



AES Watch

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REPLY TO COMELEC CHAIR BRILLANTES From the Automated Election System Watch (AES Watch) February 19, 2013

Use facts not gutter language, Brillantes told

The Automated Election System Watch (AES Watch) today said it refuses to go down the level of arguments with the prominent use of gutter language by the head of a Constitutional body – Comelec Chairman Sixto Brillantes.

Bobby M. Tuazon, co-convener of AES Watch and director for policy studies of the Center for People Empowerment in Governance (CenPEG), condemned the Comelec chair's offensive remarks against election critics accusing AES Watch, whose chair emeritus is former Vice President Teofisto Guingona, Jr., and CenPEG, headed by National Artist Bienvenido Lumbera, of "election sabotage."

Tuazon also cited Brillantes for his "sexist remarks" against AES Watch women co-convener, Ms Maricor Akol, a reputable IT expert involved in IT professionals certification contrary to Brillantes' claim, and Ms Evita Jimenez, executive director of CenPEG and project research head of the popular Corruptionary publication.

Tuazon said it is Comelec, headed by Brillantes, that has failed to build public trust and confidence in the election system by its repeated failure to comply with the election law and its fixation to a technology proven to be defective, unlicensed, and with a dismally-low accuracy.

"They had three years since May 2010 to do some fixing and reforming but they just repeated the same mistakes that we saw in 2010," Tuazon said.

"Mr. Brillantes knows full well how AES Watch and its affiliates work and where we stand," Tuazon said. "We're not just problem-oriented, as the chair has repeatedly insinuated, but solutions-proponent. Since the last elections, we have sought dialogs with the Comelec, gone to congressional hearings with proposed legislative enhancements for poll automation, studied meticulously the automation with reports copy furnished all major election stakeholders, and gone to the high court several times as well."

"Non-disclosure of the source code to political parties and interested groups for independent review as provided for in the Poll Automation law for reasons only Chairman Brillantes knows is major concern that should alarm stakeholders in the coming election," Tuazon added. Political parties like PDP-Laban for example had gone to the Comelec last January 2013 to exercise this right, only to be told that the source code is not available for review.

Brillantes, quoted by the media, argued, "There is no review if there is no source code," adding that "the law does not provide for source code review in order for elections to proceed."

The Comelec chairman's inconsistent statements are themselves adding to confusion and uncertainties in the coming automated elections.

"So now, look who is talking of election sabotage," Tuazon asks.

Lito Averia, IT security expert, Congress resource person on IT matters, and election observer for more than 20 years, asked how does the Comelec chair define "election sabotage"? "We're merely asking questions and raising issues which they continue to ignore."

... includes University of the Philippines Alumni Association (UPAA), National Secretariat for Social Action-Catholic Bishop Conference of the Philippines (CBCP), Bishop Broderick Pabillo and Bishop Deogracias Ynguez 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), Aiyansa Agrikultura, Philippine Computer Society Foundation, Atty. Al, Vitangcol, Former Vice President Teofisto Guingona, Jr. and others.



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The Comelec chairman today insisted that the Philippine government owns the PCOS machines per the option to purchase signed with Smartmatic in March 2012.

Averia said, “Brillantes is the one who is ignorant, especially in software licensing. Even non-lawyers in the IT industry understand that proprietary software like MSOffice, for instance, is not bought. What one buys is a license to use. Comelec cannot claim to have bought the software that came with the PCOS in March 2012. It is only a user of the software AND only for the 2010 national and local elections at that.”

“The basic civil law principle is you cannot sell what you do not own. If the owner gives you authority to sell, there is still a limit to what you can sell, depending on what is written in the authorization,” AES Watch also clarified.

With the 2009 agreement - where the license to use the poll technology was given to Smartmatic only for 2010 - having been terminated in May 2012 by the real owner of the technology, Dominion Voting Systems, the Venezuelan sales company (Smartmatic) has lost its right to the software. It has also lost its access to the program system that is critically needed to correct the program errors and bugs that both Comelec and Smartmatic reluctantly admitted only in 2012, Tuazon said.

Under these circumstances, Brillantes announced last week that Comelec will use instead the program system designed for the aborted 2011 ARMM election reportedly supplied by Smartmatic. But the use of the 2011 program is not covered by the 2009 licensing agreement precisely because the latter only spoke of the 2010 elections, Tuazon.

In the forum held yesterday at UP Alumni center, AES Watch distributed information materials on the automated elections for May 13, 2013 like Primers, Alerts and Poll watch guides.

“Rather than go down the level of gutter language, AES Watch and its members have agreed to help provide information materials to help guide the voters and poll watchers in dealing with the problematic PCOS machines in case these arise on Election Day,” Tuazon added.

For information, please contact AES Watch acting Secretariat, 3F CSWCD Bldg., Magsaysay Avenue, UP Diliman, Quezon City, TelFax +9299526.

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