발표

- 9월 중순 「정책조」 5개의 <맹약>에 대응하는 구체적인 정책안을 발표

- 9월 하순 상기 2안에 대해 의논하는 회합을 개최 (동경 혹은 고베에서)

- 10월 초순 새로운 팜플렛을 작성

- 10월 중순 새로운 팜플렛을 활용해서 「제안자 획득」을 본격화한다.

- 10월 하순 지사후보와 의원후보 등 <맹약> 체결대상자의 획득을 진행한다.

- 11월 초순 12월 8일의 결성총회에 대비, 기자회견을 연다.

- 12월 8일(일요일)에 결성총회를 개최 (100인 규모로)

맹약 2002 임시사무국

<자료2>

현직국회의원 입후보예정자 앙케이트 질문사항
정치가 평정(評定)회의 작성 2001년5월

앙케이트 질문사항

<질문1>
재정적자 재건에 대해 (가장 유효하다고 생각하는 수단을 한가지만 선택하고, B를 선택한 분은 우선순위도 매겨 주세요)
A. 증세는 불가피 하다.
B. 예산의 감소 가. 교육예산의 감소 나. 복지예산의 감소 다. 공공사업비의 감소 라. 공무원 감소 마. 방위비 감소
C. 인플레 정책은 불가피하다.

<질문2>
정치와 자금에 대해 (한가지만 선택)
A. 기업단체헌금을 인정한다
B. 기업단체헌금을 완전폐지
C. 공영선거로 하고, 필요액을 전부 세금으로 충당. 위반자는 공민권 정지

<질문3>
헌법에 대해 (한가지만 선택하고, C를 선택한 분은 ‘가’와 ‘나’중에서 선택
A. 개정하지 말자
B. 제9조를 포함, 전면적으로 개정한다.
C. 제9조 만을 개정한다 가. 제9조의 기본방침 (전쟁방기(放棄), 군비 및 교전권 부인)은 유지한다. 나. 제9조의 기본방침 그것을 바꾼다.
D. 제9조를 제외한 개정을 한다

<질문4>
지구규모의 환경파괴에 대해 (우선순위를 매긴다)
A. 경제성장을 감속시켜서라도 환경을 지킨다.
B. 경제성장을 소외하지 않는 정도에서 규제를 강화해, 환경을 지킨다.
C. 환경세를 도입한다.

<질문5>
주민투표에 대해 (한가지만 선택)
A. 지방의회를 활성화시키기 위해 권한을 부여한다.
B. 간접민주주의에 어울리지 않기 때문에 인정할 수 없다.
C. 민의를 알 수 있는 참고 수준에 그친다.

<질문6>
정치윤리에 대해 (예/ 아니오)
자금, 선거 등 의원의 도덕성에 관하여 어떠한 의혹이 생겼을 경우, 모든 의원활동상황을 공개해, 사실관계를 분명히 하는 제도를 만든다. (그것을 옴부즈맨 등의 조직이 체크한다.)
예/ 아니오

<참고> 앙케이트 결과

질문2 정치와 자금에 대해

정당내에서 각 설문의 비율 (%)

	A. 기업현금 승인	B. 기업현금 폐지	C. 공영 선거	기타	회답 없음	합계
자민	38	7	41	4	11	100
공명	0	67	19	5	10	100
보수	28	22	50	0	0	100
개혁	0	40	60	0	0	100
민주	3	26	70	1	0	100
공산	0	100	0	0	0	100
자유	8	35	57	0	0	100
사민	0	77	23	0	0	100
연합	12	18	71	0	0	100
사키	50	50	0	0	0	100

가케						
二阮	0	0	0	0	0	0
參夕	0	0	0	0	0	0
新社	0	0	0	0	0	0
無會	0	71	14	0	14	100
무소 속	6	33	52	3	6	100
합계 (%)	9.5	62.6	23.4	1.8	2.7	

질문4 환경에 대해 (우선순위 1위에 뽑힌 항목)

정당내에서 각 설문의 비율 (%)

	A. 환경우선	B. 경제성장을 고려하면서 규제	C. 환경세 도입	기타	회답 없음	합계
자민	8.7	63.1	16.5	2.9	8.7	100
공명	13.0	52.2	23.9	4.3	6.5	100
보수	21.1	63.2	15.8	0	0	100
개혁	14.3	71.4	0	0	14.3	100
민주	16.4	17.5	64.7	1.1	0.4	100
공산	97.9	1.2	0	0.6	0.3	100
자유	20.4	49.0	26.5	0	4.1	100
사민	68.1	15.3	16.7	0	0	100
연합	47.4	36.8	15.8	0	0	100

사키 가케	0	0	100.0	0	0	100
二阮	0	0	0	0	100.0	100
參夕	0	0	0	0	0	0
新社	0	0	0	0	0	0
無會	28.6	57.1	0	0	14.3	100
무소 속	22.2	33.3	41.7	0	2.8	100
합계 (%)	44.6	26.3	25.1	1.2	2.7	

질문5 주민투표에 대해

정당내에서 각 설문의 비율 (%)

	A. 권한인정	B. 인정하지 않음	C. 참고 정도	기타	회답 없음	합계
자민	20.9	4.4	66.0	2.9	5.8	100
공명	32.6	0	56.5	2.2	8.7	100
보수	15.8	0	84.2	0	0	100
개혁	42.9	0	42.9	0	14.3	100
민주	89.6	0.4	8.9	0.7	0.4	100
공산	99.7	0	0	0	0.3	100
자유	53.1	10.2	34.7	2.0	0	100
사민	98.6	0	1.4	0	0	100
연합	63.2	5.3	31.6	0	0	100

사키 가케	100.0	0	0	0	0	100
二阮	0	0	0	0	100	100
參ク	0	0	0	0	0	0
新社	0	0	0	0	0	0
無會	71.4	0	14.3	0	14.3	100
무소 속	80.6	0	16.7	0	2.8	100
합계 (%)	73.3	1.5	22.2	0.9	2.1	

<자료3>

후보자감정단 기본평가기준일람 2001년 7월 5일 국회 감시단 작성

[원칙]

- 기준점 = 65점으로, 가감하여 평가한다.

[평가방법]

- 일률적으로 얻는 점수 = 기준점 65점부터, 감점 및 가점방식에 의해 평가하고 결과를 득점 순으로 표시한다. 또한, 이상의 점수평가를 근거로 별 5개로 평가한다.

★★★★★	= 90점 이상	優
★★★★	= 80점 이상	秀
★★★	= 70 ~ 79점	可
★★	= 60 ~ 69점	可도 不可도 아님 (중간선)
★	= 51 ~ 59점	문제 있음
없음	= 50점 이하	불가 (후보자 부적격)

[평가항목과 점수]

- 정보공개도
 1. 홈페이지를 설치하고 있지 않다. (-7)
 2. 홈페이지에 게시판 개설 (+1), 또한 본인이 직접 독자에 대해 코멘트 부기 (+1)
 3. 홈페이지에서 본인이 직접 활동일기(의회활동보고, 기관지 등의 내용)를 공개, 빈번하게 갱신하고 있다. (+2)
 4. 홈페이지의 메일과 게시판 등에서 독자의 의견 제안을 공모 (+1), 또한 본인에 의한 코멘트를 부기 (+1)

5. 홈페이지에 수지보고 자산을 공개 (+5)
6. 메일 매거진 개설 (+1)
7. 메일링크 리스트, 전자회의실을 개설 (+1)
8. 홈페이지가 지나치게 단순하여 내용이 부족하다. <아무래도 선거용에
맞춘 프로필용으로 작성한 것이 명백 (-2)

● **의원활동도 (현직의원 모두 해당)**

1. 이전 임기중, 의회에서의 질문횟수가 100회 이상(+5), 150회 이상
(+7)
2. 이전 임기중, 의회에서의 질문횟수가 30회 이하(다만, 발언횟수가 동수
이상이면 평가에서 제외) (-5)
3. 이전 임기중, 의회에서의 질문횟수가 0 ~ 5회 (-10)
4. 의원입법발의가 1회(+2), 2 ~ 5회(+3), 6 ~ 9회 (+4), 10회 이상
(+5), 30회 이상(+7)
5. 이전 임기중, 본회의·위원회 출석률이 0 ~ 25% (-15), 50%이하(-
10), 75%이하(-5)

● **부정행위도(보도의 신빙성이 높은 경우) <1건 당**

1. 범죄·부정·독직행위 내지는 관여 (-15)
2. 비서가 범죄·부정·독직행위에 관여 (-10)
3. 후원회가 범죄·부정에 관여 (-7)
4. 공명선거법 위반, 매수·향응 등 (-10)
5. 정치자금규정법 위반 (-10)
6. 담합관여·현금부정수령 (-5 이상)
7. 상식을 결여한 실언·폭언의 경우
 - ① 특정한 개인이나 집단에 대한 차별발언, 인권침해발언 (-15)
 - ② 유권자, 지지자를 우롱하는 공사혼동발언 (-15)
8. 공약위반 (-15)
9. 해외시찰·연수여행 등, 다액의 사용처가 불명확한 돈에 대한 의혹 <공
비(公費)낭비, 감사청구대상 (-5)

- 그 외에

1. 정책•공약이 구체적으로 명확 (+2) < 5W1H 방법론, 입법내용이 명확한 경우
2. 정책•공약이 추상적이어서 이미지에 의지 (-2)
< 예: 「노인이 안심하고 살 수 있는 사회만들기」, 「평화로 밝은 미래의 창조」 등
3. 정책제언•공약에 있어 해당지역 이익을 철저하게 유도하는 발언이 있음 (-2)
< 「지역을 위해」 등, 「국회의원 = 국가공무원은 국가전체의 이익에 공여해야 만 함」 원칙에 위반.
4. 고령자, 75세 이상의 후보자 (-5), 차기임기 중에 75세를 넘는 후보자 (-3)

- 정당에 대한 평가 (기준점 = 65점)

1. 후보자 선정에 대한 컨셉이 불명확 (-5 ~ -10)
2. 후보자의 지명도•인기도에 의지. 탤런트나 유명인을 복수옹립 (-10 이상)
3. 유권자 개인의 판단과 선택을 존중하지 않고, 특정조직•단체표에 의존 (-10)
4. 후보자 개인 중에 높은 득점평가자가 상당수 존재한다. (+5 ~ +10)

- 비교

상기의 어느 것에도 해당하지 않을 경우, 즉, 자료 데이터 부족에 의해 상기 해당사항이 명확하게 판단할 수 없는 경우는 ± 0 점(가점이나 감점 없이 처리)으로 한다.

<감정서 샘플>

●山X男 59세

참의원 의원, 현직 4선, OK당 공인후보

경력 : 前 통산성 관료, 중의원 의원, OK당 선대위원

총합평가 : 45점 ★★

<평가의 근거>

- 홈페이지가 없다. (-5점)
 - 발언횟수 30회 이하 (-5점)
 - 이전에 치러진 제 000회 중의원선거에서 지지자에게 과자선물을 공여
(공직선거법 위반) (-10점)
- > 출전 : 「주간도전」 97년3월 12일자 호에 게재된 기사

▲条▽子 48세

참의원 의원, 현직 초선, SS당 추천, 무소속

경력 : 변호사, NGO임원, 자유기고가

총합평가 : 80점 ★★★★★

<평가의 근거>

- 홈페이지에 게시판을 설치 (+1점), 게다가 회답도 함 (+1점)
- 홈페이지에서 의견•제안을 모집 (+1점), 게다가 코멘트 있음 (+1점)
- 정책(복지정책)이 구체적이고 명확 (+3점)
- 홈페이지에서 수지보고를 공개 (+5점)
- 의사록, 의원활동 기록을 홈페이지에서 공개 (+3점)

일본 시민사회의 선거 참여

이마모토 슈우지 (인터넷 정치포럼 사무총장)

사례 연구로서, 최근 일본에서 시민 단체에 의해 이뤄진 선거 관련 활동은 세 가지 부류로 나눌 수 있다. 첫째는 돈과 정치적인 힘이 없는 무소속 후보들을 자유롭게 지지하는 것이다. 둘째는 NGO 단체들이 환경, 복지, 외교, 국가 안보 등 각각의 전문 분야나 주제에 대해 후보의 정책에 대한 질문을 던지는 질의 활동이다. 몇몇 사례에서, 후보자들은 공청회장으로 불려 나와 연설을 하고 각자의 이상과 계획에 대해서 이야기하며 비교 당하기도 했다. 세 번째 사례는 낙선 운동이다.

어떤 사례든 문제는 유권자들이 후보자의 정치가로서의 능력이나 자질이 아닌 대중적 인기나 선호도, 외모와 활동, 분위기, 인간성 등에 따라 투표한다는 점이다. 시민 단체에 의한 어떤 선거 관련 활동도 유권자의 이 같은 주관적인 판단을 극복할 수 없었다. 게다가 이러한 활동들은 누구의 정책을 실현시키려고 노력해야 하는가, 누가 좋은 후보이고 누가 나쁜 후보인가와 같은 질문들에 대한 답이나 판단 기준을 제시할 수 없다.

그러나 2년 전부터 일본 서쪽 지방에서 해 오고 있는 낙선 운동은 예외적인 경우이다. 우리는 2000년도 국민선거에서 후보자 낙선 운동을 시도했다. 불법적인 행동을 한 적이 있는가, 뇌물을 받은 적이 있는가, 불명예스러운 스캔들이 있는가와 같은 몇 가지 기준에 따라서 모든 후보자들을 평가했다.

다음해에는 이러한 평가 방식을 수치로 환산하는 방식으로 발전시켰다. 모든 후보들이 세 가지의 범주에 따라 점수를 얻거나 잃는다. (1) 일상 활동과 공식적인 정보의 투명성 (2) 정치가로서 공식적인 일과 활동의 빈도와 적극성 (3) 과거 ‘불법’ 활동의 횟수와 경중. 우리는 그 결과를 인터넷에

공개했고 그 주소를 언론, TV와 다른 대중 매체들을 통해 알렸다.

이와 같은 활동을 벌인 목적은 일반 유권자들에게 주관적인 선호도에 따라서가 아니라 객관적인 기준에 따라 틀림없는 대표자인 후보를 미리 선택하는 것이 얼마나 중요한지를 알리는 것이다. 불행히도 대중 매체와 보통의 유권자들은 그 당시에 우리 활동의 목적을 이해하지 못했다. 그러나 우리는 낙선 운동을 선거에서 유권자들이 좋은 후보와 나쁜 후보를 구별할 수 있는 판단력을 강화하기 위해 꼭 필요한 활동으로서 계속 이어가고자 한다.

필리핀 시민사회의 선거참여

Damaso Magbual, 필리핀

I. 정당명부제

(*번역문이 없습니다. 편집자 주.)

II. 초청후보

배경

1935년 필리핀 헌법은 양당제를 선거제도에 도입했다. 이는 두 개의 정당에 특권을 부여해서 “제3세력”(소수정당들)이 참여 하지 못한다는 것을 의미한다. 양당이 투표소에 참관인을 배치하는 것이 허용되고, 선거구 차원에서 개표의 최종 결과에 대한 공식적인 서류를 받을 수 있는 자격이 부여됐고, 지구나 지역 수준에서 선거명부? (canvass) 를 받게 되었고, 선거관리위원회에서 나오는, 소수 정당들로선 확보하기 어려운 정보들을 얻게 되었다.

유사하게, 양당제에 대해 불만이 있었던 몇몇 저명 정치가들이 두 개의 거대 정당에 맞서기 위해 후보자를 내세운 시도들이 있었다. 그들의 노력은 실패했다. 3 세력의 두 주창자는 매우 유명한 민족주의자인 전 상원의원 Claro Recto 와 Lorenzo Tanada였다. 그들은 미국인들에게 필리핀 내에서 필리핀인과 동등한 권리를 부여하는 “Parity Rights (동등권)”의 폐지, 학교의 국영화, 필리핀 내 미군 기지의 제거 등의 이슈를 주창했다. 이 두 사람은 “민족주의 시민당 (Nationalist Citizens Party)”이라는 정당을 결성하고 몇 차례의 선거에 참여했다. 그들의 시도는 실패했다. 여기서 다른 정당에서 온 “손님 후보”가 원래 당적을 유지한 채 당의 공식적인 후보로 출마하는 것을 허용하는 개정안이 선거법에 도입되었다. 미디어 뿐 아니라 지식인 엘리트로부터의 강한 압력이 법률 개정을 불러 왔다. 앞서 언급한 두 민족주의자는 대중적인 인기가 매우 많고, 존경 받는 정치가였지만, 지방에서는 상대적으로 덜 알려져 있었다. 당시에는 통신과 교통의 불편함이 상당했었

다. 모든 주가 전화기 한 대도 없었고, 어떤 주들은 펌프 보트를 타고 몇 시간씩 가야 닿을 수 있었다. 이런 상황에서 지역에 하부 조직을 가지고 있었던 큰 정당들만이 효과적인 캠페인을 전개할 수 있었다.

현재의 상황

이제 새로운 헌법은 복수 정당제를 허용한다. 군소 정당, 심지어는 지역 정당들도 선거에 참여해서 유권자들에게 보다 넓은 선택권을 제공하도록 하고 있다. 불행히도 거대 정치 정당들은 진정한 의미에서의 “정당”은 아니다. 정부의 일정, 이데올로기, 중점 사안들, 혹은 정부내의 일반 행동 지침에 이르기까지 전혀 다르지 않다. 그래서, 정치인들이 각자의 개인적인 이해관계에 따라서 소속 정당을 바꾸는 일이 너무 자주 발생한다. 그 결과, 좋은 의도를 가지고 있고 정직한 정치가들이 “초청후보”로 거대 정당에서 당선될 수 있도록 한다는 법의 취지는 상실되었다.

무소속 후보

게다가 통신 수단의 기술적인 진보를 고려한다면 “손님 후보”라는 개념은 더 이상 필요하지 않다. 과거에는 지방에도 정치 조직을 가지고 있는 큰 정당들만이 후보를 관직에 당선시킬 수 있는 기회가 있었다. 이제는 미디어에 대해 접근할 수 있게 되고, “동일한 공간, 동일한 시간”을 의무화한 법 때문에, tri-media가 TV와 라디오를 통해 선거 캠페인을 보도하는데 있어서 크고 작은 모든 정당들에게 동일한 공간과 시간을 제공해야 한다. 그러므로 TV 좌담회는 초청 연사 구성비의 균형을 맞추어야 하고, 모든 정당이 적어도 주어진 시간동안 의견을 개진할 수 있었는지 살펴야 한다. 이는 독자 후보에게도 마찬가지이다. 그 결과 독자 후보로 출마해서 당선된 정치인도 있는 데, 이는 20년 전만 해도 불가능했던 일이다. 사실, 현 상원에서 두 명의 상원 의원이 정당 없이 당선되었으며, 스물 몇 명의 하원 의원들도 독자 후보로서 당선되었다.

게다가 소수정당과 주변부도 정당 명부제를 통해 국회에서 대표권을 획득

하게 됐다. 우리 헌법은 전체 하원 의원의 20%를 정당 명부제에 의해 당선된 의원을 위해 할당해 놓고 있다.

결론

“초청후보”법의 의도는 매우 칭찬 받을 만 하다. 그 법은 좋은 정치인이 자신이 정당이 아닌 타 정당에 가입하거나 타 정당의 강령과 원칙을 받아들이지 않고서도 그 정당의 후보로서 당선될 수 있도록 했다. 그러나 통신수단의 급속한 성장과 발달 덕분에 이제는 누구나 독자 후보로 자신과 자신이 가지고 있는 계획들을 유권자들에게 소개할 수 있게 됐다. 비록 그가 개인적으로 어떤 지역에서 캠페인을 펼칠 수는 없다 하더라도 자신의 메시지를 전달하고 유권자들에게 정부의 일정과 함께 자신을 그럴듯한 대안으로서 제시할 수 있게 됐다.

Table of Contents

Welcoming Address	2
Program	3
Participants	4
ANFREL	5
(ANFREL_outline)	
Civil Society's Election Monitoring in the Philippines	19
(NAMFREL_outline)	
Korea	27
Japan (outline)	31
Sri Lanka	32
Nepal	64
Thailand	71
Civil Society's Election Participation in Korea	90
Japan	100
(Japan_outline)	
Philippines	121
Contents in Korean starts at	128

Greetings!

It is my pleasure to welcome our participants and guests to the International Workshop on Civil Society Building Democracy and Good Governance through Election in Asia, organized by People's Solidarity for Participatory Democracy (PSPD), Asian Network for Free Elections (ANFREL) and Forum-Asia.

As the new millennium brings a transition in democracy and governance in Asia, the civil society is coping with new challenges. Election is one of the most important means for people's participation in democracy and governance. Though we as Asians all have different experiences and in different stages in democratization process, through sharing our activities and vision with fellow Asians at this workshop, our commitment for the better tomorrow in our respective societies will be strengthened. Furthermore, the meetings of this kind, as we believe, will provide an occasion to realize a deepening sense of solidarity among Asian colleagues as we come to know deeper reality our struggles.

I would like to take this opportunity to thank our sponsors and many of those gave support in kinds that made this workshop possible, and here we will mention just a few of them; Friedrich Ebert Stiftung, The Korean NGO Weekly–Citizens Times. The Research Institute for Human Rights and Peace at Sungkonghoe University facilitated the venue of our meeting and we are grateful to them.

Once again I welcome our international participants and wish all of you a successful and fruitful conference here in Seoul.

Sang Jung Park
Co-Representative, PSPD

PROGRAM

September 1	6pm	Welcome Reception
September 2	9.30am	Opening
	10am	Session 1 Elections Monitoring: Saving Democracy from Power and Money – The Role of Civil Society to Secure Fair and Free Election (Case Study of Each Participating Country)
	2pm	Session 2 Elections Participation: Civil Society Challenges for Political Reform – New Challenges of Civil Society to Extend Democracy (Blacklisting Campaign, Non-Partisan Candidates, etc.)
	6pm	Dinner (Meeting with Korean Activists)
September 3	10am	Session 3 Round Table Discussion – Solidarity and Vision
	12.30pm	Closing
	4pm	Visit to National Assembly
	6pm	Visit to Democratic Labor Party
September 4	10am	Visit to National Election Committee
	2pm	Visit to PSPD

PARTICIPANTS

Country	Name	Organization
Thailand	Sakool Zuesongdham	Open Forum for Democracy Foundation
Philippines	Damaso Magbual	National Citizens Movement for Free Elections
Nepal	Subodh Pyakurel	Informal Sector Service Centre
Sri Lanka	Kingsley Rodrigo	People's Action for Free and Fair Elections
Japan	Shuji Imamoto	Political Forum on the Internet
Korea	Ki-hyun Kim	YMCA Korea
	Kisik Kim	PSPD
	Bang-sik Choi	The Korean NGO Weekly (panelist-session 2)
	Taeho Lee	PSPD (panelist-session 3)

Regional Civil Society Network and the Promotion of Democracy: ASIAN NETWORK FOR FREE ELECTIONS (ANFREL)

Sunai Phasuk
ANFREL Executive Director

I. Introduction

The Asian Network for Free Elections (ANFREL) was formed in 1997 as the first regional network of Asian civil society organizations with a principal mandate to promote and support democratization process at national and regional levels in Asia.

Based in Bangkok, ANFREL is now the biggest regional network of independent election monitoring, democracy advocacy and human rights organizations in Asia. ANFREL's members include 21 regional and national civil society organizations from 11 countries: Bangladesh, Cambodia, India, Indonesia, Japan, Nepal, Pakistan, Philippines, South Korea, Sri Lanka and Thailand.

In electoral terms, the main and best-known aspect of ANFREL's activity, international election observers were deployed to ensure the integrity, credibility and transparency of electoral process in Bangladesh, Cambodia, East Timor, Philippines, India, Indonesia, Malaysia, Sri Lanka, Nepal, Japan, Hong Kong and Thailand.

In addition to election observation, ANFREL also engages in training, research, advocacy activities and information dissemination on issues related to election and electoral reform, democratization and good governance with a focus on the significance of people's representation and participation. On this matter, ANFREL's

counterparts include member and non-member civil society organizations, state agencies, education institutes, the media and the general public.

II. Election Observation

The Framework for Future Efforts at Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections adopted by the United Nations Commission for Human Rights in 1989 provides that universal and equal suffrage as well as impartial administration must be ensured in the conduct of electoral process. Apart from independent administration and supervision of electoral process by related agencies, there have to be appropriate voter registration methods, reliable balloting procedures and effective measures for preventing frauds and resolving disputes.

Election observers play an important role in the pursuit of democratic elections that should have the following minimal conditions:

- 1) Franchise is genuinely universal.
- 2) Political parties and individual candidates are able to enjoy their legitimate rights to take part in the elections effectively and safely under impartial election laws and regulations.
- 3) There is freedom of expression allowing possible criticism of the incumbent government.
- 4) There is the right to free movement and assembly.
- 5) All contesting parties and candidates have reasonable access to the media.
- 6) There is freedom of choice for voters to cast ballots safely.

Election observers observe electoral process as it takes place to make an informed and accurate assessment on both the conduct of elections and the surrounding environment.

ANFREL believes that the use of election observers can provide an effective means of verifying the integrity and fairness of electoral process and its outcomes. In addition, the presence of observers will create an atmosphere that decreases the likelihood of intimidation, violence or fraud. Well-planned observation missions can significantly instill confidence in voters and increase not only their willingness to seriously participate in electoral process but also their ability to freely express political wills at the polls without fears of reprisal.

It is therefore essential that election observers come from non-partisan organizations with proven records and reputations for professional and ethical qualifications in areas related to the technicality of electoral process and the promotion of democracy.

Lessons from the previous elections and the ongoing political development in Asian countries underwrite the need for an independent monitoring mechanism to observe the political climate; promote a free and fair election environment; document incidents of intimidation, harassment and violence; and report them to the relevant authorities and the public.

By stressing that elections are people's democratic exercise, ANFREL seeks to cooperate with domestic civil society organizations ensure that elections in Asian countries will comply with the spirit of Article 21 of the Universal Declaration of Human Rights (Article 21) that: "The will of the people shall be the basis of the authority of government. This will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."

To sum up, ANFREL's objectives in participating in election monitoring activity can be pointed out as follows:

- 1) To work in cooperation with and enhance the capacity of member and non-member civil society organizations in creating a neutral and safe environment conducive to the conduct of free and fair elections as well as for the realization of people's aspiration for democracy, reconciliation and peace.
- 2) To make the presence of independent international election observers an effective mechanism in monitoring, documenting, deterring and minimizing irregularities, electoral abuses, violence and election-related human rights violations.
- 3) To provide accurate and reliable information and analysis on issues related to election in particular and prospects for democratic development in general.

III. Action-Oriented Trainings, Seminars and Workshops

ANFREL has conducted a number of joint-training sessions in Bangladesh, Cambodia, East Timor, India and the Philippines in cooperation with prominent civil society organizations to enhance the capacity of ANFREL's members in planning, preparing and implementing election-monitoring activity. In doing so, ANFREL has created an opportunity for civil society organizations from different countries to exchange their experiences regarding election- monitoring techniques, civic education and voter awareness campaigns. Resource persons are not only drawn from inside the host country, but also from the network of ANFREL throughout Asia. In fact, soon after the inauguration of ANFREL in 1997, a group of Cambodian election-monitoring organizations were sent to the Philippines to learn about how civil society sector could effectively participate in democratic exercise via electoral process such as election-monitoring, civic education and awareness campaigns as well as in conducting parallel vote count (or as known in the Philippines as "quick count") to check the impartiality, transparency and integrity of electoral process. Activity in the Philippines were proven to be highly valuable for Cambodian election-monitoring

organizations when they conducted monitoring and parallel vote count in the 1998 Cambodian general elections. In this regard, even some of ANFREL's members are already well known for their contribution to effective people's participation in election-monitoring, civic education and awareness campaigns, it is still essential to further strengthen their capacity through mutual learning and sharing experiences with organizations from other countries.

ANFREL has also supported civil society organizations in Asian countries to make people's representation and participation a center point of democratic governance. After concluding election observation missions, ANFREL continues to engage in seminars and workshops to materialize lessons learned and transform them to the improvement of electoral process. Outside electoral realm, ANFREL has also been active in organizing seminars and workshops on good governance; trainings on people's participation in democratic good governance; and mutual-learning and experience-sharing activities within the network of member organizations regarding the realization of democratic good governance.

For example, a regional seminar-workshop "What Good Governance Is ... And Is Not" was conducted in Cambodia on 28-29 July 2000 to understand the current the state of governance in Asian countries. This seminar-workshop had 30 representatives from 12 countries. Participants presented papers explaining the current state of governance in their countries. After that, a workshop was conducted to identify good governance practices and bad governance practices in Asian countries. The findings of this seminar-workshop indicated that the involvement of all societal sectors was essential in the realization of democratic good governance against widespread political, economic and social illness that existed as a result of bad governance. ANFREL produced a report of this seminar-workshop. This report was disseminated within and outside the network of member organizations. It has since been quoted by many agencies as the reference for support strategy in consolidating democratic good governance in Asian countries. A guideline for training manuals was also produced.

This guideline was made to assist member and non-member civil society organizations to use “people-centric” strategy as a key of their good governance training activity. As a result of initiatives made by the Phnom Penh seminar-workshop, ANFREL has also supported and facilitated a series of similar activity at sub-regional level in South Asia (Bangladesh), Southeast Asia (the Philippines) and East Asia (South Korea).

To support good governance movement of civil society sector, ANFREL has facilitated the sharing of experiences among various organizations in Asia. A seminar on “Political Reform and Civic Movement Toward Clean Politics” was held for members of the Thai Senate on 18 December 2000. It was jointly organized by ANFREL, the Thai Senate, the Poll Watch Foundation and the People’s Network for Elections (P-NET). This seminar provided an opportunity for members of the Thai Parliament (the Senate and the House of Representatives), domestic independent monitoring organizations, the media and the general public to learn from experiences of ANFREL’s member organizations in Japan (INTERBAND) and South Korea (PSPD) regarding people’s contribution to “clean politics movement”.

Lessons learned from each election-monitoring mission have also constituted a foundation of ANFREL’s action-oriented seminars and workshops. It is understood in Cambodia and elsewhere that electoral management is about the administrative infrastructure required to support the democratic process of elections. In essence, the Framework for Future Efforts at Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections adopted by the United Nations Commission for Human Rights in 1989 provides clearly that universal and equal suffrage as well as impartial administration must be ensured in the conduct of electoral process. Apart from independent administration and supervision of electoral process by related agencies, there have to be an election law that is fully tuned to provide free and fair elections, appropriate voter registration methods, reliable balloting procedures and effective measures for preventing frauds and resolving disputes. Success in each

aspect of elections does not happen without preparation and planning. There are huge and costly events entailing the completion of a myriad of tasks. And as elections have become more sophisticated in both procedural and political implication senses, there is a pressing requirement for an election commission to be truly independent, honest, vigilant, well equipped, adequately funded and competent.

In the last decade, elections have provided important benchmarks in Cambodia's strides towards establishing a pluralistic government conducive to the protection of certain fundamental rights for political participation by the country's population. International and national organizations have played an important role in supporting, facilitating and monitoring those elections to provide assurances of freedoms enshrined in the right to vote. It was with pressures from the international community that the National Election Committee (NEC) of Cambodia was created after a bloody coup in July 1997, by which Prime Minister Hun Sen has effectively established political domination over rival parties - FUNCINPEC and Sam Rainsy Party (SRP) - as well as over all branches of state machinery. NEC members from national level to grassroots level have particularly been handpicked by the ruling Cambodian People's Party (CPP). With an environment in which the rule of law is eclipsed by the rule of thumb, the quality of electoral administration in terms of procedural excellence, professionalism and morality has been critically questioned and assessed.

Although the existence of NEC means that elections in Cambodia are run entirely by Cambodian, the body that is legally entrusted to prepare and administer electoral process is seen by many as professionally incompetent and politically biased in favor of CPP.

In the 1998 National Assembly Elections, this problem contributed to the worst political confrontation in Cambodia after the signing of the Paris Peace Agreement. As NEC failed to demonstrate its ability to ensure the integrity of electoral process, contesting parties refused to accept the electoral results that declared CPP's victory

and took their supporters to the street. Government troops were brought in and protestors were cracked down violently. Similar problems were found in the 2001 Commune Council Elections. ANFREL concluded that NEC was short of manpower and determination, making it unable and unwilling to demonstrate vigilance and impartiality in investigating irregularities and in prosecuting those responsible for electoral abuses. NEC was also indifferent to the calls of independent election monitoring groups and contesting parties to level up the field in electoral contests. While activities of CPP dominated the media, very limited access was FUNCINPEC and SRP. Both electronic and printed media usually ignored small parties. NEC restrictively interpreted election law that it did not have duty to ensure the coverage of electoral campaigns in the media. Given the limited publicity of the campaigns and of the platforms of parties and candidates in the media, decisions of NEC to prohibit the broadcasting of the roundtable debates further reduced the chance for voters to make an informed choice at the polls. In terms of civic education, NEC made too little effort to ensure people's confidence in voting secrecy, while the abuse of power monopoly at all levels and the weakness of legal codes provided an opportunity for the ruling CPP to influence voter's choice.

Lessons from the previous elections and the ongoing political development in Cambodia clearly underwrite urgent need for the reform of NEC to be an independent and competent electoral administration body to ensure free and fair contests in the upcoming elections of the National Assembly in 2003.

ANFREL, in cooperation with Cambodian civil society organizations and its regional network, sought to offer a practical proposal for a new law to replace the articles establishing NEC in the 1997 Election Law, setting out specific provisions for independence of NEC as a neutral, non-partisan and competent body responsible for the management of elections in Cambodia. This effort is the foundation of ANFREL's workshop on the reform of NEC, held on 10 and 11 June 2001 in Phnom Penh, Cambodia.

Based on ANFREL's guiding principle that elections are people's democratic exercise, this proposal regarding the reform of NEC would be built on experiences, initiatives and recommendations of civil society organizations in Cambodia and throughout the region that have participated in election-related activity. On the other hand and equally important, ANFREL's workshop on the reform of NEC will draw expertise from active or former commissioners of election administrative organizations in other Asian countries.

Key areas to be explored and discussed during the workshop included both management efficiency and ethical guidelines for NEC.

Regarding management consideration, ANFREL's workshop on the reform of NEC looked at the following tasks of NEC in the perspectives of Cambodian people as well as in comparison with election administration organizations from other Asian countries.

- 1) Personnel (professional manner, high-quality training and personnel administration functions)
- 2) Finance (sufficiency, relevancy, transparency and quality management)
- 3) Legal tasks (interpretation and implementation of laws and regulations governing electoral process)
- 4) Investigation and prosecution
- 5) Logistics (preparation and deployment of staff and supplies)
- 6) Data processing (accuracy in the processing of data regarding electoral rolls and electoral results)
- 7) Information and publicity (voter information and civic education)

Regarding ethical guidelines for NEC, ANFREL's workshop discussed and sought to find practical recommendations to ensure that the administration of elections in

Cambodia would demonstrate respect for the rule of law, be nonpartisan and neutral, be transparent, be accurate and be designed to serve the people. In fact, the finding of ANFREL's workshop has already served as a platform for Cambodia's civil society organizations to lobby the government and political parties as well as to generate popular movement for the reform of NEC.

IV. Research

At the beginning of the new millennium, the transition to democracy in Asia has become more problematic and inconsistent. There exist a diverse pattern of political system. In some countries, the consolidation of democracy has taken place leading to the empowerment of civil society and societal actors in the process of participatory politics as well as unprecedented progress in the promotion and realization of human rights and basic freedoms. In other countries, however, the existing political system is at best described as electoralism or state-managed democracy under the hegemony of a dominant party. Elsewhere, authoritarian regimes remain firmly in place. These intriguing illustrations of politics present tremendous challenges for those working who support democracy as a public asset that will contribute to the creation of an accountable, effective and just system of governance.

As a result of consecutive rounds of regional consultative forum held in 2000 and 2001, ANFREL members have come to understand that democracy is very much a contested concept as well as a controversial practice. Apart of the core of its definition as the "rule of the people", no single meaning of democracy is universally accepted and no coherent action is implemented.

Adding to that, political and socio-economic development at national and regional levels during the past twenty years has further produced debates on prospects of democratic development in Southeast Asia as countries in the region continue to

experience a mixture of optimism and trauma in implementing various styles of governance in the name of democracy.

Based on the above premise, ANFREL conducted a research on “Patterns and Levels of Democratization in Southeast Asia” so as to understand and map the state of democratization in ANFREL’s constituency as well as to create a workable and relevant strategy for the consolidation of full democracy. By that, this research project combined theoretical, empirical and policy-oriented exercises.

On 25 March 2002, ANFREL held a seminar to present the final findings of this research project for Southeast Asian countries in Bangkok, Thailand. It brought together researchers as well as experts and practitioners from Cambodia, Indonesia, Malaysia, the Philippines, Singapore and Thailand that participated in the research program. To further complement the dialogue and discourse, ANFREL also invited government officials, interested civil society organizations, international development agencies, academics and the media both in Thailand and other countries in the region to join the seminar.

The Bangkok seminar met ANFREL’s objectives in the following areas:

- 1) Theoretical Objectives:
 - To investigate conceptual debates about the relationship between social change, economic development and cultural factors in explaining the consolidation of or the retreat from democracy in Southeast Asian countries.
- 2) Empirical Objectives:
 - To understand the involvement of state and non-state actors at both domestic and international levels in the promotion of democratic institutions, practices and norms in Southeast Asian countries.

- To examine the linkage between expectations created by the current trends in domestic political environment and actual practices of actors in the society to accomplish democratization initiatives in Southeast Asian countries.

- To develop indicators and benchmarks of democratic achievement in Southeast Asia at national and regional levels, based on the finding of country reports.

3) Policy-Oriented Objectives:

- To provide recommendations on the formulation of workable strategies and policy guidelines for governmental agencies, international organizations and non-governmental organizations in broadening and deepening democratic development in Southeast Asian countries.

V. Information

ANFREL's Resource Center (ARC) was set up in September 1999 in partnership with the National Democratic Institute (NDI). It was a one-year project aimed at linking collaboration and sharing information among various civil society organizations involved in election monitoring and other related activities. After the partnership with NDI ended, ANFREL has tried to make ARC operational by providing information mostly on election observation activities on the Internet (<http://www.forumasia.org/anfrel>).

On the other hand, a more conventional format of information work of ANFREL is proven to be highly effective. The Executive Director, the Secretariat and ANFREL's members have been active in organizing roundtable discussions, media forum, press conferences on issues related to elections and election monitoring, democratic good governance and problems and prospects for the realization of full democracy in Asia.

ANFREL ACTIVITIES (outline)

Damaso Magbual, Philippines

BACKGROUND

FORUM-ASIA found the need for a regional network devoted to election monitoring. A consultation meeting was held in November 1997, in Bangkok with thirty representatives from six countries. From this consultation meeting, an Executive Council was organized and a Secretariat was set up in Bangkok, Thailand.

ANFREL'S GOALS

ANFREL was organized to support initiatives towards democratization in the Asian Region through,

1. election monitoring i.e. the entire electoral process
2. trainings on election observation
3. development of training materials (manuals)
4. research such as comparative study of different election laws in the region
5. advocacy work such as working for needed electoral reforms
6. sharing of experiences of member organizations to promote free and fair elections.

ACTIVITIES

A. Election Monitoring – in many countries, the presence of international observers help promote the integrity, credibility and transparency of the electoral process. ANFREL deploys two types of observers.

1. Long Term Observers – to monitor the entire cycle of the electoral process for a more accurate assessment of the election. They normally stay two months in a given place, spread out to the more critical areas.

2. Short Term Observers – to monitor the balloting and the counting. It has been noted that the roving presence of international observers are a big deterrent to fraud, violence and intimidation on Election Day.

B. Seminars and Workshops – Election Monitoring Organizations are relatively new in the region. Hence, seminars and workshops provide the avenues for learning and sharing of experiences. Some of the seminars and workshops held are:

1. Comparative Study on Election Laws in the region
2. Role of Journalists in election monitoring with emphasis on media fairness
3. Good Governance as a necessary consequence of clean elections
4. Trainers Training on Good Governance so member organizations can echo the seminar in their respective countries
5. Political reforms to bring about “clean politics”
6. Electoral reforms aimed specifically at new democracies holding democratic elections only recently such as Cambodia and Indonesia
7. Training on how to organize an election monitoring group

FUNDING

ANFREL has been dependent on funding partners to support its programs and activities. Since most of these are on a per project basis, its administrative support comes mainly from Forum-Asia. The need for funds has been the greatest weakness of the organization to pursue more aggressively its planned activities on a year-to-year basis.

CONCLUSION

ANFREL is only on its fifth year of existence but already its presence has been strongly felt in the region and its modest accomplishments duly recognized in its efforts to help bring about a more democratic climate in the region through free and fair elections.

SAFEGUARDING THE BALLOT: The NAMFREL Experience

Damaso Magbual, The Philippines

INTRODUCTION

The National Citizens Movement for Free Elections (NAMFREL) was organized at a time when the country was under an authoritarian rule, when Marcos ruled as a dictator. He controlled the entire government apparatus such as the army and the police; the legislature was a rubber stamp parliament; the judiciary corrupted; and the media crony owned. The officers of the Commission on Elections (COMELEC) were all his appointees and were under his effective control. The people began to lose faith in elections as a means of bringing about change. Hence, NAMFREL was formed to help bring back the people's faith in the electoral process.

NAMFREL was organized in November 1983 as a citizens' movement dedicated to safeguarding democracy through free and fair elections. It has fielded 200,000 volunteers in the 1984 Batasan Election (congressional) and 500,000 in the snap presidential election in 1986. It implemented the pioneering **“Operation Quick Count”** (parallel vote tabulation) to provide timely and accurate reports on the results of the election. Since then, NAMFREL has fielded volunteers to serve as pollwatchers, voter education trainers, and election observers in every national and local election. Through the years it has advocated and pressed for the enactment of laws to improve the electoral process. It has likewise monitored the performance of elected government officials to help bring about good governance. Presently, it is involved in the modernization and computerization of the electoral process in time for the 2004 national election. In addition, NAMFREL volunteers have actively shared their experiences with election monitoring groups in more than 25 countries around the globe.

ACTIVITIES

A. PRE-ELECTION ACTIVITIES

- a) Review of Election Law - NAMFREL started with a set of proposals to introduce reforms and changes in the election law such as:
 - 1) a new registration of voters to clean the voters list of multiple registrants (flying voters we call them)
 - 2) safeguards in the printing of the ballots
 - 3) use of indelible ink
 - 4) equal access to media for all candidates
 - 5) suspension and abolition of certain decrees of Marcos that curtailed free speech and assembly
 - 6) several electoral safeguards to “level the playing field”
- b) Voter Registration – Clean and honest elections begin with a clean voters’ list. Hence, during the registration of voters, NAMFREL deploys volunteers to the different precincts to help identify eligible voters and disallow ineligible voters from registering. Random house-to-house verification is done to clean the list of multiple registrants. “Inclusion and exclusion proceedings” are often times filed in court to include in the list disenfranchised voters as well as to exclude from the list ineligible voters.
- c) Voter Education – Voter education is a basic ingredient for a meaningful election especially in a new democracy. This was true particularly in the first election monitored by NAMFREL during the time of Marcos. A large segment of the citizenry then belonged to the **“boycott movement”** – people who believed then that elections can never be fair under Marcos and therefore participation would only legitimize his rule. NAMFREL countered that voters’ participation is

conditioned by the degree of information they receive.

The means for communicating voter information can be varied. At NAMFREL we sponsor candidates forums and debates; produce voter education kits; publish pamphlets in comics form for the rural areas written in the local dialect; posters; place informational advertisements in tri-media explaining the significance of the election, define the voters rights and obligations and courses of action they may take if these are violated. NAMFREL too uses extensively **“the COMELEC Hour”** – a prime time slot for the COMELEC on radio and television.

- d) Monitoring the Campaign – As candidates campaign for support from the voters, partisan politics gets more intense. Violence and intimidation may take place. To diffuse tensions, NAMFREL,
 - 1) invites candidates to sign a covenant to bind themselves to conduct their campaigns in accordance with law and in an honest manner.
 - 2) invites heads of agencies involved in the election to discuss problems related to the campaign. This includes the election officials, the military, the political parties, school authorities (teachers conduct the balloting and counting process) and representatives from the media.
 - 3) prepares incident reports on election-related violence, intimidation and other infractions of the law. We investigate them and report these to the proper government agencies for appropriate action.
- e) Recruitment and Training of Volunteers – At NAMFREL, we need at least three (3) volunteers per precinct (polling station). As a community-based organization, we attract volunteers from all walks of life. We then take into account the areas of

expertise needed such as computer-literates for the Operation Quick Count, trainers for the Speakers' Bureau, civic leaders as organizers; businessmen as fund raisers, etc.

We give a general orientation to all our recruits. From there, specialized trainings are given for specific functions and roles such as pollwatching, conducting a quick count, voter education, moderating candidates forums and debates and other activities in support of the monitoring effort. Likewise, training manuals are developed to reinforce the various training programs. These manuals define the roles, duties and responsibilities of the volunteers.

B. ELECTION DAY ACTIVITIES

- a) Pollwatching – It has two main objectives. First, to see to it that the voting process is orderly and free. Second, that the count is accurate and honest. It requires the greatest use of personnel and financial resources. It can also be the most tiring activity. In 1986, NAMFREL deployed 300,000 pollwatchers to cover more than 86,000 precincts throughout the country. Our pollwatchers are well trained on our election laws as well as the voting procedures. Hence they know what they are looking for. For instance, the most common irregularities they usually discover are the following:

- 1) campaigning inside the polling place
- 2) voters whose names are not in the list are allowed to vote
- 3) “flying voters”
- 4) intimidation of voters
- 5) presence of unauthorized persons inside the polling place, etc.

For ready and easy reference, each pollwatcher is provided with a “Pollwatching Manual”.

- b) Monitoring the Count – In our country, counting is done at the precinct level. Hence the pollwatchers have to remain at the precincts till the count is completed. In some instances, counting may be done at a designated Counting Center on orders of the COMELEC. In such cases, our volunteers have to accompany the ballot boxes to avoid possible substitution of the ballots.

When the count is completed, the volunteers secure a copy of the official results (under the law, we are entitled to a copy). This is needed for the Operation Quick Count.

- c) Operation Quick Count – Where the counting and canvassing of votes involve a tedious process that takes time as what happens in the Philippines, the public hungers for information on the results of the election. This is when allegations of fraud become pervasive. Hence, to provide the public with timely, credible and accurate reports, NAMFREL undertakes an “Operation Quick Count” (Parallel Vote Tabulation).

In the 1986 presidential election, NAMFREL gathered results from 80% of the 86,000 precincts and these were tabulated at the National Tabulation Center in Manila. Periodic reports were released to the public starting in the evening of the Election Day, just a few hours after the counting at the precincts. The Filipino people accepted the NAMFREL results which showed Corazon Aquino leading Pres. Marcos against the official results of the COMELEC, which declared Marcos the winner.

C. POST ELECTION DAY ACTIVITIES

The monitoring group may continue to function for a different purpose after the elections. In keeping with its mission statement **“Honesty in Election, Honesty in**

Government”, NAMFREL pursues programs that promote responsible and honest government such as:

- a. monitoring the performance of the elected officials. **“Congresswatch”** monitors the performance of the elected legislators – what bills they sponsored, how they voted on certain issues, their attendance records, etc. A monthly report is compiled and serves as a tool in organizing dialogues and forums between legislators and their constituents.
- b. monitoring of selected government programs and projects. A Provincial Chapter in Northern Philippines was cited and awarded by the UNDP for its role in promoting good governance and for their role in bringing down government corruption in the implementation of government projects.
- c. continuing advocacy for electoral reforms such as modernization of our electoral process.

CONCLUSION

NAMFREL is now on its 20th year of existence. So much remains to be done to sustain a healthy democracy in our country. Hence, we constantly remind ourselves that there are no shortcuts to meaningful change – that democracy can only be preserved through faithful, persistent and unselfish citizen action.

THE NAMFREL EXPERIENCE (Presentation Outline)

Damaso Magbual, Philippines

INTRODUCTION

Political climate in the country at the time NAMFREL was formed

Why and how it was organized

ACTIVITIES

1. PRE-ELECTION ACTIVITIES

- a. Review of Election Law – to introduce electoral reforms and to “level the playing field “ so as to provide equal opportunities.
- b. New Voter Registration – to cleanse the voters’ list of multiple registrants. Clean elections begin with a clean voters’ list.
- c. Voter Education – to encourage participation in the electoral process and to enable the voters to make an informed and enlightened choice.
- d. Monitoring the Campaign – to diffuse tensions among the political contestants; ensure media fairness; investigate, document and report to authorities incidents of violence, coercion and intimidation of voters.
- e. Recruitment and Training of Volunteers – takes into account expertise of the volunteers and needs of the organization to accomplish its monitoring task.

2. ELECTION DAY ACTIVITIES

- a. Pollwatching – to see to it that the voting process is free and orderly and to ensure that the count is accurate and honest.
- b. Monitoring the Count – that the votes are counted according to will of the voters.

- c. Operation Quick Count – to provide the public with timely, accurate and credible results of the election.

3. POST ELECTION ACTIVITIES

- a. Monitor Performance of Elected officials – to ensure transparency in government and accountability of elected officials. “Honesty in Elections, Honesty in Government”
- b. Monitoring Government Programs and Projects – to fight corruption usually attendant to the implementation of government projects.
- c. Advocacy for Electoral reforms – to enhance our election laws and make them relevant to the times.

CONCLUSION

Why NAMFREL continues to operate

Vision for the future

Election Monitoring by Korean Civil Organizations

Ki-hyun Kim, Korea

1. Monitoring Activity for Fair Election during the Thirteenth Presidential Election in 1987

1) **Goal:** To end the military dictatorship and to establish civil government through the election

2) Activities

- formed and operated monitoring teams
- monitored the voting and counting processes
- established and ran an unfair activity report/complaint center
- TV monitoring (focused on the nine o'clock news)
- campaign for military officers' free election: sending letters to encourage their voting by faith

3) Symbolic incident: The sit-in at Guro-gu office

- An officer for fair election found out that the seal on an absentee ballot box was broken and started a sit-in. In three days, the police quelled the demonstration and arrested 1034 demonstrators. 208 of them were placed under restraint on the charge of violating the presidential election law, the law on punishing violent actions, and arson.

2. Activity of Citizens' Consultation for Fair Election Practice during the Fourteenth General Election in 1992

1) **Goal:** ending government power abuse, money election, and illegal election

2) Activities

- citizens' campaign
- running a center for reporting election crimes –more than 1000 incidents reported
- forums
- Monitoring news on TV and major newspapers

3) Symbolic incident

- At the office of Citizens' Consultation for Fair Election Practice, Lt. Lee Jimoon disclosed of unfair practices during the military officers' absentee vote

4) Citizens' Consultation for Fair Election Practice formed up the largest civil solidarity of 250 organizations. A common ground was established among people on the neutrality and fairness of Citizens' Consultation for Fair Election Practice. Nevertheless, illegal acts such as providing money and entertainment to voters were prevalent.

3. Fourteenth presidential election in 1992

- Similar goals and activities to those for the 14th general election
- Ceremony of attaching fair election stickers
- Distributing rating chart of each candidate
- Pledging ceremony for fair election by the presidential candidates

4. Activity of Citizens' Consultation for Fair Election Practice in the Fifteenth general election in 1996

1) **Goal:** clean election free from money, reform election culture that is based on personal relations, promoting policy election

2) Activities

- Monitoring candidates' activities in 3:1 basis

- Maintaining the center for election crimes report
- Campaign for terminating elections deeply rooted on personal relations
- Roundtable discussion of candidates

5. Activity of Citizens' Consultation for Fair Election Practice in the 15th presidential election in 1997

1) **Goal:** clean election (rooting out money election), mature voters

2) Activities

- Campaign for amending election law
- Clean street campaign for clean election
- Maintaining the center for reporting election crimes
- Ensuring fair Committee for Discussion on TV and monitoring TV discussions
- Pledging ceremony for fair election by the presidential candidate

3) Prior to the presidential election, the election law was modified (regulating illegal election campaign and so on). Thus, the minimum requirement for fair election was accomplished.

6. Civil Action for General Election (the 16th) 2000 in Korea (CAGE)

- Terminating corrupt politics (*will be discussed in depth in the 2nd session*)

7. YMCA's Voters Committee for the local autonomy election in 2002

1) **Goal:** reforming election culture, organizing participatory voters.

2) Activities

- Citizens' education on politics
- Evaluating candidates (policies and attributes as politicians)
- Campaign for election law amendment
- Civil Ombudsman to monitor election campaign fund

8. A new Search for alternatives for the 16th presidential election in 2002

- Civil Ombudsman

9. Evaluation

1) From the Monitoring Activity for Fair Election during the Thirteenth Presidential Election in 1987 to Activity of Citizens' Consultation for Fair Election Practice during the Fourteenth General Election in 1992

- Securing fair election was the most crucial goal at that time.
- Violation of the election law, intervention of the government, money election, and elections affected by personal relations and regionalism were all together problematic
- Increased social influence of election monitoring teams and the center for election crimes report.

2) Activity of the Citizens' Consultation for Fair Election Practice from the general election in 1996 to the presidential election in 1997

- Ending money election became the major issue. Violating the election law was still present but weakened. Intervention of the government disappeared.
- Empowered National Election Committee as an election monitoring organization.
- Smaller influence of the center for reporting election crimes report
- Establishment of minimum condition for fair election due to the amendment of the election law in 1997

3) After the general election in 2000

- Goals of civil organization make a transition from watchdog activities against election crime towards direct participation of voters
- Beginning to review candidates' policy
- The necessity of modifying related laws in general: legislation of political fund law and political party law, not to mention the amendment of election law

Election Monitoring of Civil Society in Japan (outline)

Shuji Imamoto, Japan

There is no action of election monitoring in Japan at present. I suppose that the reason is that all elections are relatively fair and vote summing-up is accurately done. Illegal behaviors in the election are strictly punished legally and the national Committee for the Election and the police are thoroughly checking them. We have also decisive laws for the election, to the extent that how many posters and signs of a candidate should be permitted, or how many postcards and pamphlets of them should be printed, and so on. On the other hand, we have many problems as well.

For instance, the police and the national Committee are usually indulgent in illegal behaviors of candidates who are supported by the ruling parties or big opposition parties, whereas they are too strict in checking them of non-partisan candidates. The police intend to overlook the former candidates, who keep doing illegal election campaign, using bribes and much black money in their local election districts. Even in some local districts, voting for a special candidate should be a tacit consensus of the local inhabitants, so that against-vote of an electorate is easily known, and the result is that s/he will be ostracized in the local community.

Despite these facts, mass media do not anything to prosecute their illegality because they are frightened of the governmental pressure on them. The police and the prosecutors are also under the pressure of the governmental power and the ruling party, so there is still no anti-action or election monitoring in the citizen's level in Japan, even as a case study. Accordingly, possible actions of us are listing up illegal behaviors of the existing politicians, which we represent on the Website in the next election. The difficult point is the less information of them from newspapers and other medias, so even if their illegality is shown, not many electorates have interest in it.

Election Monitoring – Saving Democracy from Money and Power

Kingsley Rodrigo, Sri Lanka

INTRODUCTION

Since the Second World War, the right to political participation in the governance of one's country has been recognised as a fundamental human right that free and fair elections play a fundamental role in ensuring this right of political participation has also been recognised as a fundamental human right.

One of the most significant political developments in Sri Lanka was the introduction of universal adult franchise in 1931. All the post-independent constitutions of Sri Lanka have ensured the right to free, equal and secret ballot. Every person over 21 years of age was given the right to vote.

Consequently, people of Sri Lanka have had the distinction of being one of the few among the third world countries, who can claim to have enjoyed the secret ballot and universal adult suffrage continuously from its independence.

Since the conduct of the first general election for parliament in 1947, several changes have taken place both in the constitutional structure and the electoral procedure. Soulbury constitution which was granted by British provided the framework for Ceylon parliamentary elections. Later during the period from 1972 - 1978, the first republican constitution of 1972, the 2nd republican constitution of 1978 along with the registration of electors Act no 44 of the 1980 and parliamentary election Act no. 1 of 1981 have determined the constitutional and legal procedures.

With the promulgation of the 1972 constitution, every person over the age of 18 years was qualified to be a voter.

The salient aspects of the electoral system in Sri Lanka refer to the constitution of the democratic socialist republic of Sri Lanka, 1978 and Presidential Election Act No 2 of 1981, referendum Act no 7 of 1981, the parliamentary Act no 1 of 1981,

Registration of electors Act no 44 of 1980, Provincial council election Act no 2 of 1988 and local Authorities Ordinance (chapter 262). With the introduction of the 2nd Republican Constitution in 1978, the Presidential election and the Referendum were introduced.

Parliamentary Elections, Provincial Council Elections and Local authorities Elections (Municipal council, Urban councils and Pradeshiya Sabhas) are also based on the system of proportional representation.

In order to achieve a system which mirrors the opinion in the country more adequately, the Constitution of 1978 introduced the PR System. Accordingly the country is divided into 22 Electoral Districts with a composition of 225 members in the Parliament. Of these, 196 members are elected in proportion to the number of votes received by each party/group in each of the Electoral Districts. Of these 196 seats, 36 are allocated on a territorial basis and 160 in proportion to the number of registered electors in each Electoral District. The rest of the 29 members are selected in proportion to the 'national total' of votes received by each party/group that contested the election.

Whether the Proportional Representation (PR) system fulfilled the expectations of the voters is now a matter of great interest and subject to wide discussion. Does the PR system lead to a monitory politics is also a matter of great concern in the contemporary political debate in Sri Lanka. Citizens have the fundamental responsibility of setting up the type of electoral system that they choose.

The existing laws do not make any explicit provision for monitoring elections. They do not however prevent any citizen or group of citizens from undertaking a citizens' watch and observing the elections to the extent that is possible for them to do. According to the existing election laws only the officials appointed to conduct the poll, the police officers on duty at the polling station, the polling agents, one candidate of each party and the voters who are in the process of voting can be present within a polling station.

In these circumstances the nature of the monitoring that non-governmental organisations can undertake is governed by the freedom and authority they enjoy

under the present election laws. The voter-relay helps to overcome some of the existing constraints.

The Objectives of Monitoring

- Motivate and encourage voters to exercise their basic democratic right of the vote and cast their votes at all elections at which they are entitled to vote.
- Promote a community effort that would prevent violence and malpractices before, during and after the elections.
- Undertake an election watch to observe the conduct of the poll throughout the country in as many areas as possible and record and document the abuses and violations of Election Law .
- Make recommendations for the improvement of the existing processes and institutions pertaining to elections.

The code of conduct for monitors

In all matters, monitors will be guided by the principles given in the Code of conduct for Elections The code is a useful frame of reference on the norms and standards that should govern the conduct of all participants in an election. It provides the guidelines that should be used in judging whether the conditions for a free and fair election prevail.

The monitor's principal duty is to protect the integrity of the electoral process and the rights of voters, regardless of candidate or party.

For this purpose all monitors must be absolutely neutral and nonpartisan on all matters pertaining to the election

Nonpartisan conduct means that the monitors will observe and record all irregularities and violations of election laws committed by any party and candidate without favour or prejudice.

The monitoring activity should be transparent. Monitors should make themselves known to voters, and contesting parties and by their speech and action show that the independent monitoring of elections is for the protection of the democratic process and in the public interest.

The reports of monitors should be accurate and based on their own observations.

DON'Ts For Monitors :

MONITORS SHOULD NOT -

- Wear any clothing or use any other emblems or marks, which can be associated with colours and emblems belonging to political parties.
- Accept any gift or favour from any political party, candidate or group involved in the election process.
- Show any partiality in the treatment of the election activists of any political party.
- Oppose, support, or identify with any particular political party or candidate either directly or indirectly.
- Participate in any function or activity that could lead to a perception of sympathy for a particular candidate, party or independent group.
- Enter into confrontational situations with election activists, election officers and police officers.
- Exceed obligations and powers conferred on them.
- Take unnecessary risks, if a difficult or dangerous situation has built up.
- Express views about ethnic, religious, racial or any sectional interests in the country.
- Analyse or predict the election outcomes.
- Interfere in the election process in any way especially such as talking with the election officials, polling agents or voters in a manner that may disturb the voting process.

DO s For Monitors

MONITORS SHOULD TAKE SPECIAL CARE TO.....

- Act with circumspection at all times.
- Take necessary steps to fulfil all their obligations.
- Report to the observation point on time (Stationary monitors on the previous day afternoon and on the election day at the appropriate time, mobile monitors on

agreed time).

- Be objective, neutral and credible investigators and reporters of election law violations and malpractices.
- Carry the necessary documents, national identity card (NIC), PAFFREL identity card, observation report and check lists.
- Report facts and refrain from subjective judgements.
- Record any complaints that they may receive and make their own observations separately.
- Carefully follow detailed instructions given in the reporting forms and checklists.
- Hand over the observation reports to the district coordinating unit when the monitoring has been completed.
- (In the case of mobile monitors) act as a team and consult each other in coming to judgements and conclusions on the observations.
- (In the case of stationary Monitors) work closely with the partner and the voters engaged for observation. (Voter relay members)
- Be continuously vigilant and note any incident or action which is suggestive of a violation of election laws.

MONITORING THE ELECTION CAMPAIGN

The election campaign, beginning from the date the election is announced, up to the day of the poll. The election campaign will be monitored to determine whether the conditions that prevail enable all contesting political parties, groups and candidates to campaign freely and openly and inform the electorate of their agenda without hindrance. The aspects that are to be covered will include the following:

Election-related violence

The complaints range from minor disputes and verbal exchanges to grave assault, attacks on party offices and homicides. The political parties and candidates also tend to use every opportunity to bring allegations against their rivals. The incidents reported are classified as major or minor. Acts of physical violence such as those resulting in death or grievous

injury to persons, damage to property and arson, use of physical force to disrupt the lawful election campaign of rival parties are included as major incidents.

Display of Posters Cutouts and Banners

According to election laws the displays of posters, banners etc. becomes an offence from the first day of the nomination period. Candidates make use of this provision and display posters, cut outs etc. after the election is announced but before the nominations commence. Even in these circumstances action would have to be taken to remove all such displays before the first day of nomination.

The laws relating to posters and banners is infringed with impunity by all political parties. Nevertheless monitors should report on the conduct of the different parties, the extent to which it is violated by each and the action taken by the police in regard to such illegal displays. The extent to which the law is violated in this regard by any single party is an indicator of the conduct of that party or candidate and of the conditions prevailing in that electorate.

Processions and Public Meetings

Monitors should report on whether

- (a) any of the parties conducted or attempted to conduct unlawful processions or demonstrations ;
- (b) all contesting parties are able to conduct their public meetings without any serious disturbance or disruption.

Misuse of State Resources

There are many practices to which parties and candidates resort with impunity which although not violations of any laws are unethical and vitiate the electoral process.

Monitor's should be particularly vigilant to observe and note instances where the party in power uses its official position for purposes of the election campaign.

The misuse of state resources by the ruling party for their election campaign has been a common practice. What has been frequently observed is the misuse of state

vehicles and the deployment of state personnel on campaign activities. Such use of state property, equipment and personnel is improper and grossly violates the existing state regulations. However there are no special provisions in the election laws that make them a punishable offence. Nevertheless monitors should report all instances of such misuse providing vehicle number and other details.

Another unethical practice has been the use of government functions such as the inauguration of a government project or the official visits of Ministers as part of the election campaign of the ruling party. Monitors should report such events.

Monitors should use the relevant sections of the code of conduct dealing with political parties and the party in power.

The Media

The election law relating to Parliamentary Elections and the Presidential Election lays down the procedure to be followed by the state TV and Radio. No such provisions are made for the Provincial Council and local government elections.

The Maintenance of Law and Order

Monitors should familiarise themselves with the instructions issued by the police to all police stations regarding the duties of police officers during the election campaign and on the polling day.

The monitors should report whether the system for receiving complaints and acting on them is functioning effectively and impartially.

Monitors should report any instances of alleged political interference such as intervention on behalf of offenders, transfer of police officers.

Other Conditions Detrimental to a Free and Fair Election

Monitors should pay special attention to the following:

- Reports of preparation for systematic impersonation by any political party.
- Incidents involving the forcible removal of polling cards from the possession of voters.
- Large scale intimidation of voters in a given identifiable locality.

Monitors should submit a weekly report indicating the trends, the locations where conditions are deteriorating and may pose serious problems on polling day.

Contact with Officials and Party Organizers

Monitors should attend all consultations which the District Election staff hold with the representatives of parties and note the representations that are made at these meetings and corrective action that is taken.

The monitors at the District level should visit the election offices of all parties, keep in contact with the organisers of all parties and receive their complaints and reports regularly.

On the day preceding the poll, the District co-ordinators assisted by a group of monitors should visit a sample of polling stations in the district to observe whether the preparations for the poll are proceeding smoothly and conditions are conducive for a free and fair poll.

MONITORING THE POLL

Preparation for Monitoring the Poll

In selecting the polling stations to be monitored priority should be given to locations which have been identified as likely to pose problems on polling day. The monitoring plan should be forwarded to reach Head Office on or before the date specified.

The Mobile Monitoring Teams

The mobile monitoring teams must make their observations on the conditions prevailing in

- The immediate vicinity of the polling station,
- Inside the polling station,
- The area covered by them as they move from polling station to polling station.

Monitors should report specific acts and incidents observed by them and avoid recording

general impressions. To facilitate the reporting, monitors are provided with forms which list the possible election related violations in some detail. In reporting the incidents observed by them, monitors need merely enter the numbers that are given to each type of incident in the list.

The training programmes that are held for monitors will provide more detailed instructions on reporting.

Stationary Monitors

Before polling begins stationary monitors should

- Report to the assigned polling station by 7 a.m.
- Introduce and identify themselves as monitors to the appropriate authorities, show their credentials.
- Locate a post from which to operate.

The format of this report will be slightly different from that of the report used by the mobile monitors as the stationary monitors will cover the poll for one polling station throughout the day. Their observations will include both the immediate vicinity of the polling station as well the conditions inside the polling station. In addition to the observations made by the mobile monitors the stationary monitors should verify whether

- The polling station opened at the appointed time.
- The polling station closed at the appointed time.
- Interruptions of polling that occurred owing to any unlawful acts.
- The ballot boxes were safely transported out of the polling station.

Both stationary monitors and mobile monitors must liberally use the opportunity to interview voters who have finished voting and come out of the polling station. In the case of the stationary voters they would have the reports of the voter-relays as well.

What Monitors Should Know and Observe

Monitors should acquire the basic knowledge and understanding of the election rules and regulations essential for the performance of their duties.

The unlawful acts that endanger the conditions essential for free and fair elections include both

- **offences under the normal criminal laws**, as well as
- **acts identified as offences under the election laws.**

The unlawful acts that are frequently committed on election day are listed below.

Election law violations are of three types:

- I. Election offences
- II. Corrupt Practices
- III. Illegal Acts.

A selective list of election offences is given below for easy reference:

- Preparing Nomination Papers fraudulently.
- Selling and buying of ballot papers.
- Displaying the marked ballot paper.
- Putting something other than the marked ballot papers into the ballot box.
- Taking the ballot papers out of the polling booth.
- Destroying the ballot papers.
- Printing the ballot papers without a proper authority.
- Making false statements about one's identity, in postal voting.
- Opening a postal vote cover by an unauthorized person.
- Printing papers which look like polling cards.
- When voting takes place keeping an object which can be mistaken for a party symbol.
- Distorting a symbol associated with a candidate.
- Casting the vote when one is disenfranchised.
- Engaging in election activities and campaigns when one is deprived of civic

rights.

- Undue influence, use of force, threatening directly or indirectly.
- Publishing propaganda literature without the printer's and publisher's name and address.

A selective list of possible offences on election day include:

BOX-03

- Asking somebody to vote or to abstain from voting.
- Displaying election leaflets and posters of the election campaign.
- Using loudspeakers near the polling stations.
- Unruly behaviour near the polling station.
- Intimidation of voters.
- Holding election processions and demonstrations.
- Holding public rallies.
- Attempting to commit the above offences.
- Setting up more than one election office per candidate.
- Displaying notices, flags, banners, etc. on vehicles.
- Canvassing for votes by the family members of a candidate.
- Breach of secrecy in voting.
- Impersonation.
- Unauthorized/Unlawful entry into polling stations.
- Treating people, feeding them, and giving them money as an inducement for voting or abstaining from voting.
- Transportation of voters, paying money for transportation.
- Using paid employees beyond the required number.

Following is an additional list of problems and irregularities that may occur during voting.

- Inaccurate voter lists.
- Voters arbitrarily denied the right to vote by election officers.
- Voters whose names do not appear in the register being allowed to vote.
- Voters being turned away due to identity card problems.
- Inadequate proof of identity of voters.
- Challenges to voters identity being ignored.
- Failure to mark voters' fingers with indelible ink.
- A voter being given a ballot paper without marking his finger with indelible ink.
- A person with a thumb already marked being allowed to vote.
- Ink proves not indelible.
- Multiple voting. (One person casting several ballots at a time)
- Reasonable grounds appear that a person is voting in several places.
- An unauthorized person pretending to be an election official.
- Insufficient election staff to operate the polling station.
- Polling station not situated at publicized /proper location.
- Closing of polling before the due time, in order to prevent voting.
- Apparently deliberate delays in voting process.
- Suspension or cancellation of voting without reasonable grounds.
- Ballot papers deliberately or negligently not stamped or punched by officials.
- Display of campaign material or propaganda literature inside/near the polling station.
- Campaigning inside or too close to the polling station.
- Vote buying and/or bribing voters to abstain from voting.
- Intimidation of voters or observers inside or outside the polling station.
- Missing, destruction, substitution or theft of official election forms and material.
- Inadequate privacy for voting.
- Unused ballot papers illegally marked and put in to the ballot boxes.

Action by Monitors on observing Serious Violations of the Law

Monitors may encounter situations where there is a serious breakdown of the law such as :

- the forced entry into polling stations by gangs;
- open intimidation of voters near the polling stations;
- use or show of physical force to prevent a section of voters from casting their vote;
- polling agents chased away from the polling stations and prevented from performing their duties.

In such instances monitors, if they are a mobile team should,

- report to the nearest polling station, the mobile police patrol or the returning officer depending on what is most expeditious and convenient.
- in addition they should inform the District co-ordinator who should fax or telephone the information to the PAFFREL head office. PAFFREL will provide the necessary information to enable the monitors to do so.
- stationary monitors should make their complaint to the mobile police patrol at the earliest opportunity available.

Observance of the Correct Procedures

The International Observers/ Monitors who are invited by the Elections Commissioner in consultation with the political parties are authorised to enter the polling stations and observe the procedures that are being followed by the Election officials.

BOX-04

What is to be observed inside the Polling Station / Counting centre (if an opportunity arises)

- **Nobody should talk with the voter except what is needed for official purposes.**

- Nobody should enter the Polling station except those who are authorized to do so.
- Polling agents should be those who are properly authorized by their respective political parties or independent groups and should possess the proper credentials.
- No posters ,Placards, Handbills etc. relating to the election other than an official notification
Shall be displayed or distributed within a polling station.
- Only two polling agents from a single political party or an independent group should be permitted to be present in a polling station.
- Polling should be started at 7.00 A.M. or at the time notified by the commissioner.
- At the commencement of the poll the polling agents should be shown empty ballot boxes and thereafter they should be locked and properly sealed.
- The Senior Presiding officer should show the polling agents the ballot papers, the official seal, the official mark and the copies of the electoral registers.
- The little finger on the voter's left hand has to be marked with indelible ink.
- The Voter's name and the number should be read aloud enough to be heard by the polling agents.
- The ballot paper has to be stamped, punched or embossed with official mark when it is issued to the voter.
- When a disabled person who cannot vote on his/her own is assisted by an election officer there should be another election officer witnessing.
- Polling should be stopped at 4.00 P.M. or at the time notified by the commissioner.
- Polling agents should witness the sealing of the ballot boxes and may affix their own seals if they so desire.

- After the closure of the poll the SPO should separately pack - (a) each ballot box (b) the key of each ballot box (c) the unused and spoilt ballot papers (d) the marked copies of the electors' registers and counterfoils of ballot papers, list of voters not issued with ballot papers under section 38 and tendered vote lists. He should thereafter prepare a ballot paper account.
- Counting should be commenced only when all the ballot boxes assigned to the counting centre has been received.
- Ballot papers in each and every ballot box has to be counted and the number noted down and then mixed properly.
- Only relevant authorized officers and counting agents of parties and independent groups are permitted within the counting centre.
- Before counting the counting officer should show the ballot paper account to the counting agents and permit them to take copies.
- The ballot papers should be kept face upwards when counting and all precautions should be taken to prevent any person from seeing the numbers printed on the reverse side of the ballot papers.
- Ballot papers should be rejected only on grounds specified in section 53 of the elections act.
- When a doubt arises as to whether a vote should be accepted or rejected, the views of the counting agents should be ascertained.
- On the completion of the counting the counting officer should take steps to send the following items in sealed packets to the returning officer.
 - (1) The counted ballot papers.
 - (2) The rejected ballot papers.
 - (3) The tendered ballot papers
 - (4) The ballot paper account.

Submission of Monitors' Reports

The report will give the following particulars.

- The District and electorate covered;
- the number of polling stations in the electorate;
- the number of polling stations covered;
- the incidents observed;
- the overall assessment of each polling station visited in terms of three categories – normal; minor incidents; conditions not conducive for a fair and free election.

The incidents that should be considered under the three categories will be listed in the prescribed forms to ensure that monitors adopt objective and uniform criteria in recording their observations and evaluating the prevailing conditions in the polling stations monitored by them.

The Administration of Elections

Monitors should have all the relevant information regarding the administration of Elections. The main officials in charge of the conduct of Elections and their functions are summarised below:

Commissioner of Elections

Entire election procedure is supervised and administered by The Commissioner of Elections, on behalf of the government, for which he is given constitutionally entrenched powers.

Assistant Commissioners of Elections

From the time of accepting nomination papers, all activities relevant to the election procedure are planned, supervised and administered in the district level by the Assistant Commissioners of Elections in the relevant district.

Returning Officer (RO)

The returning officer is entrusted with the administration of the election within the electoral district over which he has the authority as the chief administrator. This post is ex-officio held by the district secretary of the relevant district. Assistant

Commissioner of Elections and R.O. work in collaboration in the administration of the election.

Assistant Returning Officer (A.R.O)

Assistant Returning officers work under the supervision of returning officers in the administration of electoral procedure.

Senior Presiding Officer (S.P.O)

S.P.O. is the fully competent authority in the polling station. From receiving the ballot box to handing it over to the collecting centre, after being sealed properly, he is fully responsible for all the activities taking place in the polling station. This includes permitting or preventing the entry of any authorized or unauthorized person or removing such a person from the premises of the polling station. He maintains a journal to record the progress of the poll and any events and incidents that disturb or disrupt the poll. The evidence in the journal is referred to when decisions are taken in regard to the legality of the poll as well as votes that may be fraudulently introduced into ballot boxes. The polling agents have the right to request S.P.O. to record any matters, which may be considered as having a bearing on the integrity of the poll.

Junior Presiding Officer (J.P.O)

J.P.O. acts as the deputy of the S.P.O. in his absence and when he is present as his assistant.

Grama Niladhari (G.N.)

G.N. is responsible for recommending the registration of voters in the process of preparation of electoral registers, which task has a critical importance in the electoral process. In addition, on the election day and the period before the election he is responsible for arranging the polling station. These duties include furnishing the polling station, carrying out necessary repairs, supplying food and lodging for election officials etc.

Polling Agents

The polling agents are the representatives who look after the interest of the candidates of a political party or an independent group, inside the polling station.

Their role is crucially important in preventing impersonation because under Sri Lankan law a voter need not possess an identity card to enable him to vote nor even a polling card. Only two polling agents representing a political party are permitted within a polling station. They can raise objections in case of a suspected impersonator trying to cast his vote.

Polling agents also can make a request from the S.P.O. to obtain statements from such a suspected person.

Authorized Candidate

The candidate who is listed first in a list of candidates of a political party or an independent group is called an authorized candidate. He can nominate the polling agents for his party or group. He is also entitled to enter any polling station in his district. He also can appoint agents to be the observers in a counting station.

Police officers in the Polling Station

The duty of police officers is to assist the SPO in keeping the polling station in the proper order as far as security is concerned. In performing their duties they are to act under the orders by the SPO. Some of their powers and duties include removal of any person from the polling station, taking into custody any body suspected of impersonation and preventing unauthorized groups or individuals entering the polling station.

Police Mobile Patrol Vehicle

The police officers in this vehicle are authorized exclusively to attend to the complaints of election-related violations of law.

Army and other Military Personnel

In the conduct of an election, military personals do not play any role. Keeping peace on an election day is exclusively the duty of the police. However, army can be summoned in case of a serious breach of peace beyond the control of the police.

They may also be assigned duties in the North and East where the security situation demands their presence.

Money, Elections and political Reform in Post-Independent Politics in Sri Lanka

Since the independence, money, politics and elections have been inextricably linked. The Role of the money in politics commands much public attention.

Expenditure incurred by Commissioner of Elections

Amount of money spent by political parties on election related matters are not available, as there is no legal provisions compelling them to submit reports on their expenditure. However the amount of money incurred by Commissioner of Elections for the conduct of Elections are as follows:

		Rs.
Provincial Councils Elections	1988	98,537,000.00
Presidential Election	1988	108,431,000.00
Parliamentary General Election	1989	143,545,000.00
Local Authorities Elections	1991	175,000,000.00
Provincial Councils Elections	1993	279,538,000.00
Local Authorities Elections	1994	46,650,000.00
Provincial Councils Elections	1994	37,200,000.00
Parliamentary General Election	1994	358,200,000.00
Presidential Election	1994	333,150,000.00
Local Authorities Elections	1997-1998	380,444,000.00
Provincial Councils Elections	1998-1999	23,600,000.00
Presidential Election	1999	92,813,000.00
Parliamentary General Election	2000	600,000,000.00

There has been general escalation of costs in services and supplies over the last few years. The total cost incurred at this election reached a figure of Rs. 600 million approximately, compared with Presidential Election of 1999 expenditure of Rs. 592.8 million. It shows an increase of 1.21%. Compared with the Parliamentary General Election 1994, it shows an escalation of Rs. 241.8 million i.e. 167.5% increase. For this election the overall cost per registered voter at this election has reached Rs. 50.93. This shows an increase in comparison with the figures of Parliamentary General Election 1994, which was limited to Rs. 32.72.

Campaigns and monetary politics

The Sri Lankan political system of government is rooted in the premise of political equality, "one person, one vote, one value". The quest for political equality is hindered by substantial inequities of campaign financing, a problem that has worried many Sri Lankans since the independence.

The problem of reconciling the "one person, one vote, one value" theory with the unequal distribution of economic resources is compounded if one considers the operation of the Sri Lankan constitutional and political system.

However when we deal with Campaign Finance, it automatically poses the question as to the direct relationship between monetary resources of candidates/parties and its capacity to win an election. There is no limit on the existing electoral Acts of Sri Lanka on the ceiling on electoral expenses and ways to enforce it in practice.

The role of money power in electoral politics would suggest that the practical challenge of controlling its influence necessitates fixing a ceiling on expenditure. requirements of transparency also requires that this information is made public.

According to the present election laws of Sri Lanka, except for certain specified expenditures, for instance, those enumerated in Section 78 of Act No. 1 of 1981 and termed as an offence of corrupt practice, and in Section 83 of Act 1 of 1981 termed as illegal practice, the expenditures on canvassing and campaign for election is neither regulated nor restricted.

THE COST OF POLITICS

Under the existing law, the candidates and political parties are free to spend as much as they like. Commissioner of Elections has no power to call for details of money spent by political parties and candidates in connection with elections.

Financial Assistance to Political Parties

Provision has been made under Section 127 of the Parliamentary Election Act for certain categories of political parties to obtained state assistance at the rate of 50 Cts. per voter for the valid votes they have been received at the previous Parliamentary General Election, provided if that party –

- I. had obtained not less than 1% of the total valid votes at the last Parliamentary General Election, and
- II. Has submitted a nomination paper in respect of such electoral district at the Parliamentary General Election in respect of which, such grant is payable.

On the above basis the following political parties, which had the qualifying percentage of votes at the 1994 Parliamentary General Election, were entitled to the following amounts.

Name of the Political Party	Total No. of Votes obtained	Amount entitled at the rate of 50 Cts. (Rs.)
United National Party	3,498,370	1,749,185.00
Tamil Elam Liberation Organisation	20,782	10,391.00
Tamil United Liberation Organisation	132,461	66,230.00
Peoples Alliance	3,887,823	1,943,911.50
Democratic Peoples Liberation Organisation	11,567	5,783.50
Sri Lanka Progressive Front	66,054	33,027.00
Total	7,617,057	3,808,528.50

Political Broadcast over the Radio and the Television

Section 126 of the Parliamentary Elections Act has provided a legal basis for political broadcast by recognised political parties and independent groups who had submitted nomination papers.

At this election contestant parties and groups had the right to make an application within one week from the last day of the nomination period for such facilities. Political broadcasts, which could commence from the 8th day after the close of nomination, had to close three days prior to the commencement of the Poll.

Two days prior to the close of nominations the Commissioner of Elections advised the Chairman of the Sri Lanka Broadcasting Corporation and the Sri Lanka Rupavahini Corporation on the details of the system to be adopted to provide these facilities. Since the allocation of time was to be given in slots of 15 minutes each, the two Chairmen were requested to arrange a schedule of slots of 15 minutes each as far as possible within the peak time of each day. The objective was to make it convenient for political parties and independent groups to choose their requirements from these time-schedules.

As soon as the nominations were closed a communication was addressed by the Commissioner to the recognised political parties and the independent groups, along with a copy each of the two time schedules drawn up by the Sri Lanka Broadcasting Corporation and the Sri Lanka Rupavahini Corporation, requesting them to submit their applications for slots of these schedules. In this communication Commissioner drew their attention to Section 126(2) which read as follows:

(a) in the case of radio broadcasting, to use –

- i. a total period of thirty minutes, if such party or group had submitted nomination papers in respect of only one electoral district:*
- ii. a total period of sixty minutes, if such party or group has submitted nomination papers in respect of more than one but less than fourteen electoral districts or had nominated not less than one hundred and thirty two candidates for the electoral districts, in respect of which it has*

submitted nomination papers:

- iii. *a total period of ninety minutes, if such party or group has submitted nomination papers in respect of fourteen or more electoral districts or has nominated more than one hundred and thirty two candidates for the electoral districts in respect of which it has submitted nomination papers:*

(b) in the case of television broadcasting, to use –

- i. *a total period of thirty minutes, if such party or group had submitted nomination papers for only one electoral district:*
- ii. *a total period of sixty minutes, if such party or group has submitted nomination papers in respect of more than one but less than one hundred and thirty two candidates for the electoral districts in respect of which it has submitted nomination papers:*
- iii. *a total period of ninety minutes, if such party or group has submitted nomination papers in respect of fourteen or more electoral districts or has nominated more than one hundred and thirty two candidates for the electoral districts in respect of which it has submitted nomination papers:*

The time allocated to each recognised political party or independent group in accordance with the provisions of this subsection may be used by such party or group or one or more occasions, so however that the use on each such occasion shall be for a period not less than fifteen minutes and not more than thirty minutes.”

The Political Parties & Independent Groups – participated in Political Broadcasts over Radio and the Television are as follows:

Name of the Party/Group	No. of Electoral Districts	No. of Candidates	Total Air Time	
			Radio minutes	Television minutes
1. Eelam Peoples Democratic Party	04	36	60	60
2. United National Party	22	262	90	90
3. United Lalith Front	05	88	60	60
4. Eksath Sinhala Maha Sabah	10	118	60	60
5. National Union of Labour	02	25	60	60
6. Janatha Vimukthi Peramuna	22	262	90	90
7. People's Liberation Solidarity Front	03	36	60	60
8. National Peoples Party	02	34	60	60
9. National Unity Alliance	13	172	90	90
10. National Development Front	11	131	60	60
11. Tamil Eelam Liberation Organization	03	24	60	60
12. Tamil United Liberation Organization	05	46	60	60
13. New Left Front	13	170	90	90
14. Puravesi Peramuna	22	262	90	90
15. Peoples Alliance	21	250	90	90
16. Democratic United National Front	19	229	90	90
17. Democratic Peoples Liberation Front	03	29	60	60
18. Left Democratic Alliance	07	79	60	60
19. Peoples Freedom Front	18	218	90	90
20. Muslim United Liberation Front	05	72	60	60
21. Ruhunu Janatha Party	11	139	90	90
22. Ceylon Workers Congress	04	58	60	60
23. The Liberal Party	20	238	90	90

24. Sri Lanka Progressive Front	15	198	90	90
25. Sri Lanka Muslim Kachchi	10	128	60	60
26. All Ceylon Tamil Congress	05	59	60	60
27. Socialist Equality Party	01	23	30	30
28. Sihala Urumaya	22	262	90	90
29. Sinhala Maha Sammatha Bhoomiputra Pakshaya	20	240	90	90
<i>Sub Total</i>			2100	2100
99 Independent Groups			2970	2970
Total			5070	5070

Post free election material

One other aspect in which state machinery is geared to assist the recognized political parties and independent groups in an election campaign is the provision available for the dispatch of propaganda material free of charge through the postal delivery system. Section 125 makes provision for this facility.

This section enables the Secretary of any recognized political party or the Leader of an independent group contesting the election in any Electoral District to send each elector, propaganda literature before the date of Poll. It is confined to one such postal communication per elector. This postal communication should not exceed 30 grams in weight. The length and breadth of the letter or the parcel with the details of franking, handling and other delivery arrangements were stipulated by the Postmaster General. It is also open for examination by the Postal Authorities to ensure compliance with the legal stipulation as well as the instructions issued by the Postmaster General.

According to the instructions issued by the Postmaster General, parties and independent groups were expected to hand over their literature at any single post office within the Electoral District other than at sub-post offices. Immediately after they decided on a post office they were expected to keep the Postmaster of such post office informed of their intention to hand over the communications to that office. This

was necessary to enable the Postmaster to make necessary arrangements for the acceptance and delivery of these packets.

All these letters were expected to be prepared as printed matter in open cover or with suitable wrappers. Then length and breadth of each of them should be limited to 300mm x 100mm and the weight to 30 grams and printed with the name and address of the elector on the right hand corner and the name or the signature of the Secretary of the party or the Leader of the independent group given on the left hand bottom corner.

The bundles of these letters should be prepared on a group basis to facilitate the delivery. In urban areas they were expected to be given according to streets and house numbers and in rural areas grouped according to small localities. They were expected to hand over these bundled with a list given in duplicate on which, an acknowledgement could be given.

The contestant parties and groups have not made full use of these facilities. However, if they did make it the Postmaster General would have been in an extremely difficult position to comply with these requirements.

Advertising

During an election, the electors receive information with regard to the conduct of election from different sources. The propaganda carried out by the recognized political parties, independent groups, Candidates, Agents and their campaigners, through posters, leaflets, meetings in local level and through national advertising in electronic media and print media. Except at the big rallies that are addressed by top party leaders public are rarely addressed by candidates. The attempt in most cases is to demonstrate impressive public backing. This is done by collecting crowds at public meetings and in processions, opening offices in the constituency, hoisting flags on houses, extensive wall chalking and display of posters and banners.

However according to law it restricts the use of posters and signs during an Election Campaign. Parliamentary elections Act prohibit all handbills, placards, posters drawing party symbols etc. from all public places except in the vicinity of an

election meeting. Yet for all candidates and their family members are prohibited from door to door distributing handbills or notices from the last day of the nomination period until the end of elections, but these laws were flouted almost from the nomination day by most of the political parties and their candidates.

Cost of political campaign through electronic and print media greatly increased. The Commissioner of Elections requested from all radio and television broadcasters and the print media to refrain from broadcasting/telecasting giving publicity to the following during the election period.

Any advertisements or literature of a commercial nature depicting the names or photographs of the contestants as all contestants cannot afford to meet the cost of such advertisements whereby equity is not met.

Almost all-electronic and print media did not adhere to these and openly violated these requests. Thereby candidates and parties who are better enough than their opponents to finance expensive media campaigns were in an advantageous situation.

Vote buying

Common symptoms of money driven electioneering are vote buying and vote selling which is very common in Asian countries. Vote buying is first and foremost a product of poverty and skewed income distribution, but cultural and social norms such as notions of reciprocity and patron-client relationships reinforce the problem

It is a corrupt practice giving, offering or promising gratification in the form of money or anything which can be estimated in money or entertainment or employment for including a person to be or for including an elector to vote or to refrain from voting. Giving rewards to person who accept the inducement is also a corrupt practice.

SOURCES OF POLITICAL FINANCE

Sri Lankan election laws do not place any restrictions on the funds either a party or a single candidate could spend during a campaign.

Money has always played a significant role in Sri Lankan election process, but since the introduction of proportionate representation in late 1970 s, big money had become the primary currency of elections. Before the electors cast their votes, wealthy campaign contributors vote with their wallets deciding which candidates will have the resources to run campaigns. Almost all candidates except rich ones are dependent on this. As a result special interest shapes public policy and determines limits of political debate.

Donations:

The political process and the activities which a political party legitimately engages itself involve heavy cost which has to be met by funds coming through certain channels (moreover if trade unions and other organisations are allowed to contribute to political parties). There seems to be not much ground or support to the notion that companies should be banned from making donations to political parties. Efforts should be made to create an atmosphere where there is more transparency in financial dealings rather than take extreme measures, which would only drive these activities underground and away from the public gaze. In a democracy companies may be allowed to contribute for political causes. However such contributions should be limited to a reasonable level and all transactions in this regard must be made in a completely transparent manner.

Direct State Financial Aid:

Political parties were entitled for financial assistance, at the rate of 0.50 cts. per vote for the valid votes they have received at the previous Parliamentary General Election. The principle behind the offer of state assistance of this nature is the recognition of their proven capacity at the previous elections such financial assistance helps to further their activities.

Free political broadcast have been made available to contesting political parties and independent candidates, and such facilities were arranged by the Commissioner of Elections in consultation with the two Chairmen of Sri Lanka Broadcasting

Corporation, Sri Lanka Rupavahini Corporation and the secretaries of contesting political parties. This really amounted to indirect funding of elections since this time is worth a great deal of money. This indirect state funding of elections could not be misused. While permitting these political broadcasts, provision also imposes a prohibition on other broadcasts, which will have the effect of promoting the candidate of any particular political party, group or candidate.

Indirect Financial Aids:

There were several instances of allegations that certain party personnel were given jobs on condition that they should devote their time on political activities, connected with the party in power during elections campaigns and it has been the subject of several court cases, where respondents did not accept the allegation levelled against them but gave an undertaking that they would instruct the personnel concerned not to carry out any political work for candidates, in the course of performing their official duties. Petitioners satisfied with these undertaking and withdrew the case. However it secured the recognition of the court and the responsibility of authorities concerned.

Other Sources:

Political parties are expensive to run. They need money to communicate with the electorate, if they are to stand any real chance of support. They require funding to cover election expenses and to monitor all aspects of the election process to assure themselves and their supporters that the election process is being conducted freely and fairly. It is generally believed that those involved in politics raise money from their supporters. It is important that it does not distort the political system skewing the democratic structures in favour of those with access to money.

If the funding process is not transparent and political parties are not required to disclose the sources of sizeable donation, then the public is left to draw its own conclusions, when it sees those suspected of funding political parties openly benefiting from contracts and other government business.

Once a candidate has won he has to return favours to those who supported his campaign with money, vehicles etc. Bigger the contribution from the donors greater will be the demand on the politician from donors. Most big companies and businessmen make contributions to both main parties. Although this may give the relevant company some assurance of patronage, regardless of who ultimately wins, it does not assure a level playing field for business and hence is injurious to the country.

Membership subscription and other kinds of small donations – Membership fees amounts to a very small amount paid annually by a person to a party for being a member of that party. This collection is very negligible and this alone is not sufficient for a party for their political activities.

REFORMS

The democratic process of holding a free and fair election and the exercise of franchise, which is the inalienable right of the voters, should be exercised so as to reflect the true and real intentions of the voters as guaranteed by the constitution. However for every electoral system, irrespective of its nature and functioning, it is imperative to take stock of what has happened in the last elections. What are the methods that yield good result? What are the shortcomings? How to identify them and find solutions? If there is no review, no system can improve.

The role of money power in elections is a standard concern of the discourse on electoral reforms in Sri Lanka. A complex and differentiated understanding of the role of money power in electoral politics would suggest that the practical challenge of controlling its influence involve fixing a ceiling.

The political parties should be required to compulsorily maintain their accounts and get them audited by agencies specified by election authorities. There is strong need for transparency in the matter of collection of funds by political parties and also about the manner in which they expend those funds. Therefore the political parties must be required to publish their accounts annually for information and scrutiny of general public. Therefore it is recommended that the political parties registered with the Commissioner of Election should be required to maintain their accounts and do

specified agencies audit them. Those who violate this requirement may lead to de-recognition of the political party.

17th constitutional amendment as a drive for reform monetary election process

17th constitutional amendment has brought fruitful consequences in the context of election process in Sri Lanka. It has taken efforts to establish an independent election commission. Chapter XIV of the amendment has introduced the election commission. Section 103 of the 17th amendment describes the context of the commission. There shall be an election commission consisting of the members apportioned by the president on the recommended of constitutional council (Article 103).

Article 104 (B) 2 has given the power to the commission to secure the enforcement of all laws relating to the holding of any such election or the conduct of referenda, and it shall be the duty of all authorities of the state charged with the enforcement of such laws to co-operate with the commission to secure such enforcement.

Mis-abuse of State Properties

Mis-abuse of state properties during the election period has been deep rooted in Sri Lanka's election history. This is a great impediment to hold free and fair election. Present 17th constitutional amendment has given a power to the election commission to prohibit the use of any movable or immovable properties belonging to the state or any public corporation (104 B [4] [a]).

Role of the local observer mission and the promotion of awareness of monetary politics

One objective of the presence of a local election observer mission in a country is to promote the awareness about monetary politics. Providing assistance on monetary politics related matters and reporting them in a correct manner would be a great responsibility of a local observer. This will make a great impact on free and fair elections in Sri Lanka.

REFERENCES

- 1997 Comparative Electoral Systems in South Asia
Monograph No. 5 – Sri Lanka Colombo
International Center for Ethnic Studies
- 1999 Comparative Electoral Processes in South Asia
Nepal South Asia Center – Kathmandu
- 1979 A Statistical Survey of Elections to the legislature of Sri Lanka
1911–1977 G.P.S.H. de Silva
- 1993 Sessional Paper No.1 – 1993
- 2000 Interim Report – Parliamentary Elections on 2000
PAFFREL/MFFE
- 2000 Elections in India – Election Commission of India
- 1996 Politics, Media and Modern Democracy
An international Study of innovation in Electoral Campaigning
and their consequences edited by David L Swanson and Paolo
Mancini
- 1994 Proposed Election Commission observation and
Recommendation of the Commissioner of Election

Role of Civil Society and Democracy in Nepal

Subodh Pyakurel, Nepal

Introduction

The civil society, as it is understood today in Nepal consists of non-state, non-governmental, voluntary people's forums, organizations and movements organized from grass-root level. The organizers are citizens with a wide range of visions, objectives, strategies, activities and linkages. It is distinct from 'society' in general in that it involves citizens acting collectively in a public sphere to express their interests, passions and ideas, exchange information, achieve mutual goals, make demands on the state and hold state officials accountable.

The civil society holds enormous significance because of its reliance on contextual experience. For example, in Nepal, it is attached with the need to build democratic space, human rights, environmental concerns, self-governance and to self-reliant, sustainable development capable of meeting the basic needs of the mass of a deeply rooted semi-feudalistic society.

The Origin of Civil Society & process of democratization

It is difficult to trace the origin of civil society in Nepal. Historical evidences suggest that in ancient past there were associations united by a common set of interests and justice. Several such civil societies formed in different communities in Nepal successfully performing their duties to maintain norms and values faiths, beliefs, caste system, religion and rituals from birth to death of a person that were needed for their families. These civil societies were found to be engaged in building canals for irrigation and providing health services.

There was a very little interference from the principalities and associations. Civil

society in Baglung, Parbat and other principalities actively participated to organize tournaments to select their King, community leaders and help royal councils. They also mobilized their own resources for their social activities. Thus, the civil society and state were active to build a strong community in different parts of the present day Nepal. But in Medieval age, these functions of Principalities were changed. Civil Society was associated with claims to individual rights regarding property, liberty, equality and associations. Civil society started functioning as ordered political societies organized by the family networks. Civil society of Thakali, Gurung and Newar communities introduced "Dhukuti"-an association comprising of five to over 20 members belonging to the same community forming a sort of non-formal credit cooperative. The Panchali System of Newars of Kathmandu valley was functioning as a judiciary to settle dispute within the community, building canals and doing various religious and cultural works. The Guthi system of Newars was introduced to build irrigation canals, temples, drinking water facilities and other infrastructure needed for the community. Raj Guthi was fully controlled by state whereas Chhut Guthis retained semi-official status. Similarly, the conventional practices of parma (which is still practiced in most of the rural regions of Nepal) should be looked upon a rich social tradition. Under the Parma system each household, depending on the size of the family contributes voluntary labor to its community. The practices are prominent in the agricultural sector. However the phenomenon is not different in other sectors too. Much of the traditionally developed civil societies of different communities could not survive. But those survived are still working as prestigious organizations of Nepal. For example Dhukuti, Guthis, Paropakar etc.

There are historical evidences which show that a joint action of civil society, political parties and social organizations contributed to overthrow 104 years of autocratic rules of Rana regime in 1950 and to instate a pro-democratic rule in the country. Under the heavy pressure and movements of civil society the exploitative and deeply rooted Zamindari (landlords) system was abolished by a law which was introduced with a land reform fixing a land ceiling separately for Hill, Terai and Kathmandu valley.

After the Rana regime the schools were allowed to open and hospitals were built. The laws were revised and several attempts were made to install democratic rights of people. Civil society started organising in political parties and Trade Unions for installing basic fundamental rights. Civil societies openly started demanding their democratic rights. But in 1961, the democratically elected government was overthrown and Panchayat system of governance was introduced. All political parties and many civil society organizations were banned.

Thus the Panchayat system was introduced with an active role of king and the system continued till 1990. During these 30 years, most of the civil and political rights of Nepali people were curtailed. Even then, some organizations managed to function with difficulties.

Civil society played a catalytic role during the Pro-democracy movement of 1990. Moreover the members of civil society did not keep them idle even after the restoration of democracy. Nepal's civil society has been struggling for the cause of strengthening multiparty democracy and establishing human rights culture in the country. After 1990 role of civil society has been witnessed in following activities:

- The struggle during the formation of new constitution to make it an exemplary constitution for democracy and human rights
- Awareness campaign among the electorates to make genuine representation in governance
- Encouraging the mass to claim their rights in the new environment of democratic political system
- Serving people and Nation as watchdog of democracy and trying to bring democracy at the grassroots level.

In the above campaign INSEC is always in the front line along with other civil society members. During the pre democratic era INSEC was involved in non-formal

education to uplift the life of disadvantaged communities. However it was basically assisting the process of political change to bring era of political freedom along with social and economic justice. In the course INSEC started raising awareness among the unorganized and disadvantage sectors of labor the cart pushers. It conducted literacy, hygiene and health classes and provided free medical check up for the cart pushers in Kathmandu.

INSEC was established in difficult circumstances in 1988. The notable achievement, of civil society under suppressive rules of governments were welfare, relief, reconstruction works through functioning of Community based Organizations, Non Governmental Organizations and Red Cross societies. After the dawn of democracy civil society began the campaign to bring the democracy to the lower level. After the restoration of democracy, like other civil organizations INSEC was able to work more openly and effectively, focusing on national human rights issues.

Organizing election observation in Nepal was unknown till 80s. However. The election in the Panchayat system held in 1986 witnessed a fifteen-member citizen committee for the same. Political activists, university teacher, lawyers, journalists and other conscious and intellectual people constituted the committee. INSEC was active in that citizen's committee and led the legacy after the restoration of democracy.

After the restoration of democracy in Nepal, the role of civil society has been found strong with notable influence in protecting and promoting basic rights of the people. The notable achievement reached just after restoration was that constitution was prepared a with the active participation of political parties, and civil society organization. The other notable achievements are as follows:

1. All political parties, organization, Associations, Trade Unions, Newly formed NGOs, CBOS etc started to function legally.
2. First Election was held in 1991 and democratically elected government

was formed. Basic fundamental rights were established through the constitution of the Kingdom of Nepal, 1990.

3. The democratic governments have so far been able to ratify most of the important international convention and treaties. Now, the government is in the process of ratifying International Criminal Court.
4. The civil society is now organizing and actively working by organizing themselves in NGOs, CBOs, along with several other development agencies in the social, economic, political, Human Rights, cultural and religious affairs.
5. Rights to information provisioned in constitution have been started and press is working independently.
6. Civil society is lobbying, pressurizing and advocating more actively establishing rule of law and institutionalization of democracy in the country.
7. Civil society is found actively participating to pressurize and advocate before the donors and international communities to act effectively according to the perceived needs of people.
8. Civil society is seriously concerned over growing insecurity, corruption, mismanagement, misutilization of resources and violations of civil rights and attracting attention of national and international communities for a good governance and peace in Nepal. Civil society is lobbying and pressurizing government to adapt and effectively implement international code of conduct on human rights for supplying basic foods and medicines for vulnerable groups of people living in different parts of Nepal.
9. INSEC as a leading human rights organization has been successful to persuade the government to establish a National Human Rights Commission, to abolish legally the existence of Kamaiya system as a form of slavery in modern age. The minimum wage for the agriculture laborers was fixed by the government as a result of the campaign

facilitated by INSEC.

10. Civil society is pressurizing government to effectively implement existing laws regarding elimination of women and children trafficking.
11. Civil society is advocating and raising its concern to protect the fundamental rights of minorities and Dalits both nationally and internationally.
12. Nepalese civil society organizations are opposing the exploitative character of WTO and GATs.

General Political Trends during Twelve Years:

1. Lack of political commitment to translate the spirit of Constitution towards the civil and political rights.
2. Ignorance of Directive Principles of the Constitution that cite the chief objective of the State to promote conditions of welfare on the basis of the principles of an open society, by establishing a just system in all aspects of national life, including social, economic and political life, while at the same time protecting the lives, property and liberty of the people.
3. Such trends of bad governance has given birth violence- with a political color termed as the Maoist movement.

Conclusive Remark

Nepal as sovereign state sandwiched between giant nations like India and China is still young in establishing democratic rights in its existing complex socio-economic set up. Nepal is a semi-feudalistic country where 60% economy is monetised and 40% of economy is non-monetised. In such circumstances Nepal faces severe problems of poverty, insecurity and mismanagement. Civil society is fully aware of the socio-economic and political complexities. Civil society has achieved some notable and fundamental rights on the basis which it bring government to establish democratic governance and peaceful environment for further development of Nepal.

Yet, the overall perception is that twelve years (1991-2002) of democratic governance have not been able to improve the situation substantively from what prevailed during the Panchayat era. Successive governments of people's representative could not sustain peace, security and political stability.

Civil society of Nepal has been searching its effective role to bring back the environment of understanding and peace in the country. It is trying its best to reestablish the forgotten culture of dialogue. It could bridge the gaps among various driving forces of society, which has been creating the problems. The task is not easy. But the historical role of civil society is awaited to endeavor a dawn of peace and prosperity.

Election-Monitoring in Thailand

Sunai Phasuk, ANFREL Acting Executive Director
Sakool Zuesongdham, Pollwatch Foundation Board Member

1. Thai Democracy in the Electoral Context: A Brief History

Absolute monarchy in Thai politics was put to an end in 1932 by a group of people that sought to establish democratic civilian governance. But for more than four decades, the country's record of democratization had often been interrupted by a vicious circle of coups and bureaucratic-military authoritarianism. By the time the last military intervention took place on 23 February 1991, the total number of coup attempts had risen to 17 exactly equalled the number of elections held over the same period. Out of 46 governments established during that period, eight were classified as military-dominated and 23 fit well in all aspects of military governments while only 15 were civilian.

These statistics graphically represented the true face of Thai politics over the past decades. Although elections were introduced soon after the overthrow of absolute monarchy (the first indirect parliamentary elections took place in 1933 and the first direct parliamentary elections were held in 1937), electoral process had not been a major vessel through which the people could effectively exercise their democratic rights to choose a government and to influence the direction of public policies.

In many instances, elections were organized particularly to provide a clout of legitimacy to an already existing power structure that was authoritarian in nature. Protégé of the military leaders had often been packed into the Parliament, both the elected House of Representatives and the appointed Senate, to serve as a legitimate

source for political support of their patron's grip on power whereas activities of extra-bureaucratic groups were kept stifled. This system of governance had mounted public frustrations and societal tensions that eventually erupted in violence.

In 1973 the military regime was brought down by student protests. Although the military managed to come back to power in 1976, an exposure to democratic ideas and practices has propelled Thailand toward a more liberal form of politics as the people have come to realize that they can withstand an unjust rule and topple authoritarian leaders.

Extraordinary economic success has also contributed greatly to democratic development in Thailand. At the domestic level, there exist linkages between the bureaucratic polity and various societal groups. Business community, in particular, has paved ways for the realization of participatory politics by becoming a vocal player in the decision-making domain. The changing trend of world economy has also replaced a rigid military authoritarianism with a more inclusive political system that allows various societal sectors to participate in the making of public policies.

By the late 1980s, when it appeared that a military regime lacked professional and ethical qualifications to attract foreign investors to come to Thailand, big business interests and the increasingly powerful middle class have begun to demand for a more inclusive political system.

Although Thai politics still have a cast of military personnel and government officials, starring roles have increasingly been transferred to professional politicians, businessmen, lawyers, political activists, the urban middle class, religious leaders and various societal groups. In this process, a number of business interests have formed powerful business associations, supported political parties and eventually entered into the political arena. Since the 1980s, urban businessmen and a new generation of rich provincial magnates have begun to dominate seats in both the Parliament and the Cabinet.

With that change, electoral process has become more meaningful. Victory at the polls has become the primary source of political legitimacy. Despite the unexpected occurrence of a military coup in 1991 and the subsequent violent crackdown of pro-democracy demonstrators in May 1992, the level of political awakening in Thailand has forged a consensus that the regular holding of elections is an institutionalized element of the system of governance.

The increasing political liberalization has established a culture of democratic elections and parliamentary rule as an institutionalized part of political life in Thailand. In electoral terms, a new political benchmark has been set when the unprecedented people's participation in reform process had led to the promulgation of the 1997 Constitution. For the first time since the change from absolute monarchy in 1932, there is a constitutional recognition that sovereign power belongs to the people and the two-house system of parliamentary body (the Senate and the House of Representatives) must come into existence only through democratic electoral process.

Adding to that, the 1997 Constitution also seeks to establish a new understanding that democracy means more than a process by which a government and the legislative are chosen. Democracy is as much about the procedure in managing public affairs. Put differently, the political structure in Thailand is transforming from representative democracy to participatory democracy. Government officials and politicians are no longer masters of the people and ignore consequences of their policies and actions on the society.

Pluralism is now recognized as the hallmark of democratic governance. In this light, the people is entitled by the constitutional order to participate and monitor the conduct of public administration by government officials (both appointed and elected) as well as members of the Parliament to ensure that they can live up to professional expectations. Politicians, government officials and members of societal organizations are now learning to work in partnership to implement various accountability

mechanisms, such as the ombudsman office, constitutional courts, administrative courts, freedom of information act, public hearing forum, anti-corruption agencies, election administration agencies and independent private monitor groups.

The 1997 Constitution and the Elections of Members of the Parliament Act enact the Election Commission of Thailand (ECT) as an independent agency to organize and administer the electoral process. It is expected that ECT will act on a non-partisan basis to ensure free and fair electoral process as well as to counter the spreading money politics that have undermined legitimacy and efficiency of democratic institutions in Thailand for decades. To stamp out irregularities and frauds, ECT is provided with a wide range of authorities and powers. Moreover, it is also authorized to acknowledge and appoint representatives of private organizations to serve as independent election monitors.

2. Election-Monitoring Organizations in Thailand

As the society is moving toward greater political pluralism both in format and in substance, the 1997 Constitution recognized people's contribution in consolidating democracy through electoral process. Under this democratic governance paradigm, partnership is designed to be built on the premise of interdependence exercised by governmental sector and non-governmental sector on an equal basis. However, the implementation is not without challenges. On the one hand, ECT has publicly encouraged the adoption of a "people-centered" strategy in promoting democratic elections. Yet at the same time, ECT has also increasingly imposed regulations and controls on activity of non-governmental organizations (NGOs) in this regard. In most cases, ECT still reflects a bureaucratic mentality that cannot allow NGOs to go beyond a conventional role in the realm of civic education to assume a strategic role in actual election-monitoring activity.

2.1 ECT

Economic wealth has certainly translated into political power of the urbanite. The middle class has shaped agendas of political debates through the media, the academic community and NGOs. But in terms of votes and constituencies, the city is a minority. And in parliamentary politics, numbers matter. The rural population that dominates more than 80 percent of all constituencies have a peculiar view of elections. Democracy is valued not as an ideal but as a mechanism to draw benefits from the political elite to themselves and their communities. Elections are local affairs dealing with the exchange of votes for various benefits.

This voting behavior is rooted in the existing socio-cultural context. In rural areas, voters feel obligated to use their votes as repayment to candidates who have been friendly and helpful in coping with daily difficulties while bringing progress and prosperity to their communities. Voting is not guided by political principles and policy platforms. To win at the polls, candidates must have sufficient cash supply to meet financial demands of the villagers both in their day-to-day lives and in the midst of election campaigns. Equally important, they must construct and maintain a workable patron-client network in the constituencies to deliver their material and moral "generosity" to voters.

According to an unofficial survey, at least about 30 million baht is required to invest in election campaigns. In fact, a price at 100 baht a head is not much to pay for votes. Regular presence by candidates and representatives at social functions in their constituencies is one of the basic requirements to build political supports. A larger scale of investment is needed when voters ask for material development in the locality such as community irrigation system, public wells, street lights, bus shelters, community halls or job training centers.

Vote buying has been rampant in elections in Thailand. Electoral venality and "god

father politics" have produced unqualified and corrupt politicians to the corridors of power. In this view, the need to finance vote buying necessitates blatant corruption or stealing from the coffers of the state. Moreover, electoral venality is also to blame for the rise of political inequality for the rich making it almost impossible for qualified candidates with modest funds to clinch parliamentary seats. A great number of voters are bribed and failed to exercise their rights with an independent and responsible judgment in selecting their representatives in the Parliament.

As a result of the spreading money politics, there exists the growing opposition to scandalous elections. Thousands, with a view to minimize vote buying, have joined campaigns to stamp out perverted electoral behaviors and minimize vote buying. The media has played a significant role in conveying messages to raise public awareness that the only legitimate vote-getting act is to give public speeches while the only proper voting consideration is the merit of the candidates policy platforms.

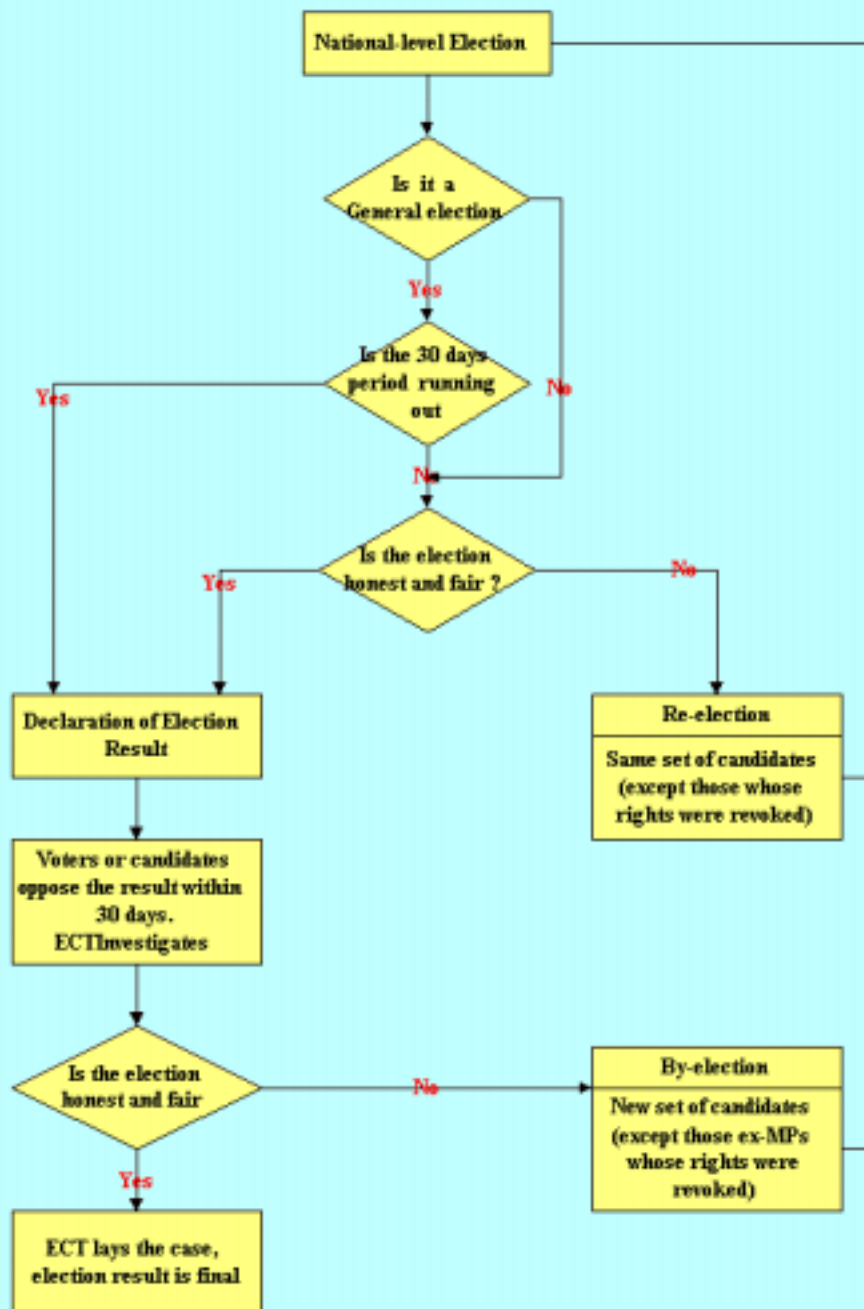
To achieve people's democracy, the people must be knowledgeable and public-regarding. By knowledgeable, it means that the voters must understand implications of policy positions of the candidates and use these as the criteria to cast their ballots. By public-regarding, it means that the voters must transcend personal or local interests so as to make elections a means of recruiting honest and capable persons to serve as lawmakers and political executives rather than vehicles through which the voters get parochial and personal benefits. Above all, voting decisions must be made independently of any obligations. The 1997 Constitution makes it a duty for the people to vote in elections. By making voting a compulsory not a voluntary act, it is hoped that this requirement can establish a democratically elected government free from vote buying.

There is also a major change on the side of referees in electoral process. Before the enactment of the 1997 Constitution, the election law referred the complaints, objections and petitions to the court of justice. But, the court proceeding often took so

much time that the court had not finished a single case before the Parliament was dissolved. As the problem of vote buying was getting out of hand, it was decided that ECT should have adjudication power in dealing with electoral frauds in so far as re-elections are concerned. Criminal offences remain within the jurisdiction of the court. Besides, ECT can be more expedite because only credible evidences are required to make adjudication unlike beyond-doubt evidences that are needed in court.

ECT has a mandate to ensure that electoral process is conducted in an honest and fair manner. It has the power to declare the result of elections. If elections are found not to be honest and fair , ECT has the power to order a new round of election. Even if when evidences of fraud are found after the declaration of result and candidates are installed, ECT is empowered to declare it void and order by-elections. This process may happen several times until the definite and final result is achieved in an honest and fair manner.

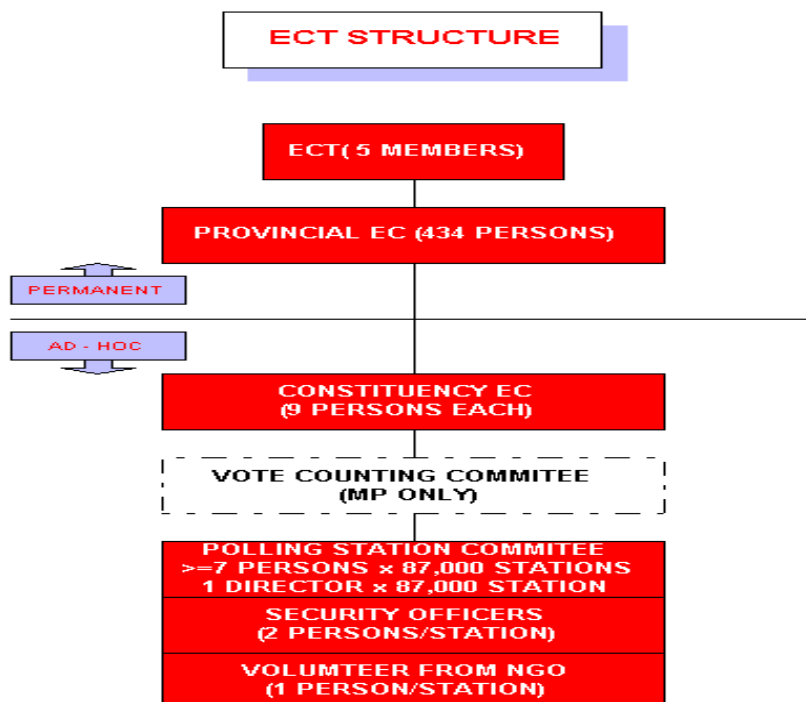
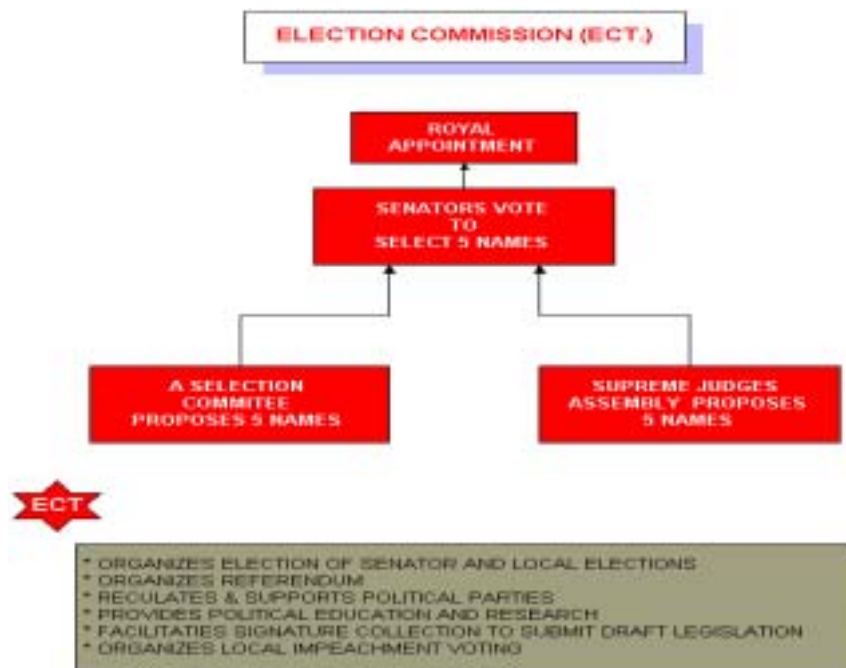
Figure I The Possibilities Of Several Rounds Of Election



As can be seen in the chart, there can be several rounds of elections before the matter is finally settled. At first, ECT tried to shorten the process by issuing a regulation that a candidate who was suspended (was denied the ECT endorsement to become an MP or was given a “yellow ticket”) could compete again but not in further rounds if he was found to be the cause of another suspension. In this case it was said that he was allegedly a repeated offender therefore he was issued a red ticket. The Constitutional Court (CC), however, decided that this regulation was invalid. The election law was then amended to give the power to ECT to revoke, for one year, the voting right of a candidate or MP if there are credible evidences to show that he supports or colludes with those who commit fraudulent actions. Without voting right the person cannot be a candidate. This is still considered as another form of a “red ticket”.

Nevertheless, ECT has faced a serious credibility crisis after CC handed a ruling that ECT decisions to disbar candidates that had committed fraudulent activities in two rounds of elections consecutively were unconstitutional. Verdicts of CC had serious impacts on voter confidence in electoral process and democratic reforms.

Since the promulgation of the 1997 Constitution, there is an expectation among the people that new regulations related to electoral process will produce a new generation of representatives in the Parliament that will act to serve genuine interests of the people. This will be a crucial step for the creation of a new system of governance that is transparent, efficient and accountable to the people.



Nevertheless, there exists a gap between idealism and actual practices in the electoral process. The senatorial elections in 2000 and the general elections in 2001 had significantly put democratic efforts as reflected in the 1997 Constitution to a critical test.

Although the general atmosphere of the senatorial elections was relatively peaceful, vote buying and fraudulent activities at the polls were still rampant in many constituencies. A number of structural obstacles had derailed efforts of ECT and independent election monitors to eradicate perverted electoral behaviors.

In structural terms, the 1997 Constitution enacts ECT to organize and administer the electoral process. It is expected that ECT, with its independence and integrity, will act on a non-partisan basis to ensure free and fair polls. However, orchestrated efforts on the side of ECT to stamp out irregularities and frauds in elections had effected by the connection between money politics and patronage system.

As a result of the entrenched patronage system in many areas, there also existed a culture of passiveness as well as the lack of neutrality among law enforcement officers and members of Provincial Election Commission. Independent observers from non-governmental sector were even obstructed and marginalized by polling station officers in many areas. Without cooperation from law enforcement officers, members of Provincial Election Commission and polling station officers, it was difficult for independent election observers to effectively engage in efforts to deter and suppress vote buying and irregularities at the polls.

Decisions taken by ECT to annul the results from problematic constituencies were commendable. However, without sufficient power to block candidates that committed cheating from participating in the by-elections, ECT had difficulties to ensure that the final results of the senatorial elections really produced members of the Parliament with professional qualifications and political legitimacy to represent the people.

The existence of old-fashioned politics and prospects of repetitive by-elections, as happened during the elections for members of the Senate, have undermined public enthusiasm to participate in elections. Therefore, it is highly important for ECT and independent election monitors to work harder to ensure the integrity and transparency in electoral process as well as to find ways to maintain the momentum of democratization initiatives of the 1997 Constitution.

2.2 Pollwatch Foundation

The Pollwatch Foundation was established during the height of public enthusiasm for popular democracy in Thailand. One of the lessons from the military coup in 1991 was that “bad elections” would install “bad politicians”. This was the root cause of a vicious circle that began with elections, followed by a corrupt government and then ended with a military intervention in politics. After the democratic uprising in May 1992 that restored democratic order, the public became committed to a shared feeling that elections in Thailand must be conducted in an honest and fair manner with a concerted support from governmental sector and non-governmental sector. It was this spirit that led to the creation of the Pollwatch Foundation in January 1992. Since then, it has played a major role in both election-monitoring and civic education at local, regional and national levels. Its primary objectives were to create an environment for “free and fair” elections and to support and encourage people’s participation in every aspect of electoral process.

In the past, other NGOs had monitored elections but their activity was limited to certain regions due to financial limitation and organizational constraint. The then Prime Minister Anand Panyarachun sought to overcome this problem by provide government funding, through the Ministry of Interior, the Pollwatch Foundation to implement election-monitoring and civic education campaigns throughout the country. But in terms of manpower, election observers of the Pollwatch Foundation came

primarily from NGOs. These election observers were volunteers that operated on an ad-hoc basis and had to be recruited every time when elections were called.

In each election, the Pollwatch Foundation could mobilize around 50,000 volunteers nationwide to work in civic education programs and election monitoring activity. For civic education programs, the Pollwatch Foundation initiated the “Democratic Forum” through which candidates would meet voters to explain their party platforms and respond to questions. This is a significant development toward a “two-way” democratic interaction between candidates and voters, breaking away from a well-entrenched patronage relationship and money politics. In the area of election observation, volunteers of the Pollwatch Foundation monitored the electoral process and received complaints of electoral offences. They were stationed in almost every polling station throughout Thailand.

On the one hand, the strength of the Pollwatch Foundation is contacts with NGOs and grassroots organization in every province. In particular, it has cooperated with the Campaign for Popular Democracy (CPD) and the Union for Civil Liberty (UCL), two leading democracy advocacy NGOs in Thailand. On the other hand, the Pollwatch Foundation has also been trusted by the public as an independent body to ensure the integrity of electoral process and make sure that people’s wills will be translated into electoral results. The media has been helpful in promoting voter awareness campaigns, especially campaigns on voter turnout and campaign against vote buying. The Pollwatch Foundation received more than 5,000 complaints about vote buying and other offences, of which at least 50 percent were substantiated. Although it did not have power to arrest or prosecute the offenders, the Pollwatch Foundation managed to establish a team of volunteer lawyers to work in cooperation with the Ministry of Interior in the investigation of cases that it had received. From 1992 to 1996, the Pollwatch Foundation had been well recognized as the most effective and independent electoral watchdog in the history of Thailand.

However, after the Pollwatch Foundation became an independent organization in 1997, it has faced a major difficulty because it no longer receives financial support from the Ministry of Interior. While the Pollwatch Foundation seeks to supplement the effort of ECT in voter education programs and monitor the electoral process through its network of NGOs and grassroots organizations. To meet with challenges in a new situation, the Pollwatch Foundation established the People's Network for Elections (P-NET) as a network of organizations in five regions: the northern region, the upper northeastern region, the lower northeast region, the central region and the southern region.

In reality, the cooperation between P-NET, the Pollwatch Foundation and ECT is not smooth. ECT has increasingly adopted bureaucratic ideology in administering the electoral process. ECT has also set up the NGO Coordinating Center to serve as its people's wing. This practice has effectively bypassed the role of independent monitoring groups such as P-Net and the Pollwatch Foundation. Independent organizations allied with P-NET and the Pollwatch Foundation do not receive reasonable support from ECT in terms of budget, resources and administrative cooperation. During the senatorial elections in 2000 and the general elections in 2001, volunteer observers of the P-NET and the Pollwatch Foundation in some areas were marginalized by polling station officers. Complaints collected by them were often treated by ECT as "unofficial information" and therefore dismissible.

To meet with these challenges the Pollwatch Foundation and P-NET must develop the infrastructure and staff capacity to maintain its nationwide training and monitoring effort. But, the problem is that most people that used to support initiatives of the Pollwatch Foundation and P-NET share a perception that democratic reforms in the electoral process has already achieved a significant breakthrough with the creation of ECT. This is not true in reality of course. The highly bureaucratic ECT, apart from isolating itself from the civil society and antagonizing people's organizations, has been engulfed by the existing patronage politics. The selection of new ECT

Commissioners was so politicized that no body has a trust in its integrity as a neutral body anymore. Yet at the same time, the Pollwatch Foundation and P-NET have been remarkable affected by the lack of popular support in terms of budget. They are also not ready and unable to fill the gap and reemerge as the center for people's activity in defending democracy from money and power politics.

Annex 1: Patterns of Cheating and Irregularity in Electoral Process

The pre-election scenario in Thailand shows a picture of contradiction. On the one hand, there exists the growing understanding by the public that a clean, free and fair electoral process is essential for the realization of a system of democratic governance based on "the rule of the people, by the people and for the people". Bad elections, on the contrary, are seen as the root cause of cronyism, corruption and a political system that lacks professional and ethical qualifications to serve and protect public interests. Yet efforts of ECT, government agencies and people's organizations to uphold the integrity of electoral process are running at odd with media reports about the prospect that various forms of cheating constitute the deciding factor for victory at the polls. Common cheating techniques in Thai elections include:

Vote Buying

- **Vote Buying in Cash:** Candidates distribute packets of cash between 100 and 2,000 baht to voters in return for their sworn allegiance. This practice is usually carried out through the network of canvassers in each locality. At the same time, identification cards of voters are often collected as receipts of payment. Collected identification cards will be returned to voters when they attend for the election. On the other hands, identification cards of supporters of rival candidates can also be bought and held until the election is over. This practice is known as "negative vote buying" or "buying abstention".

Instead of having direct contact with voters, candidates and their canvassers can channel vote buying money as contribution to village fund. Voters sometimes receive vote buying money via postal orders or bank accounts. There are also reports about chit funds in which participating voters are bound to benefit. Loans are provided to give loans to voters under agreement to terminate repayment clauses when certain candidates win. This practice is also known as "green harvesting". Gambling on election result is encouraged, especially at village level, with lucrative odds on certain candidates to influence voters' decisions. Another common practice in buying vote is by putting voters' names as temporary employees on the party payroll or as temporary employees in labor-intensive business such as plantation and factory. In this case, voters are told that they are bound by terms of employment contract to support certain candidates.

- Vote Buying in "Kind" and Voting Bribery: Vote buying also exists in "kind" and common items distributed to voters such as clocks, watches, clothes, sports equipment, tires, cement, kitchen implements, water containers, water coolers, poultry, fertilizers, rice, flood relief supplies and Amphetamine pills. Key canvassers are even provided with new cars, pickup trucks or motorcycles.

Expressions of generosity as a measure to win votes can be seen as voting bribery. Lavish banquets, parties and entertainment activities are held. In some cases, voters are requested to pay a nominal entry fee about 10 baht per person to disguise as charity events. To increase political popularity, candidates sometimes provide scholarships and education materials as a show of their generosity and commitment to community development. For the same purpose, construction and maintenance of public facilities are provided by candidates. Generous donations are made for funeral services, wedding parties or community charities to boost support of candidates among voters. Free medical care, hair cuts, perms and dental treatment are provided. Free trips and vocational training are organized for voters. Farm products are bought from voters at inflated prices. Free transportation is provided to voters on

the election day. Religious centers are paid for their congregations to pray for certain candidates. At the same time, basic necessities or gifts are distributed to voters along with incense sticks to make voters fear that they will suffer ill luck if they do not vote for such those candidates.

Misinformation

- Voters are informed by candidates that valid ballots for a party list election and a constituency based election have to be in the same number only.
- Voters are recruited in party membership and are informed that it is illegal for party members not to vote for their parties.
- Candidates spread false information that rival candidates are disqualified by the ECT.
- Candidates orchestrate vote buying or cheating incidents using the name of rival candidates get the ECT to sanction their rivals.

Intimidation, Thuggery and Violent Action

- Candidates, canvassers and their supporters are threatened not to compete or run effective campaign in certain locality. Posters, campaign materials and vehicles are often vandalized. Voters attending campaign rally are also subject to intimidation.
- Violent actions, particularly in forms of assault and murder, against rival candidates and canvassers are used as a desperate measure when competition is so fierce that non-violent intimidation fails to create competitive edge.
- Witnesses and government officers are threatened to deter them from pursuing legal action against election fraud.

Partisan Conduct of Election Officers and Government Officials

- In most cases, government officers are members of the entrenched patronage network and they are obliged to serve their patrons during the election. This is the main cause of dishonest handling of electoral process. At provincial, constituency

and polling station levels, government officers are often acquainted to candidates and canvassers. These officers are often subject to bribery and influence, making their decisions and actions biased in favor of certain candidates. These officers may otherwise opt for inactive approach in handling electoral process by not taking decisive action against fraudulent activities for fear of retaliation. These officers often turn blind eyes to violations committed by their patrons while overtly taking tough stance against rival candidates. The smuggling of ballot papers, multiple voting, impersonation, phantom voting and tampering of ballot boxes as well as tampering of vote tabulation are only possible with cooperation from dishonest officers.

- Ahead of the election day, additional names are wrongfully filled in the house register as a measure to assist candidates to bring in phantom voters. In some cases, deserted houses are registered with more than 10 inhabitants. For the same purpose, identification cards are wrongfully issued to foreign immigrants and factory workers with clear instruction to vote for certain candidates.
- Government officers sometimes involve in the dissemination of false information about the electoral process and the qualification of candidates to create confusion and increase competitive edge for their patrons. For example, voters are instructed during election education sessions or community activities that valid ballots for party list elections and constituency-based elections have to be in the same number of certain candidates.

Annex 2: National Counter Corruption Commission

When Thailand first established the National Counter Corruption Commission (NCCC) in 1998, one of the first questions pundits asked was where in the nation could you find nine bureaucrats or judges who weren't themselves corrupt? But in the end, Senate hearings and a thorough screening process installed commissioners to take on tainted politicians, bribe-taking bureaucrats and crooked cops. Thailand had an earlier anti-corruption agency, but it wasn't empowered to investigate members of

parliament. It was, in effect, toothless. This new watchdog has some big, nasty fangs. Almost every Thai political party is being bitten. The graft busters have investigated former Prime Minister Chuan Leekpai twice, and the book at Prime Minister Thaksin Shinawatra for lying about his wealth. For the most part, Thai people, fed up with shady politicians, are cheering NCCC on. This revolution began when NCCC indicted Interior former Minister Sanan Kachornprasart for lying on his assets declaration. The boss of Democrat Party was a notorious machine politician and the most powerful man in several governments. In a watershed moment for Thai democracy, CC upheld the commission's findings and Sanan was banned from politics for five years. With that, NCC came to believe that what is wrong cannot be covered up. Yet, NCCC cannot match with Prime Minister Thaksin who campaigns as a New Age reformer geared towards serving national rather than vested interests. NCCC indicted the Prime Minister only to find that he could mobilize his popularity in the street and wealth in the courtroom of CC as a ticket to clear the charge in August 2001. Since then, Prime Minister Thaksin Thaksin has made clear his intention to amend the 1997 Constitution, vowing to rein in new independent institutions like NCCC, the one that indicted him in the first place.

Results and Limitations of the Campaign to Defeat Unqualified Candidates for the General Election in 2000

Kisik Kim, Korea

1. Background

- The National Assembly and the political parties in Korea have been crippled by the Cold War era, decades of military dictatorship, and deep-rooted regionalism. As a result, they have lost the trust of Korean people.
- The financial crisis in the late 1990s resulted from thirty years of dictatorship, collusion of business and politics, and *chaebol*-oriented economy. Most people suffered unprecedented unemployment rates and decrease in income, and the gap between the have's and have-not's widened. Politicians, who were responsible for the crisis, did not function as a lynchpin of reform, but instead proved to be its biggest stumbling block. At least, that's what the Korean people, full of distrust and anger, believed. They were more than eager to change the debilitated, corrupt government.
- Until the 1980s, the military-based cabinet discouraged the Korean people from changing the political structure through democratic procedures such as direct election. But the people's uprising in Jun 1987 enabled the Koreans to vote for President through direction elections. Since then, campaigns for more democratic election procedures have matured. Social campaigns in the 1980s were modified to seek political power through elections in the 1990s by creating progressive liberal parties. Participatory citizens monitored election procedures, examined candidates, and promoted election policies. But in the cases of the local elections in 1991 and 1995, the general election in 1996, and the Presidential election in 1997, such campaigns did not have much influence, failing to draw the attention and participation of the public. Therefore, civil organizations came to realize that their campaigns

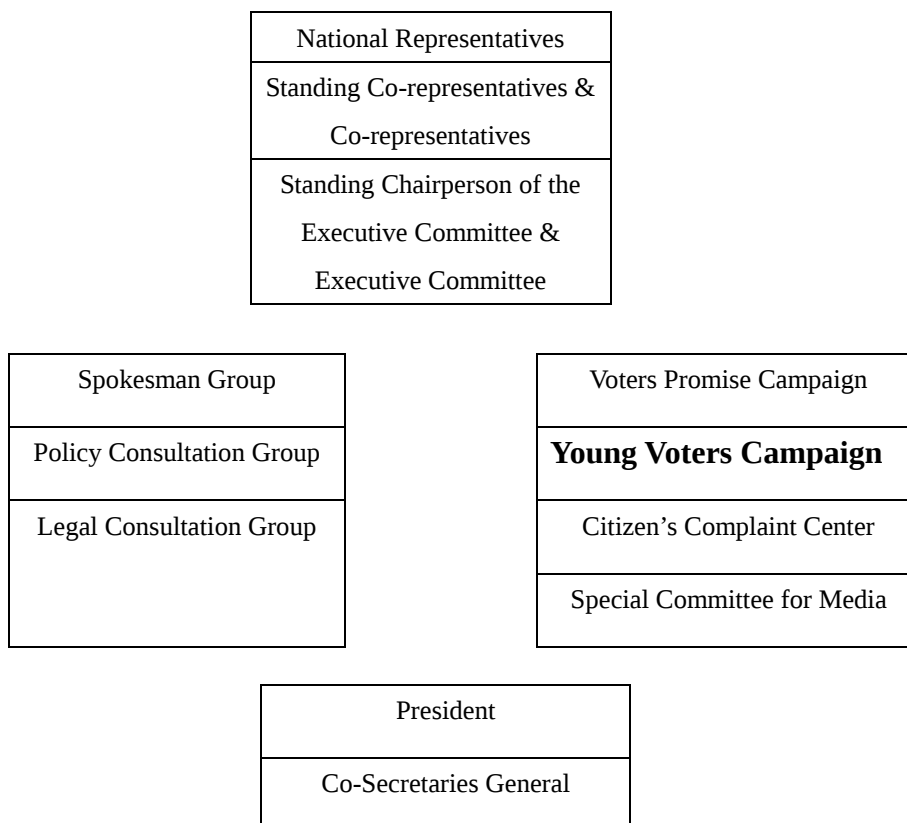
were not effective unless they expressed direct opinions on individual candidates. PSPD has had discussions on and suggestions for the campaign to defeat unqualified candidates since the local election in 1995, but most civil organizations were hesitant to join the campaign, citing the problems of legitimacy and political pressure.

- In 1999, as many as 40 civil organizations formed a National Assembly watchdog group to monitor the activities of the National Assembly in session. The group tried to select and announce the "Best" and the "Worst" lawmakers and point out the faults of the parliamentary inspection of the administration. But the government offices objected to the idea and barred the group from watching the National Assembly itself. Thus, insiders of civil organizations reached a common recognition that a more powerful form of political reform campaign was necessary. Accordingly, after the National Assembly closed in December 1999, they organized a citizens' solidarity group for the general election on January 12, 2000, comprising 412 civil organizations.

2. Overview of the Campaign to Defeat Unqualified Candidates for the General Election in 2000

- Participating Organizations
 - A total of 971 local organizations participated spontaneously; Seoul(161), Inchoen(63), Gyeongki(170), Gwangju and Jeonnam(81), Busan (42), Gyeongnam(66), Daegu(49), Gyeongbuk(61), Jeonbuk(71), Daejeon and Choongnam(109), Choongbuk(50), Gangwon (36), Ulsan(12)
 - 77 Catholic organizations participated, as well as 33 Protestant, 17 Buddhist, and 6 public health organizations.
 - Consultative bodies from 10 metropolitan districts and 52 elementary districts also participated.

- Organizational structure (As of April 13, 2000)



For management, publicity, policy and organization, there were full-time staff members and volunteers for telephone counseling, media monitoring, documentary filming, website management, data research, spokesman support, policy consultation, legal consultation, and college students campaign.

- Standards in selecting unqualified candidates
 - Data research and an opinion poll, together with public opinion survey institution, were used to set the standards for selecting unqualified candidates.
 - The research was based on records of activities in the National Assembly, related

media reports, a variety of books, judicial reports, legal documents, civil organizations' review on lawmakers' activities, candidates' announcement, and other provided materials.

- The opinion poll revealed that voters were most concerned about corruption as a standard for selecting unqualified candidates. (79.8% agreed to the idea of blacklisting against corrupt and incapable politicians, 49.6% expressed their intention not to support the blacklisted candidates in their respective polling districts.)

- Standards in selecting unqualified nominees

- Standards: corruption / infringement on election law / undemocratic and un-humanitarian acts / degree of faithfulness in their National Assembly activities / attitude toward laws and policies / unethical acts against the National Assembly and voters

- For those who are considered to be unqualified to be nominees, their rank and political party were not considered. Corruption, violation of election law, and undemocratic, un-humanitarian acts were more important in selection.

- Activities in different periods

- Preparation: from ideas and suggestions to the establishment of CAGE (December 18, 1999 – January 11, 2000)

The organizations suggesting the initial idea had panel discussions on the blacklisting campaign, as well as having meetings between their representatives. They then invited open participation to gather civil organizations nation-wide.

Along with this procedure, campaign “Adieu, the 20th century! Go with the old politics!” went on to eradicate corrupt politics.

- Blacklisting Campaign: Release of the blacklist against candidacy and campaign for withdrawal of nomination (January 11-March 1, 2000)

On January 24, the first blacklist of 66 National Assembly members was released as protest against their nomination. The second blacklist of 46 was released on

February 2. Ten alternative candidates for democratic nomination were then sent to each party. A large number of these were nominated. The CAGE initiated a campaign for withdrawal of nomination. The CAGE gathered party members and delegates who would file a lawsuit against the problematic nominations. At the same time, the CAGE campaigned for the amendment of article 87 (Prohibition of civil organizations' political activity) of the election law, as the legitimacy of blacklisting campaign was disputed.

- Campaigns for voter participation: efforts to remove regionalism, and the turning point in citizens' campaign (March 2- April 2, 2000)

As the campaign for withdrawal of nomination came to an end, the full-scale blacklisting campaign was then in preparation. However, in this process regionalism became an issue. Regionalism was considered to be a major drawback against a successful blacklisting campaign. Therefore, it was decided to expand the regionalism removal campaign in Seoul and other local districts simultaneously. When changing the campaign against unqualified nominees to the campaign against unqualified candidates, CAGE shifted the campaign into one for the general public. The representatives of CAGE toured the country, voter signatures were collected, and local civil actions were organized in primary districts.

- Blacklisting campaign: The release of the blacklist and the campaign in full-scale (April 2-13, 2000)

On April 3, the blacklist of 86 unqualified candidates was released (22 were added to the 64 nominees who were blacklisted). 22 among those were targeted for intensive campaign. It was analyzed that younger generations would play a major role for the campaign, thus the CAGE held various events, published resource materials that included common goals for civil society such as political reform and judiciary reform. In addition, a signature drive collected 450 signatures from candidates who agreed to CAGE's suggested public promise.

- Results

- 43.1% of blacklisted nominees failed to be a candidate
60 out of 67 at the first campaign, and 42 out of 48 at the second campaign were not able to become candidates (total of 102 blacklisted nominees were removed from the list)
- Nation-wide defeated rate: 68.6% (59 out of 86)
- Defeated rate in 22 main areas: 68.2% (15 out of 22)
Seoul metropolitan area: 95.0% (19 out of 20)
Central area: 78.3% (18 out of 23)
Honam (the Southwest) area: 75.0% (6 out of 8)
Youngnam (the Southeast) area: 45.7% (16 out of 35)

- CAGE Online (www.ngokorea.org)

- Total number of accesses: 856,090 (2000. 1. 12. - 4. 18.)
- Average access number per day: 10,569
- E-mails to the Webmaster: 8,000 (received 88 e-mails per day on average)
- Messages on Bulletin board: 45,674
- Supporters Signatures: 28,319

- Donation

- Total number of supporters: 5667
- Fund raised: 350,191,652 Won (\$291,826)
- Expenditure: 328,851,681 Won (\$274,043)

3. Major issues surrounding the campaign to defeat unqualified candidates

- Discussions on how to advance the campaign

- In the preliminary stages, some argued that the people's general agreement must be gained in advance, given the question of the campaign's legitimacy (sure to be challenged), and strong opposition from politicians. Others argued that the criticism

of legitimacy should be directly addressed, and that resistance from politicians would serve as momentum for the campaign. After some debate, the latter argument was adopted as a principle of the campaign.

- The issue of legitimacy

- At that time, Korea's election law stated that civil organizations shall not express support or objection to election candidates. Thus, politicians and conservative media claimed that the campaign was illegal. A few civic organizations also criticized the CAGE for illegitimacy. Some Korean civil organizations only promote campaign activities that are strictly legal.

- However, the acts of the CAGE were to be protected as part of the people's right to participate in the politics, and the election law was unconstitutional. Moreover, an absolute majority of the people, say, two-thirds of the people on an opinion poll, agreed that the election law needed to be revised so the civil organizations could conduct the campaign. Therefore, the campaign obtained its own legitimacy in that it upheld the people's right of resistance. It was a direct attack on politicians who would not revise election law for their own interests, while despising the constitution and ignoring general opinion. As a result, the election law was partly revised.

- Nevertheless, the revised election law did not wholly permit the campaign, thereby punishing over 30 civil organization workers including seven leaders of the solidarity for general election.

- Debate over the standard of selecting unqualified candidates

Some people argued that it is at fault to select unqualified candidates based upon the agreed standard alone, without taking the overall achievements of the candidates into account. However, leaders of the CAGE decided that judgment of personal achievements tend to be subjective and difficult to use in the forming of a consensus. They believed that excusing some candidates who failed to meet the standards but had some positive achievements in the past might damage the justice and objectivity of the selection process.

- Some people criticized that the selection did not focus on a candidate's activities in the National Assembly. But the solidarity for the general election thought that, given the situation of Korean politicians who are extremely subject to the guideline of his or her party, judging a candidate's activities in the National Assembly was not likely to be realistic or meaningful.

- Conspiracy and collusion theories

At that time, the opposition party and conservative media raised a theory of conspiracy and collusion against the campaign, saying that the ruling party had manipulated the campaign. In response, the CAGE appealed to the people on TV discussions and selecting candidates to be defeated in the election based on fair and objective standards.

4. Outcome of the blacklisting campaign

- Direct effect of the campaign to defeat unqualified candidates

Due to the campaign to deter unqualified men from being nominated, some politicians announced that they would resign from politics or refuse to run for the election. The campaign workers had selected 112 unqualified politicians, and 58 of them failed to be nominated. Out of the 86 nominated, 59 or 68.6% of them were defeated in the election through the campaign. In particular, 19 out of 20 politicians who ran for the metropolitan area of Seoul were beaten, constituting 95% of the campaign's success rate. Among the 22 most unqualified candidates, 15 failed in the election, constituting 68.2% of the campaign's success rate, and 7 most unqualified candidates in the metropolitan area were all defeated.

- Indirect effect of the campaign to defeat unqualified candidates

Thanks to the campaign, a part of the 87 provision of the election law was revised, which had excluded civil organizations from political actions. The number of electoral districts was reduced by 26. The campaign also put a brake on the anti-democratic practice of nominating candidates in the political backroom,

and discouraged any intention to create regionalism by having three major parties and broadcasting companies to pledge their commitment to uprooting regionalism.

- The campaign's effect in the mid-and-longer term

The campaign inspired voters to realize their power and desire for political change. The sudden emergence of new faces for the upcoming Presidential election such as Noh Mu-hyun and Jeong Mong-jun may well be said to reflect the people's desire for political change. Above all, the campaign explored a new way of empowering voters and established groundwork allowing citizens to exercise their power in the political area.

- The campaign's effect within the society

The campaign enhanced political and social prestige of citizens' campaign, thereby renewing the people's recognition of civic campaigns and producing a basis to improve the quality of such campaigns. Unlike the strife against dictatorship in the 1980s, it consolidated the solidarity of civic campaigns which used to lack aggressiveness, experience, and expertise.

5. Limitations of the campaign

- One of the most fundamental limitations of the campaign is that it has yet to renovate the basic structure of politics by uprooting corruption and creating new alternative political forces. The campaign took a negative approach, focusing on eliminating unqualified lawmakers from the National Assembly. It lacked a vision for alternative political forces and had to give up promoting decent candidates. The low voting rate of 56.4% could have been a collective warning against the deep-rooted corruption in the political area. But on the other hand, it also indicated that young voters did not have the will to vote for any candidate for lack of "alternative political forces." At that time, the Democratic Labor Party had some liberal candidates

run for the election, but failed to be recognized as an alternative party by the people. This limitation is not likely to be overcome in the near future because the experience of the Cold War era discouraged the Korean people from supporting liberal parties and deterred civic groups from working for election candidates of their own selection.

- The campaign has not succeeded in getting over the wall of regionalism yet. It had a critical influence in all the other areas except Gyeongsang Province, so it is assumed that the campaign contributed to reducing regionalism to some extent. But in the case of Gyeongsang Province, regionalism worsened as expected, and none of the unqualified candidates from the Grand National Party were defeated in the election. It reflects the absence of an alternative party in spite of the unique political situation of Korea that separates parties for Gyeongsang Province from those for Jeolla Province. (The campaign workers could list unqualified workers, but could not bring up any recommendable candidates.)

- Another limitation is that the result of the campaign could not further develop into voters' campaign and political reform campaign. The attempt to develop the campaign into solidarity for reform was shattered by the conflicts inside civic groups. A council for solidarity among civic groups was created only after a year's grueling efforts. But it is not powerful enough to wage influential campaigns and has yet to establish its own organizational structure for reaching an agreement.

The Current Status of Citizens' Participation in the Election in Japan

Shuji Imamoto, Japan

As a case study, we have been implemented four types of actions for the election participation by citizen groups. The first type is a supporting action of non-partisan candidates. The second type is a movement for an open discussion forum among all candidates. The third type is a questionnaire request to candidates for several politics by citizen groups or NGOs. The fourth type is so-called „blacklisting campaign“. Through these citizen actions or campaigns, average Japanese electorates are little by little getting more interested in the election, particularly in the way how to choose a good candidate or how to collect more information about them.

(1) Supporting Campaign of Non-Partisan Candidates (See Material No.1)

As a Japan's case, there has been a structural collusion between industrial, so often construction companies which rely on concessions of public project, and a part of politicians of ruling parties, who attempt to guarantee companies a big public construction project in return for a large amount of bribery. It is certain that this dark connection is nothing else but the most serious obstacle to hinder our political reform. Besides, in the election of local areas, candidates from local sects of big parties always win, by way of collecting many votes from local industries to the local pressure groups and lobbies. Then, after they could be elected, they usually ignore the majority of opinions, instead they attempt to give a priority to protect profits of industries as well as local pressure groups. Accordingly, at the citizen's level, as a countermeasure of this systematic vote-collecting method, a big election campaign occurred by voluntary citizen groups in many local areas of Japan, where people look for a non-partisan candidate who is independent of big parties, companies or industrial power, then they support him/her to win the election.

In particular, four years ago, during the previous general election of local councilors, a nationwide network of non-partisan candidates: **“500 People’s Lists of Rainbow and Green”** was established, whose members aim to appeal radical regionalism, grass-rooted democracy and anti-concession politics. Instead, they provided mutual support to the candidates who pursue human rights, peace, ecology and welfare policy. Moreover, this year, a new nationwide citizen campaign: **“Covenant 2002”** was founded. This campaign is aiming at support as many non-partisan candidates as possible, in return to make them promise to realize its own selected five policies for a coming citizen society. (See Material No.1)

(2) Open Discussion Forum for Candidates

On the other hand, an open discussion forum has been recently so active all over Japan. This is not an action, which directly support the candidates in election, but an open voluntary event by citizens in which every candidate in one election district gets together and gives a speech freely and mutually. In this event, each candidate must show his/her policy and how to action against them briefly to the audience. And then, in turn, the audience can ask whatever questions to the candidates. Besides, there is a rule that every candidate must speak out and answer within a few minutes briefly by each stage. Therefore, through this event, audience can easily compare them and more evidently judge who is the best speaker or the best policy-maker and who is not.

These actions are first created by ” **the Lincoln Forum**”, a private political group sponsored by some cooperative funds, which calls people in local areas or local election district for voluntary actions. This action of “open speech or discussion in the public” is much different from individual campaign speech in the election, which has been conventionally held all over Japan. As a result, most of their actions were greatly successful so that mass media pay much attention to their activities every time in the election. Until last year, this open discussion forum was successful in more than 400 election districts all over Japan.

(3) Questionnaires by N G O s (See Material No.2)

Various types of Japanese NGOs are interested in policy-making, so they are often active in requesting questionnaires for candidates in the election. For instance, one of the greatest NGO in Japan, “**the Earth Village Network**” (has over 120,000 members) cooperated with other environmental NGOs (such as Greenpeace Japan or Friends of Earth Japan, etc.), and asking all candidates for their own ideas on several environmental policies in the last year’s national election.

For example, they questioned them if they agree to introduce ecological tax or renewable energy, whereas if they agree to promote nuclear energy or not.

Another group called “**The Council for Evaluating Politicians**”, which was consisted of famous journalists, critics and artists of Japan, also sent out questionnaires to the candidates for the national election last year, too. They ask them mainly on the several basic issues, such as “How do you propose against a dirty collusion between politicians and money?” or “Do you agree on citizen referendum? ” and so on. (See Material No.2)

In both cases, the results appeared on the website so that people can easily make reference to them. Then, as a result, differences of policies between candidates were somewhat clearly demonstrated among the political parties they belong to.

(4) Blacklisting Campaign (See Material No.3)

Nonetheless, in all cases I mentioned from (1) to (3), a big problem still exists. It is namely that no standards or criteria of a good (or bad) candidate can be clarified. Particularly, the average electorates are inclined to pay much more attention to their superficial characters such as their popularity, name recognition, appearance, social status and performance. So the result is that they tend to judge a person to vote from these factors. In almost all normal citizen actions in Japan, this kind of **subjective judgment** cannot be avoided, thus they still fail to present us the point: what kind of politics they purpose or what the standard of a desirable candidate is?

However, blacklisting campaign is exceptional. Influenced by Korean blacklisting campaign by PSPD(People's Solidarity for Participatory Democracy), several citizen voluntary groups in some parts of Japan developed blacklisting campaign in the national election for representatives (Lower House) two years ago (2000). This time, in Western area of Japan, we found a new citizen group "**Citizen's Solidarity for Defeating Defective Representatives**", where we examined and evaluated all the existing representatives based on the following 8 standards, and then nominated about 20 defective politicians who should not be qualified to candidate:

List of Standards for Judging Politician's Defects

- (1) Commitment to a crime, deception, bribery, illegal donation, intimate relationship or collusion to a special industry or company (recommending them a contract for works, giving secret information on bid price of a public project, etc.)
- (2) Illegality against the electoral law (rigging an election, such as giving a party, dinner, entertainment, a special present, amount of money for electorates in their home district etc.)
- (3) Illegality against the law on restrict to political funds (secret property, false statements of accounts etc.)
- (4) Discriminatory or inhuman statements (to a special person, group, works, including sexual harassments etc.)
- (5) Withdrawal or Betrayal of his/her platform after the election (including changing his/her belonging political party)
- (6) Default his/her parliamentary work as a representative (ex. too many absences to the Parliament)
- (7) Have a physical difficulty to continue his/her parliamentary work (such as severe illness)
- (8) Aberrant behavior, mix up official and private matters, obscurity of activities (ex. Lack of information disclosure of his/her daily activity to the public)

This campaign attracted mass media, so leading newspapers and TV often reported our actions.

In the following year's national election for the House of Councilors (Upper House), some members of our blacklisting campaign founded a new group **"Candidates' Appraisal Team"**, in order to remove negative image of blacklisting campaign. We elaborated our previous ideas and added many more accurate lists of standards, classified them from the following three points: (1) information disclosure of his/her official activities; (2) illegal behaviors; (3) diligence of his/her daily parliamentary work. Then, we gave a proper score for each standard to evaluate them. Finally the result appeared on our own website. (see Material No.3)

The main purpose of this action is not only making a blacklist of bad candidates, but also providing electorates more incentive to judge them, in accordance with **objective** standards, according to their minimum ability, achievements or personal quality as a legislator, instead of their **subjective** characters as their popularity, appearance, familiarity and whatever. That is why we tried to collect reliable data or information on every candidate as much as possible, in order to make our evaluations more neutral and fair.

Some people suspected us that we intended to overestimate specific candidates of a specific party by underestimating other candidates. Of course we had no such intention as mentioned. Others criticized us that to give them a score is not an appropriate way to judge a candidate impartially. However, we do not intended to show electorates a final score to make a final decision. The score we gave him/her is only a reference of judgment by electorates themselves to vote, so to speak. To my regret, this time mass media did not pay much attention to our new action on the Internet, but we intend to continue this kind of campaign in the further election.

<Material 1>

The Covenants 2002 Guideline until Launch of Founding Preparatory Committee

- **Goal of “the Covenants 2002”**

To be a gathering place where people make use of citizens’ incentive to participate in political field and reform politics, as well as throw up many councilors of national and local Assemblies who embody the covenant.

- **Name of “the Covenants 2002”**

We continue to use the tentative name “Covenant 2002.” We will decide a new official name for it after its general meeting of foundation.

- **Contents of the <Covenants>**

(1) We will renew Japan as a “non-militant nation.”

We will phase out the present Security Alliance with the United States and establish a new peace policy, such as establishment of peaceful diplomacy based on the idea of Article 9 in the Constitution of Japan.

(2) We will legislate local and national referendum.

We will establish a system that when a certain proportion of voters petition the initiative, they can vote in local and national referendum, under which the Diet’s authority is curbed.

(3) We will stop vicious public projects.

We will establish standards for developments of public projects with local residents, simultaneously carry out a zero-based review of all public projects, including the existing ones which has been planning for long time or which has already started.

(4) We will promote to break down the nuclear power and simultaneously pull away from supremacy of economic growth.

By reforming mass production, mass consumption, mass waste-production and

drastically reducing energy consumption in society as a whole, both in companies and homes, we establish an alternative economic system based on a new sense of value.

(5) We will thoroughly disclose official information and monitor administration.

We do not allow the government to manipulate and concede information, so we thoroughly monitor and expose anti-popular conducts of bureaucrats, such as the current misconduct in the Ministry of Foreign Affairs.

We will finish working out the concrete policy of each covenant until the general meeting of foundation.

● **How will we achieve the goal?**

In both houses of the Diet and local Assemblies, we field our own candidates who covenanted with us and throw up representatives and local councilors.

Depending on political situations and conditions, we not only field the above-noted our own candidates, but also recommend the other independent candidates and those who belong to the existing political parties by covenanting with them.

We do not make any distinction according to the parties. For instance, we do not do as choosing a candidate from Social Democratic Party, while not choosing one from Liberal Democratic Party. We insist that we select candidates by whether they could covenant with us and will enforce our “covenants”, even if they are forced to reject them under the pressure of their party’s decision after being elected. We will cooperate with the recognized candidate in gathering votes in any way possible, such as help them post the names of promoters of the “covenants” on their campaign advertisement as presenters.

However, we do not easily make a decision of recommendation and support without careful consideration. If candidates only said that they keep our “covenants,” it is insufficient to give them our recommendation and support. By repeating interview with candidates, we bring them into stringent check whether they are trustworthy figures or not.

We work out political stances about each issue. For example, in the election of

Tokushima Prefecture, recognizing that “floodgate construction on the Yoshino River is a vicious public project,” we should approve only of the candidates who take a political stand for halt of the construction. Otherwise, they are easily able to betray us by saying, “I think that floodgate construction on the Yoshino River is a good public project.”

In order to ask citizens and media for understanding clearly what we attempt to do, we will show them on our original home page and leaflets. In addition, we will make a concrete and visible example of our action, such as in Tokushima Prefecture; we focus our effort there on covenanting with around 15 civic candidates in the next Spring’s general election of local councilors so as to completely reform the Assembly. We will also covenant with independent candidates and strongly support them in elections for a local governor somewhere in Japan.

We will establish a strong team of experts, which work out more concrete policy to implement our “covenants” and support our recommended candidates.

- **How will we build up a circle of members?**

- By setting up an attractive and full-scale home page and a mail magazine, we will send information and message for renewal of Japan to numerous “unaffiliated citizens.”
- We will hold exchange meetings in various locations and send a variety of narrators, centered on promoters of “covenants” (scholars, authors, and civic activists) there. In each meeting, we should increase the number of members and request fund-raising assistance from them.

- **Financial foundation**

- Although we have to take a fund-raising measure at the time of elections, we mention here about how we establish the financial foundation to maintain our activity—one full-time staff and volunteer staffs— where we work for daily activities.
- We will achieve 500 members until the foundation general meeting on December

8. The fee of membership is 6,000 Yen for half a year. (Single payment for one year is 10,000 Yen, student: half price, 5,000 Yen) We maintain our activity in these ways.

- **How to be a Promoter**

We give a welcome to every people, both humble and famous people, who praise our purpose and are willing to positively involve in our activities. Those who want to be a promoter should pay 100,000 Yen as funds to meet the establishment of committee.

- **Grouping of members and Individual Promotion of activities**

The members must belong to one of the following groups.

1. **“Policy team”**: to make a concrete policy that covers the details of the five “covenants”
2. **“Finance team”**: to establish stable finance of committee. (e.g., expansion of members, taking large fund-raising assistants, alliance with civil groups) to independently and actively work for raising funds
3. **“Scout team”**: to find and scout candidates for governor and for assembly member who are object to be compacted with us and pursue the plan. To prepare for plans and standards to decide recommendation, and support candidates simultaneously. To decide how to accommodate the candidates and how to bind them.
4. **“Attainment of Promoters team”**: to faithfully and tenaciously negotiate in order to get attractive people as promoters, by sending a letter and visiting.
5. **“Home Page team”**: to enrich and upgrade of the contents of our home page without being delayed.
6. **“Libero team”**: to flexibly fill such jobs as a large amount of printing and separate insert of them, mailing, and equipment procurement.

History and Future Plan

- ***until the last day of August*** , participants should make a decision which team they belong to. At the same time, we decide the group leaders of each team . We accept both of the candidates recommended by others and by themselves. Without hesitating!
- ***End of August:*** Settlement of basic matters. Start of home page.
- ***Beginning of September:*** Candidate team's presentation of basic idea about the preparatory plan to recommend and support candidates.
- ***Middle of September:*** Policy team's presentation of the concrete draft doctrine which meet the five "covenants."
- ***End of September:*** Holding of an assembly to discuss the above 2 plan. (in Tokyo or Kobe)
- ***Beginning of October:*** Making a new leaflet
- ***Middle of October:*** Beginning of a full-scale process for getting promoters by using new leaflets.
- ***End of October:*** Promoting of getting objects to compact with us, such as candidates for regional governor and for Diet member.
- ***End of November:*** Holding a press conference for the coming formation general meeting on December 8.
- ***December 8, Sunday:*** Holding a formation general meeting (100-people size)

By <the Covenants 2002> Interim Office

<Material 2>

Questionnaire to the Incumbent Member of the National Diet who are planning to stand as a candidate

by The Council for Evaluating Politicians, May 2001

Questionnaires

Question 1 Rebuilding of Deficit Finances (Chose only one measure that you think most effective. If you chose B, place the items in the order of priority)

- A. Tax increase is inevitable.
- B. Budgetary cutback
 - a. Education budgetary cutback
 - b. Welfare budgetary cutback
 - c. Public works budgetary cutback
 - d. Public servant reduction
 - e. Defense budgetary cutback
- C. Inflationary policy is inevitable.

Question 2 Politics and Money (Chose only one)

- A. Approval of corporate donations
- B. Complete abolition of corporate donations
- C. Implementation of public election. All required campaign spending comes from a tax. Violators get moratorium on civil rights.

Question 3 Constitution (Chose only one. If you chose C, chose a or b.)

- A. No revision
- B. Overall revision, including Article 9
- C. Revision only of Article 9
 - a. Maintenance of the idea of Article 9 (Renouncement of war, Renouncement of armament and the right of belligerency)

- b. Change of the idea of Article 9 itself
- D. Revision except for Article 9

Question 4 Global Environmental Destruction (Place the items in the order of priority.)

- A. Environmental Conservation is needed, even if it reduces the speed of economic growth
- B. Environmental Conservation is needed enforcing regulations without harming the economic growth
- C. Introduction of an ecological tax

Question 5 Local Referendum (Chose only one)

- A. Give the authority to the local assembly to animate it
- B. Disapproval because it is against the philosophy of indirect democracy
- C. Only make reference to it as a way to know people's will

Question 6 Political Ethics (Choose YES or NO)

Do you approve of making a system to reveal the fact by disclosing the current status of all activities as lawmakers in the case that there are some kinds of doubts about political fund and election? (whether an organization such as an ombudsman should check it.)

<Reference> Quotation from the results of questionnaire

Question 2 Politics and Money

Rate of answer in each party (%)

	A. Approval of Corporate Donations	B. Abolition of Corporate Donations	C. Public Election	Different Answer	No Answer	Total
Liberal Democratic Party	38	7	41	4	11	100
Koumei Party	0	67	19	5	10	100
Conservative Party	28	22	50	0	0	100
Reform Party	0	40	60	0	0	100
Democratic Party	3	26	70	1	0	100
Communist Party	0	100	0	0	0	100
Party of Liberals	8	35	57	0	0	100
Social Democratic Party	0	77	23	0	0	100
Liberty Federation	12	18	71	0	0	100
Sakigake New Harbinger Party	50	50	0	0	0	100
Niin Club	0	0	0	0	0	0
House of Councilors Club	0	0	0	0	0	0
New Social Democratic Party	0	0	0	0	0	0
Non- Parliamentary Group	0	71	14	0	14	100
Independents	6	33	52	3	6	100
Total (%)	9.5	62.6	23.4	1.8	2.7	----

Question 4 Environment (Items that lawmakers ranked first in the order of priority)

Rate of answer in each party (%)

	A. Priority on Environment	B. Regulation of Economic growth	C. Introduction of an Ecological tax	Different Answer	No Answer	Total
Liberal Democratic Party	8.7	63.1	16.5	2.9	8.7	100
Koumei Party	13.0	52.2	23.9	4.3	6.5	100
Conservative Party	21.1	63.2	15.8	0	0	100
Reform Party	14.3	71.4	0	0	14.3	100
Democratic Party	16.4	17.5	64.7	1.1	0.4	100
Communist Party	97.9	1.2	0	0.6	0.3	100
Party of Liberals	20.4	49.0	26.5	0	4.1	100
Social Democratic Party	68.1	15.3	16.7	0	0	100
Liberty Federation	47.4	36.8	15.8	0	0	100
Sakigake New Harbinger Party	0	0	100.0	0	0	100
Niin Club	0	0	0	0	100.0	100
House of Councilors Club	0	0	0	0	0	0
New Social Democratic Party	0	0	0	0	0	0
Non-Parliamentary Group	28.6	57.1	0	0	14.3	100
Independents	22.2	33.3	41.7	0	2.8	100
Total (%)	44.6	26.3	25.1	1.2	2.7	-

Question 5 Local Referendum

Rate of answer in each party (%)

	A. Approval of Authority	B. Disapproval of Authority	C. Only as a Reference	Different Answers	No Answers	Total
Liberal Democratic Party	20.9	4.4	66.0	2.9	5.8	100
Koumei Party	32.6	0	56.5	2.2	8.7	100
Conservative Party	15.8	0	84.2	0	0	100
Reform Party	42.9	0	42.9	0	14.3	100
Democratic Party	89.6	0.4	8.9	0.7	0.4	100
Communist Party	99.7	0	0	0	0.3	100
Party of Liberals	53.1	10.2	34.7	2.0	0	100
Social Democratic Party	98.6	0	1.4	0	0	100
Liberty Federation	63.2	5.3	31.6	0	0	100
Sakigake New Harbinger Party	100.0	0	0	0	0	100
Niin Club	0	0	0	0	100	100
House of Councilors Club	0	0	0	0	0	0
New Social Democratic Party	0	0	0	0	0	0
Non- Parliamentary Group	71.4	0	14.3	0	14.3	0
Independents	80.6	0	16.7	0	2.8	100
Total (%)	73.3	1.5	22.2	0.9	2.1	-

<Material 3>

Candidates Appraisal Team/ List of the Basic Appraisal Standard

By the Diet Watchers Group, July 5, 2002

<Principle>

- Standard borderline point = 65 points
- Evaluate by increasing and decreasing from this point

[Evaluation Method]

Evaluate by point-addition and point-deducting from the borderline = 65 points.

Show the result in descending order of point score

Furthermore, evaluate in five-star rating system as follows:

Stars	Points	Lank (Grade)
	= above 90 points	A
	= above 80 points	B
	= 70—79 points	C
	= 60—69 points	D = neither good nor bad (borderline)
	= 51—59 points	E = There are problems
Nothing	= Less than 50 points	F = disqualified as a candidate

[Evaluation Items and Points]

Level of Information Disclosure

1. Lack of the Internet home page (-7)
2. Establishment of a message board on the Internet home page (+1), Candidate appends comments to the readers. (+1)
3. Candidate writes a diary of activities (report of congressional reports, contents of party publication) by him/herself on the Internet home page and frequently

updates it. (+2)

4. Candidate invites opinions and suggestions from the readers via email or on the E-board (+1), and append his/her comments on them (+1)
5. Report of income and expenditure and disclosure of property on the Internet home page (+5)
6. Establishment of his/her own mail magazine (+1)
7. Establishment of a mailing list and electronic conference system (+1)
8. It is obvious that the Internet home page was hastily made for election and profile because contents of the Internet home page lack in substances. (-2)

Level of Candidates' Activities (Only for incumbent legislators)

1. The number of questions during his/her last term of the Diet was more than 100 (+5), more than 150 (+7)
2. The number of questions during his/her last term of the Diet was less than 30. However, if the number of remarks is more than 30, out of evaluation) (-5)
3. The number of questions during his last term of the Diet was 0-5 times. (-10)
4. Request initiation of the lawmaker-initiated legislation is once (+2), twice-5 times (+3), 6 times-9 times (+4), more than 10 times (+5), more than 30 times (+7)
5. Attendance rate for plenary session of the Diet and Committee during his/her last term of the Diet was 0-25% (-15), lower than 50% (-10), lower than 75% (-5)

Level of Corruption (the high authenticity of the news) per one case

1. Commitment to crimes, deception or bribery (more than -15)
2. Secretary's involvement in crimes, deception or bribery (more than -10)
3. Supporting group's commitment to crimes or deception (-7)
4. Against the Law on Public Elections, buying/treating (-10)
5. Against the Law for Controlling Political Funds (-10)
6. Commitment to collusion/illegal receipt of contribution (more than -5)

7. Senseless slip of the tongue/abusive statement
discriminative statement and human rights abuse toward certain individuals and groups (-15)
Statement which mixes up personal matters and official ones and treats voters and supporters with derision (-15)
8. Breaking his/her electoral platform (more than -15)
9. Suspicion of a great deal of expenditure unaccounted for such as a study tour or a tour of inspection abroad (Wasteful uses of tax money, subject to petition for audit) (-5)

The Others

1. His/Her policies and platforms are concrete and clear (+2) (which fulfill the 5W1H-Methodology, and contents of policy-making are clear.)
2. His/Her policies and platforms are abstract and figurative. (-2)
(e.g., “I am sure to build a society where elderly people live without any fear” “I will create a peaceful and bright future in our society”, etc.)
3. There are statements that give priority to the local policies in his/her own hometown. (-2)
(It might be against a task of Dietmen who should first take account of the benefits of the nation as a whole)
4. Elderly candidates older than 75 years old (-5), candidates who attain the age of 75 during next term of the Diet (-3)

Evaluation of Party (Borderline point = 65 points)

1. The concept for appointment of candidate is not clear. (-5 ~10)
2. It relies on familiarity and popularity of candidates. It fields a number of entertainers and celebrities as candidates. (more than -10)
3. It relies on votes from certain organizations and group without respecting individual voters’ judgment and choice. (-10)
4. There are many people who get high evaluation points among its candidates. (+5

~ +10)

<Notes> If he/she/it corresponds to none of the above and if you cannot clearly judge the above questions due to lacks of resources and data, write ± 0 point (no point-adding, no point deducing).

<Example of the List>

- Mr. ○ ○ ○ 59 years old

Member of the House of Councilors, Incumbent 4th term, OK Party's nominated candidate

Careers: ex-MITI officer, Member of the House of Representatives, OK Party committeeman

Total evaluation: 45 points

<Reasons of Evaluation>

- No home page (-5)
- The number of remarks in the Diet was less than 30 times. (-5)
- He provides boxes of cakes to supporters in the last election.
(Illegal to the Law for Public Elections, -10)

* Source: Weekly magazine *Attack* (March 12, 1997)

- Ms. 48 years old

Member of the House of Councilors, Incumbent 1st term, SS Party's favored candidate, Independent Careers: Lawyer, NGO official, independent free writer

Total evaluation: 80 points

<Reasons of Evaluation>

- Establishment of message board on home page (+1), response to messages (+1)
- Inviting opinions and suggestions on home page (+1), response to them (+1)
- Her policy (welfare policy) is concrete and clear. (+3)
- Reporting of income and expenditure on her own home page (+5)
- Reporting conference notes and activities on her own home page (+3)

Election Participation of Civil Society in Japan (outline)

Shuji Imamoto, Japan

As a case study, there are three types of actions concerning elections in recent Japan by citizen groups. One is a free supporting action of non-partisan candidates who are free from money and power politics. Second is questionnaire action that NGO groups are asking candidates for their policy in relation to their professional fields or topics such as environment, welfare, diplomacy and state security etc. In some cases candidates are compared to each other in a common stage where all of them must make some speeches and should talk about their ideas and ambitions. The third case is a blacklisting campaign.

In any case, the problem is that electorates vote according to the popularity and preferences, outlooks and performances, atmosphere or human personality of the candidates, not by their ability or qualification as an accurate politician. Any election campaign by citizen groups cannot overcome such a subjective judgment of the electorates. Besides, these campaigns cannot provide any standard or answer to the questions: whose politics they try to realize; who should be a good or bad candidate.

However, a blacklisting campaign we have done since two years ago in West Japan area is an exceptional case. We tried to make a blacklist of the candidates in the national elections in 2000, where we evaluated every candidate according to several standards, such as existence of illegal behaviors, taking bribes, infamous scandals of the candidates. The result we announced to the public, mass media, including the leading newspapers.

The next year we developed this way of evaluation to the numerical systems. There

every candidate are added or reduced their evaluating points by three degrees of criteria: (1) transparency of their daily actions and official information; (2) frequency and activeness of their daily official activities as a politician; (3) the number and gravity of their previous 'illegal' behaviors. The result we showed on the Internet and help the address present in the press, TV and other mass media.

The purpose that we did such actions is to present general electorates how important it should be to select one candidate, not by their subjective preferences, but by objective standards as an accurate representative in advance. Unfortunately, mass media and the average electorates could not understand this aim of our action enough then, but we want to continue this as a necessary action in the election, in order to enhance people's judgment to distinguish a good candidate from a bad one.

Civil Society's Election Participation in the Philippines

Damaso Magbual, Philippines

I. PARTY-LIST SYSTEM

CONSTITUTIONAL PROVISION

The Philippine Constitution provides that twenty percent of the total number of seats in the House of Representatives shall be allotted to party-list representatives from labor, peasant, urban poor, indigenous cultural minorities, women, youth, and such other sectors as may be provided by law, except the religious sector. The Party-List System provides a mechanism for the election of registered parties, organizations or coalitions of marginalized and underrepresented sectors of society in the House of Representatives. The law seeks to democratize representation in the House of Representatives through a proportional representation system. It aims to ensure a broader representation by improving the opportunities of the marginalized groups to compete and win seats in Congress.

BACKGROUND

The new Constitution was ratified and promulgated in 1987. The enabling law known as the Party-List System was enacted in 1995. The first party-list election was held in May 11, 1998. Last year (2001) the Philippine Supreme Court ruled that the big political parties, business groups and organizations as well as NGOs receiving funds from the government couldn't participate in the party-list election. These are not marginalized according to the intent of the law.

PARTICIPATION

Instead of individual candidates, only registered organized groups may participate. These are:

POLITICAL PARTIES except those disqualified in the ruling of the Supreme Court.
E.g. small parties, regional parties

SECTORAL PARTIES – from the following sectors: Labor; Peasant; Urban Poor; Cultural Minorities; Elderly; Handicapped; Women; Youth; Veterans; and such other sectors as may be allowed by law.

SECTORAL ORGANIZATIONS – groups of voters bound together by similar physical attributes or characteristics, or by employment, interests or concerns. E.g. Overseas Workers; Cooperatives

COALITIONS – groups of duly registered parties, sectors, organizations for political or election purposes.

A party, organization or coalition must register with the Commission on Elections (COMELEC) not later than 180 days before the election in order to participate in the party-list election. It must submit the following documents or requirements:

1. Constitution and by-laws
2. Program of government
3. List of officers and members
4. Coalition agreement, if any
5. Filing fee of one thousand pesos (\$20.00)

NOMINEES

Each accredited party-list is required to submit at least 90 days before the election a list of at least five (5) nominees to represent the party, organization or coalition. Once the party obtains the required number of votes, the COMELEC shall declare as winners the nominees according to their ranking in the list submitted. While a party is allowed a maximum of three (3) seats only, the COMELEC requires at least five

nominees to make room for possible disqualification of some of the nominees.

Party-list nominees have the same qualifications as the district (single constituency) representatives, name:

1. natural born citizen of the Philippines
2. registered voter
3. resident of the Philippines for a period not less than one year immediately preceding the election day
4. able to read and write
5. bona fide member of the party or organization he seeks to represent
6. at least 25 years of age on election day

SEAT ALLOCATIONS

In order to win a seat in the House of Representatives, a party-list group must garner at least 2% of the total votes cast. Parties with at least 4% are entitled to two seats while those with at least 6% are allowed 6 seats. Only a maximum of three seats may be allowed for each party, organization or coalition.

PROBLEMS AND CONTROVERSIES

Despite a high voter turnout of 80% in the 2001 elections, only 33% of the voters who voted cast their votes for the party-list representatives. As a result, only 13 seats were filled-up for the party-lists. Some of the problems were:

Registration difficulties – The COMELEC received more than 200 applications from different groups that wanted to participate in the party-list election. Of this number, only 123 were accredited. It was difficult for COMELEC to verify the legitimacy of the groups that applied, due to limited time and incomplete information submitted by the various groups seeking accreditation.

Inadequate information – The COMELEC failed to conduct voter information and education due to lack of funds. NAMFREL (the election monitoring group) could only do so much because the implementing rules and guidelines were released too late

and therefore, there was not enough time to prepare informational materials.

Voting confusion – The low level of voter awareness on the party-list system resulted in confusion in the filling-up of ballots by the voters. Due to insufficient information, many voters wrote the names of the nominees or the sector they wished to vote for, instead of writing down the name of the party or organization that they want represented in the House of Representatives.

PROPOSED AMENDMENTS

Learning from the lessons gained in the last two elections, Congress appears to be open to adopting substantial revisions in the party-list law. For now, two bills were filed in Congress to amend the law.

First: This proposed amendment provides a new mechanism for the allocation of seats following the Nemeyer System in Germany.

Second: This proposes a system whereby voters shall be entitled to vote for the 12 groups or sectors enumerated in the law. In effect the voter shall vote for each sector he wants represented in the House of Representatives but limited to 12.

CONCLUSION

Whatever mechanism Congress may choose to bring about proportional representation in the House of Representatives, what is significant is that the first step towards democratizing the composition of the legislature has been taken with the implementation of the party-list system. Marginalized and underrepresented sectors have now the opportunity to be heard, to be represented and to fully participate in mainstream politics traditionally dominated by big parties with political machineries. Party-list Representatives now have a better chance of promoting progressive measures that will promote the people's interests without relying on traditional politicians.

II. GUEST CANDIDACY

BACKGROUND

The 1935 Philippine Constitution provides for a two-party system in our electoral system. Meaning, the two parties were granted specific privileges that the “third forces” (small parties) did not enjoy. They were allowed to post watchers at the voting precincts (polling stations), they were entitled to receive official copies of the final count of votes at the precinct level, they were granted copies of the canvass (vote tabulation) at the district or provincial level and they had access to a lot of information from the Commission on Elections (COMELEC) which otherwise would be difficult for the small parties to secure.

Similarly, there were attempts of some respectable politicians, unhappy with the two parties, to field a line up of candidates to compete with the two major parties. Their efforts were unsuccessful. Two proponents of a “third force” were very distinguished nationalists, former Senators Claro Recto and Lorenzo Tanada. They advocated for the abrogation of the “Parity Rights” (which gave Americans equal rights as the Filipinos in the Philippines), the nationalization of the schools, removal of the American Bases in the country and other issues. The two established a political party called the “Nationalist Citizens Party” and participated in a number of elections. Their attempts were unsuccessful. From there, an amendment was introduced in our election law to allow “Guests Candidates” from other parties to run as official candidates, maintaining their party affiliation. Strong pressures brought about the amendment in the law from the intellectual elite as well as from the media. The two nationalists earlier mentioned were very popular and respected politicians but relatively unknown in the rural areas. At that time, the difficulties of communication and travel were enormous. There were entire provinces without a single telephone line and some provinces can only be reached through many hours ride by a pump boat. Under these conditions then, only the big parties with grassroots machineries were able to wage an effective campaign.

CURRENT CONDITIONS

The New Constitution now allows for a multi-party system. It encourages small parties and even regional parties to participate in elections to provide the voters with a wider range of choices. Unfortunately, the big political parties are not really “political parties” in a real sense. They do not differ from each other in terms of program of government, ideology, issues, or principles for the general conduct of government. Hence, it happens too often that politicians change party affiliations in pursuit of their own self-interests. As a result the spirit of the law to offer well meaning and honest politicians an opportunity to get elected in a big party as a “Guest Candidate” is lost.

INDEPENDENT CANDIDATES

Further, the concept of “Guest Candidacy” is no longer necessary when one takes into account the technological advances in telecommunications. In the past, only the big parties with political machineries down to the grassroots level stand a chance to get candidates elected into office. Now, with free access to media and the law that mandates “equal space, equal time”, meaning, tri-media must provide equal space to all political parties (big and small) in their coverage of the campaign as well as equal time (for TV and radio stations). Hence, TV talk shows must balance the composition of their guests and see to it that all political parties are represented or at least given equal time. This holds true even for the independent candidates. As a result, we now have politicians elected as independent candidates, which was not possible twenty years ago. In fact two senators in the present Senate were elected without political parties and some twenty representatives were elected to the lower house of Congress won as independent candidates.

Further, small parties and the marginalized sectors can now obtain representation in Congress through the Party-List System. Our Constitution provides that twenty (20%) of the total membership in the House of Representatives is reserved for the party-list representatives.

CONCLUSION

The intent of the law on “Guest Candidacy” is very laudable. It enables a good politician to get elected with a party not his own without joining that party or accepting its beliefs and principles. However, with the rapid growth and advances in telecommunications, one can now introduce himself as well as his program of government to the electorate as an independent candidate. He can get his message across and offer himself a viable alternative with his own program of government to the voters even if he is unable to personally campaign in their areas.