

A Preliminary Inquiry on the Merits and Legal Basis of Presidential Debates in the Philippines

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ABSTRACT

As the Philippine presidency is imbued with great discretionary powers, presidential candidates must appear before the public to prove themselves worthy to be elected. Drawing from the legal basis of debates in Philippine election campaigns and the literature on political communication and rhetoric, this essay outlines the merits of mandating candidate attendance in debates despite the limitations of the said forum. A preliminary inquiry into the legal and logistical prerequisites for presidential debates is also presented as a prospective roadmap for institutionalizing debates in the country.

Keywords: *2022 Philippine elections, political communication, presidential debates*

Introduction

On February 23, 2022, the Philippine Commission on Election (COMELEC) promulgated Resolution No. 10764 in connection with Republic Act No. 9006 or the “Fair Elections Act.” COMELEC’s resolution provides guidelines on the accreditation of independently organized debates in line with the May 2022 elections. The resolution notes that:

Organized political debates are invaluable tools in fostering the emergence of a fully informed electorate and public interest is served whenever political debates are mounted. Candidates are given the opportunity to present their case to the public in an orderly and structured manner, avoiding the rancor and chaos that characterizes most modern public political discourse...It is eminently desirable for COMELEC to take a more active role in promoting political debate culture in the Philippines with the need to ensure that these debates shall be conducted by these entities [several TV networks and other organizations] with the same standards of fairness and impartiality as could be expected from the COMELEC.

The COMELEC’s faith in debates rests on two important things: the public interest or the need for an informed citizenry, and the benefits to the candidates who can participate in rational and organized discussions sans the emotionally charged noise in social media and other platforms. Through accrediting entities interested in organizing debates, the COMELEC also wishes to promote a political debate culture in the country where all candidates attend the debates, and the citizens are informed about the candidates’ policy positions.

In the 2022 elections, the potency of the debates to aid in informed decision-making may have been arguably undermined, not by media organizations who want to be accredited, but by the non-participation of survey frontrunners in the said debates. Then COMELEC spokesperson James Jimenez noted that “under the law, participation in debates is not mandatory” (Mendoza, 2022). Hence, candidates can refuse to join the debates especially when they have a commanding lead in pre-election surveys.

During the campaign, then presidential candidate Ferdinand Marcos Jr. consistently refused to attend the debates. His refusal prompted another presidential candidate, then Vice President Leni Robredo, to challenge Marcos Jr. to a one-on-one debate. Robredo’s challenge is just one among the many voices that clamor for Marcos Jr. to attend the

debates. Marcos Jr.'s campaign spokesperson, Vic Rodriguez, however, replied that "Marcos's Uniteam is guided by positive campaigning, no badmouthing. It sends its message and call for unity directly to the public" (Reuters, 2022). Rodriguez's statement has also been the consistent excuse of the Marcos camp, saying that debates will only attack the Uniteam and that they would much rather use their own platforms to convey his messages.

Dismayed over Marcos's non-attendance in the debates, the Philippine Debate Union, the country's largest organization of Filipino debaters, had the following to say:

We are concerned that this pattern of behavior of Presidential and Vice-Presidential candidates Bongbong Marcos and Sara Duterte-Carpio may become the norm. Our country does not deserve leaders who claim to be brave, but are, in truth, frightened of debates—frightened of the voices of the Filipino people. Leaders who withdraw under pressure and dodge dialogue with their constituents are no leaders of the Filipino; they are cowards (Evangelista, 2022).

Then, in April 2022, Commissioner George Erwin Garcia said in a briefing that "We [the COMELEC] will convince Congress to include in the law a requirement that all local or national candidates must attend the debates called by the COMELEC. If they are not available, it could be a ground for disqualification and election offense" (Patinio, 2022).

Whether COMELEC's efforts to require candidates to attend debates will bear fruit remains to be seen, especially as the results of surveys and the 2022 national elections indicate that non-attendance in debates even worked to the Uniteam's advantage. Nonetheless, this essay echoes COMELEC's call to make debates mandatory because while attendance in debates may not lead to higher chances of winning, it is a step towards promoting a debate culture in the country.

This essay proceeds in two parts. The first section is a more practical discussion: an explication of the legal basis for presidential debates in the Philippines. The second section discusses the benefits or advantages of mandating participation in the debates, especially during national elections by citing examples from both the 2016 and 2022 debates and drawing from the literature on political communication and rhetoric.

Legal Basis of Presidential Debates in the Philippines

In the 2022 presidential elections, there was a controversy involving the inability of the Commission on Elections (COMELEC) to have all presidential candidates to attend COMELEC-hosted debates. The COMELEC itself has recognized that in the absence of a law, there is a lack of basis to impose substantial penalties on candidates who would choose to skip presidential debates (Fernandez, 2022).

Under Section 9 of Republic Act (R.A.) No. 6646 or the “Electoral Reforms Law of 1987” which was promulgated on January 5, 1988, the COMELEC was given the mandate of encourage the holding of public fora, including debates, among candidates, as follows:

Section 9. Public Forum. - The Commission shall encourage non-political, non-partisan private or civic organizations to initiate and hold in every city and municipality, public for a at which all registered candidates for the same office may simultaneously and personally participate to present, explain, and/or debate on their campaign platforms and programs and other like issues. The Commission shall promulgate, the rules and regulations for the holding of such for a to assure its nonpartisan character and the equality of access thereto by all candidates (emphasis ours)

Subsequently, under Section 7.3 of R.A. No. 9006 or the “Fair Election Act” which was promulgated on February 12, 2001, the COMELEC may require television stations to provide airtime for the holding of debates, as follows:

7.3. The COMELEC may require national television and radio networks to sponsor at least three (3) national debates among presidential candidates and at least one (1) national debate among vice presidential candidates. The debates among presidential candidates shall be scheduled on three (3) different calendar days; the first debate shall be scheduled within the first and second week of the campaign period; the second debate within the fifth and sixth week of the campaign period; and the third debate shall be scheduled within the tenth and eleventh week of the campaign period.

The sponsoring television or radio network may sell airtime for commercials and advertisements to interested advertisers and sponsors. The COMELEC shall promulgate rules and regulations for the holding of such debates (emphasis ours)

In support of the holding of such presidential debates, the COMELEC subsequently promulgated COMELEC Resolution No. 6661 on March 8, 2004, providing for further guidelines. Under Section 2 of COMELEC Resolution No. 6661, “[T]he debates shall be the venue where the presidential candidates can reach out to as many citizens at the same time and sharing the same forum to explain what they stand for and why they deserve to be elected president for the next six years.”

Notably, neither the law nor the COMELEC Resolution compels any presidential candidate to attend any debate. Under Section 3 of the COMELEC Resolution, presidential candidates are merely invited to attend, as follows:

Section 3. All presidential candidates are requested to attend the presidential debate on April 13, 2004. If a candidate has officially declared his or her non-availability, his or her seat shall be left vacant with his or her name on it during the entire debate and the time allotted to him or her shall be equally distributed among the candidates present.

On November 17, 2021, the COMELEC promulgated COMELEC Resolution No. 10730 in view of the 2022 national elections, which expressly included the regulation of election propaganda in and through other mediums of communication such as social media. Section 16 of the Resolution, however, maintained the holding of national debates for presidential and vice-presidential candidates.

Then on February 23, 2022, the COMELEC promulgated COMELEC Resolution No. 10764 which provided for new regulation in the holding of national/local debates in view of the COVID-19 pandemic. Under the resolution, TV networks and radio stations intending to hold their own debates should seek approval from the COMELEC for the holding of the same.

One of the key features in the process of accreditation for the holding of such debates, is the requirement for organizers to manifest that all elective candidates for the position have been invited to participate in the debates in keeping with the spirit of impartiality and non-partisanship in the holding of such debates. Nonetheless, there is no basis to hold any Presidential or Vice-Presidential candidate accountable for his/her failure to attend any such debate, whether hosted by the COMELEC or independent media outfits and organizations.

The mandatory qualifications of a presidential and vice-presidential candidate are laid down by no less than under Article VII of the 1987 Philippine Constitution. Section 2, Article VII of the 1987 Philippine Constitution states that:

No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

Pointedly, nowhere in the said qualifications is a requirement or a willingness to attend any debate held or sponsored by the COMELEC. Consequently, holding a presidential or vice-presidential candidate liable for failure to attend any COMELEC debate could run afoul of the Philippine constitutional framework. As the Supreme Court has stated in numerous instances:

[A]ny circumvention of the constitutional mandate should not be countenanced for the Constitution is the supreme law of the land. The Constitution is the basic and paramount law to which all other laws must conform and to which all persons, including the highest officials of the land, must defer. Constitutional doctrines must remain steadfast no matter what may be the tides of time. It cannot be simply made to sway and accommodate the call of situations and much more tailor itself to the whims and caprices of the government and the people who run it. (*Biraogo v. The Philippine Truth Commission*, 2010)

While the COMELEC has proposed the passage of a law that would penalize a presidential or vice-presidential candidate for failure to attend

such COMELEC hosted debates, penalizing a candidate for failure to attend debate does not appear to fall in line with the current list of election offenses under the Omnibus Election Code. The listed election offenses in the Code are vote-buying and vote-selling, conspiracy to bribe voters, wagering upon result of election, coercion of subordinates, threats, intimidation, terrorism, and use of fraudulent device or other forms of coercion among others. It appears that there is no direct or indirect harm posed to another person or to the public when a candidate chooses not to attend a debate.

Thus, effectively incorporating mandatory COMELEC presidential debates into the structure of the Philippine electoral system may require two things. The first is constitutional amendment as provided under Article XVII of the 1987 Philippine Constitution which posits that the “the State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development.”

The second requirement is a passage of a law requiring attendance in presidential debates. As it is, platforms are offered to presidential candidates to participate in debates and public discussions. However, these platforms are entirely voluntary on the part of the candidates. The passage of a law that incentivizes participation in presidential debates like the provision of additional venues for campaigning and methods of campaigning may be helpful. Finally, penalties like disqualification, and other criminal and administrative penalties, may also be specified for candidates who fail to attend the debates.

Why Mandate Candidate Participation in Debates?

In the absence of a law mandating participation or imposing sanctions on debate absentees, candidates may freely decline invitations to participate in debates. As mentioned, frontrunner Marcos Jr. declined to attend the 2022 presidential debates as his absence did not make any difference in his standing in pre-election polls (Panares & Requejo, 2022).

Prior to the 2016 and 2022 debates, the last presidential debate was held in 1992 (GMA News 2016). Between 1992 to 2016, “media outlets have traditionally held their own presidential or senatorial debates, but many candidates back out because they fear public scrutiny” (Esmaguél, 2015). Our rationale for mandating participation in presidential debates thus rests on two issues: the public scrutiny that inhere in public office

and the value of an informed citizenry. Candidates running for public office must not evade but instead embrace public scrutiny that inheres in public office as a public trust. A debate is a platform that allows public scrutiny of incumbent and aspiring public officials.

Second, the right of the voters right to an informed decision trumps any candidate's right to decline a debate. Mandating candidate participation in debates is not undemocratic as freedoms have limits and rights are not absolute in a democracy. Where there are two competing rights, the public interest must prevail. The public is best served when all candidates commit to public scrutiny that debates afford rather than solely campaigning through their preferred channels and platforms.

In what follows, we argue that compelling candidates to attend debates offers four benefits for the candidates, the votes, and our political culture in general: (1) candidates will be obliged to go beyond image building strategies amidst the personality-oriented politics in the Philippines, (2) citizens can potentially make more informed decisions through side-by-side comparison of all candidates, (3) debates can be institutionalized as a platform that furthers the goals of deliberative democracy, and (4) debates can be a corrective to disinformation and carefully controlled narratives through consistent interrogation of claims and statements made by the candidates.

Going beyond Image-building

The Philippines has a personality-oriented politics because of the ideological weakness of political parties (Quimpo, 2007). These parties are not bound by strong programs or platforms of government and instead prioritize popularity and winnability when deciding to rally behind presidential candidates during elections. The multi-party in the Philippines also make it imperative for candidates to stand out through media-based political messaging in the form of image and issues (Teehankee, 2010).

In 2016, Duterte performed the image of a strongman, an iron-fisted leader who promised to restore peace and order in the country (Tatcho, 2018). It must be noted that when Duterte appeared in his televised political ads or the presidential debates, he embraced his political branding consistently. The researchers thus concede that even as presidential candidates are obliged to attend debates; an image-centric, personality-oriented form of campaigning may still be the name of the game.

Nonetheless, debates have affordances that are not present in TV ads. While the TV ads aim to solidify a candidate's image, name recall, and public recognition (Tatcho, 2020b), debates provide opportunities for candidates to scrutinize constructed and curated images and personas of their opponents. In debates, there are opportunities for candidates to rebut, there are segments in the debates that allow for candidate exchange, and the moderators' questions may produce moments of spontaneity that may catch any candidate off-guard. In other words, debates are not as scripted as the TV ads. Hence, debates challenge candidates not only to maintain their image but also to discuss issues which, when glossed over, may affect their image.

While mere attendance in debates does not ensure a productive deliberation of the issues of the day, a debate can expose a candidate's weaknesses and help the voters see what's beneath an image or a persona. This may be why Marcos Jr. refused to attend the 2022 debates, citing the supposed adversarial nature of the debates, and appealing to a sense of unity (Reuters, 2022). Had Marcos Jr. attended the 2022 debates, he would have stuck to his message of unity or image of a unifying leader. However, there will be an opportunity for his opponents to interrogate his campaign messaging.

In 2016, Duterte may have been unfazed at all by his opponents' criticisms of his image and promises like ridding the country of illegal drugs in three to six months and riding a jet ski to defend the West Philippine Sea from China. Nonetheless, Duterte's participation in the debates opened a conversation about the pragmatics of his promises. Through Duterte's attendance in the debates, the voters can see not just former's performance of image but also what he knows about the issues. These conversations are necessary because they remind voters that promises must be scrutinized, that talk is not cheap, and that an aspiring president must always be made to account for what they say.

Comparing Candidates Side-by-Side

In a media and political environment where candidates are free to choose their communication and campaign platforms, social media sites such as TikTok, YouTube, Facebook have become sources of political knowledge in recent elections in the country (Soriano, 2021). However, political content on these social media platforms, though ubiquitous, are scattered and may only pander to silos and echo chambers.

Unlike in social media where voters can freely "follow" and "unfollow" specific candidates, debates provide the opportunity for

voters to compare the candidates against each other. When candidates share the same stage and answer the same questions, the voters may be able to gauge which candidate has the most persuasive responses or is most knowledgeable about issues that include but are not limited to foreign relations, government accountability, and safety and security (De Leon, 2022).

Aside from knowledge of issues, voters can also compare each candidate's demeanor in the debates. A debate provides insights into a candidate's character, including "personal qualities, leadership ability, and ideals" (Benoit & Airne, 2005, p. 227). Unscripted moments in the debates like a candidate's slips and gaffes (Jamieson & Birdsell, 1988), how a candidate handles criticisms from their opponents, their composure and stage management provide impressions on their character. For instance, Duterte's use of humor and the vernacular in the 2016 presidential town hall debate may have endeared him to the audience, bringing a different mold and breaking traditional expectations for a statesman to be articulate or refined in speech and thought (Tatcho, 2020a).

Finally, a side-by-side comparison is necessary given the multi-party setup in Philippine elections where there is virtually no limit on the number of qualified candidates who can run for the presidency. A voter cannot always be expected to do their research on each candidate during election, so debates provide the advantage of presenting all candidates on one stage if all candidates attend. Attending a debate honors the idea that the voters are entitled to see all the candidates share one stage to be scrutinized based on the voters' criteria.

Furthering the Goals of Deliberative Democracy

Curato, Hammond, and Min (2019) advocate deliberative democracy as a "theory and practice of politics that places reasoned discussion at the heart of political life" (p. 1) to understand how deliberation relates to power and political participation. Deliberative democracy is also argued to be a realistic theory and practice as deliberative engagements and processes are in place in countries like Australia and Canada (Curato & Boker, 2016), the Netherlands, Germany, and Switzerland (Curato et al., 2017), and even in certain epistemic communities in India (Rao & Sanyal, 2010) and Brazil (Pogrebinschi & Samuels, 2014). Crucial to deliberative democracy are talk-centric practices engaged by "mini-publics" such as citizens' forums, "citizens' juries, consensus conferences and twenty-first century town hall meetings" (Curato & Boker, 2016, p. 173). As a thrust

of deliberative democracy, citizen participation is crucial to decision-making, legislation, and resolution of important issues.

A presidential debate with actual engagements from citizens themselves (i.e., town hall debates can be a deliberative forum. In 2016, the presidential town hall debate format provided an opportunity for the candidates to interact with members of the audience who asked the questions. While the extent to which the town hall format was given justice may be wanting (ABS-CBN News, 2016; Belmonte, 2017), if the debates in future elections allow for productive exchanges with citizens and the candidates, then deliberation can ensue with a healthy back-and-forth where the candidates do not talk down on the voters but dialogue with them. Though the evidence is limited, a town hall format was also seen as having a positive impact on votes and voter's awareness (Wantchekon et al., 2017).

Meanwhile, one of the goals of deliberative democracy, as empirical research has also shown, is to solve group polarization (Curato et al., 2017). While presidential debates cannot solve partisanship as debates can be a spectator sport where "partisans watch debates to cheer on their candidates" (Perloff, 2014, p. 392), there are other functions fulfilled by debates: Does it provide information? Does it allow for deliberation? And does it inspire reflection? If debates can inform or educate even one voter, if it inspires a viewer to consider the issues aside from the personality of a candidate, and if it brings about introspection on the part of the audience, then a debate has succeeded regardless of whether it solved group polarization.

Finally, debates also have values worth institutionalizing in a polarized political environment, such as "civiliz[ing] hard-fought campaigns, advancing one of democracy's core values: choice through discussion" (Perloff, 2014, p. 392). In a highly polarized political climate where emotions run high, as seen in the 2022 and 2016 elections (e.g., Kakampinks vs. BBM supporters; the use of labels such as "Dilawans" and "Dutertards" in 2016), debates can temper the impulse of candidates to go all-out in their negative campaigning. As debates are a public and highly visible event, candidates are interested to save and maintain face, to manage impressions, and to be their best selves. Hence, debates can still provide a semblance of collegiality and civility among partisans and candidates. Most importantly, a debate as an activity can allow voters to clarify their reasons for choosing certain candidates, reminding us that our choices will be better if they are debated.

Combatting Disinformation

Misinformation is defined as unintentionally inaccurate information while disinformation is deliberately false or misleading information (Jack, 2017). In the Philippines, disinformation as a political issue became more apparent starting with the 2016 elections. Regarded as the first social media elections in the country, the 2016 national elections saw the use of more deliberate disinformation narratives and a structured disinformation campaign involving public relations companies and trolls (Ong & Cabañes, 2018). The trend of using disinformation for political advantage continued in 2019 midterm elections with more creative means and modes of campaigning in social media (Ong, et al, 2019). In the 2022 elections, disinformation also played a role given the networks and propaganda that favor certain politicians. An example of a disinformation narrative was the foreign policy issue on the Russia-Ukraine conflict where pro-Duterte and pro-Marcos propaganda portrayed then Vice President Leni Robredo as a “puppet” of Western powers (Arugay, 2022, p. 3).

Meanwhile, another plausible explanation for the prevalence of disinformation in the Philippines is the type of media system in the country. The Philippines has a public watchdog model characterized by being “partly free,” independent, self-regulated, and privately owned, there is “high vulnerability” for disinformation especially in digital media (Arguelles & Lanuza, 2021, p. 11-12). In other words, the media system in the country is receptive to business capital and lacks strict state-sanctioned regulatory mechanisms, which can make disinformation by state and non-state actors flourish (Arguelles & Lanuza, 2021).

The use of platforms such as TikTok and YouTube in political campaigns also complicates verifying information (Soriano, 2021). While there are fact-checking initiatives carried out by organizations such as *Rappler* and *Vera Files* (Internews, 2021), they are reactive or happen only after potentially malicious content has become viral on social media. Debates can directly take candidate’s claims and statements to task, nipping mis- and dis-information in the bud. If candidates are armed with facts and are sharp enough to call out their opponents who lie or make erroneous claims, then debates can be a venue for truth-telling.

In the March 2022 presidential debate, veteran journalist Luchi Cruz-Valdez acting as the moderator, cited a December 2021 Social Weather Stations (SWS) survey which showed that “69% of adult Filipinos believe that the fake news problem in media is serious, and

51% of Filipinos find it difficult to spot fake news” (Tuquero, 2022). The nine candidates present in the debate—which excludes Marcos Jr.—also affirmed that those benefitting from disinformation must be held accountable (Tuquero, 2022). Candidates can be made to account for the truth if their attendance is mandated.

The audience also has a role in calling out the candidates. It may be recalled that in the 2016 vice-presidential live debate, then candidate Ferdinand Marcos Jr. was jeered and heckled by the crowd for his denials about the atrocities during his father’s reign. Moderators can also ask the hard questions, subjecting the candidates to a battery of tests to arrive at the truth. Debates can therefore be harnessed not only for purposes of deliberation, but also truth-telling.

Debates also get news coverage and television networks often devote airtime for pre- and post-debate analyses and commentaries. Claims and statements made by candidates in the debates can therefore be fact-checked by online and mainstream news outlets. As commentators discuss the strengths and weaknesses of the candidates, they may also point out flaws in the latter’s arguments. These have been done in both the 2016 and 2022 elections, showing that debates as a visible and mainstream activity value truth-telling compared to underground, social media campaigns where a level of anonymity is afforded to those who engage in disinformation.

While disinformation will still exist alongside the debates, candidates perceived to be behind disinformation campaigns may be held accountable during debates. They can be confronted by their opponents, jeered by the crowd, and interrogated by the moderators. Debates still allow for the consistent scrutiny of a candidate’s claims and positions, potentially exposing falsehoods, and separating truth from fiction.

Conclusion

While the arguments made here on the merits of mandating participation in debates apply to lower levels of government (e.g., vice presidency, senate, etc.), we focused on the Philippine presidency as the seat of power. We premised our proposal on two issues: (1) that public scrutiny through debates is an inherent element in public office as a public trust, and (2) that the voter’s right to an informed decision trumps any candidate’s right to decline a debate.

What this essay hopes to achieve in the long run is the cultivation of a political debate culture where voters not only focus on the outcomes

(e.g., who won the race; how many voters can a debate influence) but also the reasons for their choices (e.g., why do I prefer candidate X over Y? What are the differences in the policy stances of the candidates?). With the latter, democracy is nudged to take a more deliberative turn where voters themselves reflect on their values, examine their own thought processes, and weigh their options. The goal of the essay is also consistent with what has been found in the literature on debates even in emerging democracies: “debates have improved voter learning and engagement in politics, appear to have been influential because of their policy-centered components, and have encouraged voters to be open to and willing to vote for candidates outside of their ethno-partisan group” (Kramon, 2020, p. 26).

As this essay is only a preliminary inquiry into the legal and logistical requisites of institutionalizing presidential debates in the Philippine electoral system, the researchers recommend a deep dive into the literature of presidential debates in other countries with a rich tradition of hosting debates (Druckman, 2003; Fridkin et al., 2004; Hillygus & Jackman, 2003; Sunay, 2012;) and even in new democracies and hybrid regimes (Hyde & Lamb, 2015; Fujiwara & Wantchekon, 2013; Wantchekon et al., 2017). A comparative analysis between the Philippines and other countries will provide insights on the practical and cultural components of institutionalizing debates in the country.

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