



## AES Watch

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### PRESS RELEASE

AUTOMATED ELECTION SYSTEM WATCH (AES Watch)

Dec. 12, 2012

## New election technology provider for 2013, JCOC dared

“We cannot sacrifice our country’s sovereign election for an admittedly flawed technology from a non-compliant vendor in connivance with other groups whose only credo in election is to make profit. Automated elections in the country have become a private enterprise and a money making industry.”

With this note, the Automated Election System Watch (AES Watch) today called on Congress to exercise its oversight function and move for new poll technology providers due to the termination of the licensing agreement between Smartmatic and the U.S.-based Dominion Voting Systems (DVS), proven programming errors resulting in inaccurate counting, and investigate as well recent revelations of no bidding and unconscionable expenditures involving preparations for the 2013 elections.

Nelson J. Celis, acting spokesperson of AES Watch and an IT professional who provided expert inputs in crafting the Poll Automation Law, issued the call in the light of the termination last May 23 by DVS, which is the real owner of the technology used in the 2010 elections, of its licensing agreement with Smartmatic. With the agreement’s termination, Comelec will use a pirated technology for the coming May 2013 mid-term elections if it decides to honor a purchase contract for the Venezuelan company’s 80,000 PCOS voting machines without a license, Celis said.

Celis, former president of Philippine Computer Society and recently awarded 2012 most outstanding electronics engineer by the Institute of Electronics and Communications Engineers of the Philippines, said the DVS action already denies Smartmatic access to the Dominion’s source code and other program software which are vital for remedying program bugs in the election system. “This also means that Comelec will be using not only a technology that is pirated but also one that is replete with program errors that will produce inaccurate numbers in 2013,” Celis said.

Dr. Felix Muga II, AES Watch co-convenor and a national scientist awardee, said these program errors again manifested themselves in the July 24-25 mock elections held by Smartmatic at the House of Representatives. The mock polls revealed a 2.6% discrepancy or 97.7% accuracy rating as against the legally required 99.995% and a high rejection rate of ballots at 4%. The low accuracy rating, said Muga III, who is also a CenPEG Fellow, will result in the miscounting of millions of votes thus making it difficult to determine the real winners come 2013. Added to this, Muga said are the misreading of the votes in the ballot spaces with low threshold of the ultraviolet ink.

In 2010, Muga said the 5 million votes’ margin of the elected president was too big to be questioned. “If candidates in 2013 were to win credibly, they should be able to garner more than 50% of the votes for their victory to be beyond question,” he quips. Anti-cybercrime expert Lito Averia of transparent elections.org also decried the 4% rejection rate of the PCOS machines which, combined with the 2.6% discrepancy may result in 10 million votes disenfranchised by the PCOS errors.

In its counter-reply to a case filed with the Delaware court by Smartmatic last Sept. 11, the DVS accused the Venezuelan company of not following IT industry standards and rigid pre-testing of the election system. These critical lapses, AES Watch said, caused the May 3, 2010 nationwide CF cards fiasco that nearly led to a “no election” scenario. In the yet unsettled Biliran electronic fraud case of 2010, a documented long list of glaring mismatch between the ballot design and CF card resulting in erroneous counting has yet to be refuted officially by Smartmatic and Comelec. Findings by Filipino IT experts from the Philippine Computer Society showed documented evidence on pre-loading of CF cards that cost the Biliran complainant his re-election bid and would most likely be repeated if the same uncorrected PCOS machines would be used in 2013.

“The 2010 automated elections was not a resounding success as claimed by Comelec,” Celis said. “The internal programming errors were not known to the ordinary observers and random manual audit was done many weeks after by a citizens’ group not by expert auditors.”

... includes University of the Philippines Alumni Association (UPAA), National Secretariat for Social Action-Catholic Bishop Conference of the Philippines (CBCP), Bishop Broderick Pabillon and Bishop Deogracias Yniguez of the Commission on Public Affairs of the CBCP, Center for People Empowerment in Governance (CenPEG), Ecumenical Bishops Forum, National Council of Churches in the Philippines (NCCP), Dr. Rachel Roxas-Uy, dean of the De La Salle University- College of Computer Science (DLSU-CCS), Dr. Reena Estuar, chair of the Ateneo de Manila University- Department of Information Communications System, Dr. Jaime Caro, chair of the UP Department of Computer Science, CAUCUS- Philippine Computer Society, Association of Major Religious Superiors in the Philippines (AMRSP), Computer Professionals Union(CPU), Solidarity Philippines, Philippine Computer Emergency Response Team (PhCERT), National Union of Students in the Philippines (NUSP), Engr. Rodolfo Lozada, Dilaab-Hearts Foundation, Senior Catholic Citizens Organization, Coordinating Council for People’s Development and Governance (CPDG), Health Alliance for Democracy (HEAD), Transparent Elections.org, Concerned Citizens’ Movement (CCM), Sisters Association in Mindanao (SAMIN), Association of Schools of Public Administration of the Philippines (ASPAP), Computing Society of the Philippines (CSP), Transparency International-Philippines, Pagbabago (Movement for Social Change), Movement for Good Governance (MGG), Alyansa Agrikultura, Philippine Computer Society Foundation, Atty. Al, Vitangcol, Former Vice President Teofisto Guingona, Jr. and others.



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Prof. Bobby M. Tuazon, CenPEG Director of Policy Studies, asked Congress through its Joint Congressional Oversight Committee (JCOC) on AES to comply with its mandate to move for a new election technology provider due to the Smartmatic system's being "obsolete, inapplicable, inaccurate, and with a defect which cannot be remedied" based on the election law RA 9369.

The Filipino IT community has spoken, Tuazon said. "Why is the Comelec, dominated by lawyers who are not knowledgeable of the complexities of the PCOS technology not taking heed despite this overwhelming evidence?" Tuazon asked. Smartmatic is not an expert in PCOS technology but in DRE (direct recording electronic), which it used in the 2008 ARMM elections, he further explained.

Tuazon cited the JCOC's failure to convene immediately after the May 2010 polls in order to assess the election outcome thus allowing both Comelec to remain fixated on using Smartmatic despite the admitted system defects, misrepresentation in the 2009 election contract, and other grounds. Smartmatic, a marketing company and system integrator, claims only an experience in the touch-screen DRE while both the 2010 and the coming 2013 elections use paper ballot-based optical mark reader (OMR). The real owner of the technology is Dominion which was not part of the 2009 election contract with Comelec.

The JCOC, which first convened last Nov. 21 after more than two years, was supposed to conduct a hearing today but has been cancelled anew.

Tuazon also urged the JCOC-AES to probe into allegations of unconscionable expenditures involving the bidding processes for the 2013 elections as well as other similar cases in 2010. Citing accounts by whistleblower and former Comelec lawyer Melchor Magdamo, Tuazon asked the JCOC to investigate alleged overpricing of AES paraphernalia by as much as P2.3 billion of poll related deployments (compared with P1,018 billion which was directly awarded to Smartmatic in 2010), the warehouse lease of P400M, and other questionable expenditures.

"Has the automated election become a mere money-making business instead of a system that was designed by law to enhance democratic elections?" Tuazon asked.

Tuazon observed that as early as 2011, various Filipino IT professionals who count among the best worldwide have offered to help develop an indigenous poll automation system as did India and other countries. Last year, Tuazon said, the Comelec IT department under the leadership of former Commissioner Gus Lagman was able to develop a consolidated canvassing system (CCS) at a cost of P600,000 with the assurance of an independent source code review as against the Smartmatic CCS that was paid for by taxpayers' money at PhP58 M with no assurance of an independent source code review.

Magdamo has re-filed before the Ombudsman a case of election equipment overpricing in 2010 involving Comelec executive director Jose Tolentino - specifically the alleged overpricing of the ballot secrecy folders at P380 each instead of P3.80.

Tuazon said even with the time constraint in the May 2013 elections the country "cannot sacrifice the nation's sovereign electoral exercise for the corporate greed of a foreign company and others who are out to profit."

A broad cross-sector citizens' election watchdog, AES Watch has 40 member organizations including the UP Alumni Association, PCS Foundation, CenPEG, CBCP-Nassa, the Association of Major Religious Superiors, Solidarity Philippines, the biggest church alliance NCCP, TransparentElections.org.ph, Movement for Good Governance, Solidarity Philippines, We Watch, NUSP, NAMFREL, Computer Professionals Union (CPU), Concerned Citizens Movement (CCM), and others. Its honorary president is former Vice President Teofisto Guingona, Jr.

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... includes University of the Philippines Alumni Association (UPAA), National Secretariat for Social Action-Catholic Bishop Conference of the Philippines (CBCP), Bishop Broderick Pabillon and Bishop Deogracias Yniguez of the Commission on Public Affairs of the CBCP, Center for People Empowerment in Governance (CenPEG), Ecumenical Bishops Forum, National Council of Churches in the Philippines (NCCP), Dr. Rachel Roxas-Uy, dean of the De La Salle University- College of Computer Science (DLSU-CCS), Dr. Reena Estuar, chair of the Ateneo de Manila University- Department of Information Communications System, Dr. Jaime Caro, chair of the UP Department of Computer Science, CAUCUS- Philippine Computer Society, Association of Major Religious Superiors in the Philippines (AMRSP), Computer Professionals Union(CPU), Solidarity Philippines, Philippine Computer Emergency Response Team (PhCERT), National Union of Students in the Philippines (NUSP), Engr. Rodolfo Lozada, Dilaab-Hearts Foundation, Senior Catholic Citizens Organization, Coordinating Council for People's Development and Governance (CPDG), Health Alliance for Democracy (HEAD), Transparent Elections.org, Concerned Citizens' Movement (CCM), Sisters Association in Mindanao (SAMIN), Association of Schools of Public Administration of the Philippines (ASPAP), Computing Society of the Philippines (CSP), Transparency International-Philippines, Pagbabago (Movement for Social Change), Movement for Good Governance (MGG), Alyansa Agrikultura, Philippine Computer Society Foundation, Atty. Al, Vitangcol, Former Vice President Teofisto Guingona, Jr. and others.