CenPEG Prepared Statement

On the ARMM Elections
Further Deliberation on HB 3542 by Hon. Pangalian Balindong
House Committee on Suffrage and Electoral Reforms (CSER)
Chaired by Hon. Elpidio Barzaga

HOLD ARMM ELECTIONS THIS YEAR; BUT DON'T USE THE SERIOUSLY AND INHERENTLY-FLAWED SMARTMATIC PCOS

By The Center for People Empowerment in Governance (CenPEG)
February 16, 2011

Honorable Chairmen and members of the Committee on Suffrage and Electoral Reforms and Committee on Muslim Affairs, ladies and gentlemen present in today's hearing to further deliberate on House Bill 3542 by Hon. Pangalian Balindong and other Bills 4146 by Hon. Sema, Bag-ao, etal, and 4062 by Hon. Nur Jaafar:

The glitches and snafus that attended the May 10, 2010 elections – technically, infrastructurally, management- and legal- wise – proved that the system is ridden with so many bugs and is not suitable for national or local Philippine elections. IT industry standards dictate that when your system is so bug-ridden, it should be junked, and a new bug-free counting and canvassing technology should be used to ensure transparent, accurate, and secure election system to promote voters' rights and uphold the real sovereign will of the people.

Postponing the elections in the ARMM will institutionalize a system of ambivalence and indecisiveness, given that in the 21 years of the autonomous region there have only been 5 elections and 7 postponements. Postponement will deny the people of the region the regular electoral exercise that they deserve. Electing a new set of officials is a people's sovereign right to vote new officials – and hold previous or current officials to account for any wrongdoing by not electing them. This culture of postponement may actually create more conditions of instability and uncertainty. It will trigger acrimonious debates and more animosities on whether there should be "holdover" or "appointed" caretaker officials in the region. Elections in the ARMM have in fact been held – despite the armed conflict or threats of election violence.

We take exception however to the Commission on Elections' (Comelec) option to buy 5,000 PCOS machines for use in the ARMM elections this year. We say, again, based on our (CenPEG and AES Watch) studies – and those of other election watch groups including Namfrel, leading IT schools, and IT professionals – that the Smartmatic-Dominion automated election system (AES) harnessed for the May 2010 elections is inherently flawed – a highly-defective system – with errors, glitches, and loopholes manifesting in the actual conduct as well as in the results of the first automated elections held last year.

Using the PCOS machines will only be recycling a technology that has been proven to be flawed – and will further generate political uncertainties in the ARMM. The glitches and snafus that attended the May 10, 2010 elections – technically, infrastructurally, management- and legal- wise – proved that the system is seriously bug-ridden and should be junked, and replaced by another system that is compliant with the election law and equipped with all the comprehensive requisites needed – ranging from software to hardware, to election management, and infrastructure support.

The Comelec itself has downgraded its earlier (May 11, 2010) claim of "resounding success" to "qualified success" today – a subtle admission that the election technology was not perfect. Officials of the Comelec believe that they can have the system's glitches "fixed" in time for the August 2011 ARMM elections.

We strongly object to the use of the PCOS for the August 2011 ARMM election, because we do not want a fast ARMM election that produces wrong counts and requires wide margins of votes to win credibly and be acceptable to public perception

Can the Comelec fix the errors in the PCOS/CCS hardware, software, and computerization procedures within the six months left before the ARMM elections?   NO. Smartmatic cannot fix the errors – the admission that the system has many errors should have disqualified the Venezuelan company, they should not have been paid, and its contractor

Center for People Empowerment in Governance

"What makes CenPEG's mission significant is that the power it seeks for the people is in the area of governance. Towards this end, it engages in policy studies and research, education, training and advocacy aimed at securing political and electoral changes that would bring hitherto marginalized sectors into active participation in defining and shaping the destiny of our nation."

should be held accountable instead for the many nationwide glitches that happened around the country. The errors and bugs cannot be fixed in six months and even in one year without subjecting it to an independent review as required by law and as ruled by the Supreme Court in its September 21 ruling on the CenPEG petition, after the testing and certification done by SYSTEST LAB. So far, there are at least 8 major errors that have to be fixed, more than 100 irreparable bugs to be removed in order to make the PCOS/CCS compliant to the provisions of RA-9369 and the Comelec ToR. These provisions were totally ignored by Comelec in the May 2010 elections. (*Please see attachment*)

At no other Philippine election therefore should the SMARTMATIC-DOMINION PCOS technology be used primarily because the computer program it used in the last elections has been proven to be INHERENTLY DEFECTIVE -- FULL OF CRITICIAL BUGS AND ERRORS as found by US-based Systest Labs. According to the certifying agency, the errors and bugs found in the computer program ranging from critical, major to minor did not manifest during their testing in the U.S. It was in the May 2010 elections however that these computer program critical defects manifested themselves nationwide and at glaring instances. Why does Comelec continue to hide important documents from citizens' groups? Is Smartmatic afraid to show the source code because Filipino IT experts would be able to discover more computer program errors and bugs already discovered and yet certified by the U.S.-based SysTest Labs?

We reiterate: the Smartmatic PCOS technology used in the last May 2010 elections is inherently flawed. More so, it will now be impossible to correct in the light of the revelation of Mr. Renato Garcia in our meeting last January 28, with the new Comelec Chair, Hon. Sixto Brillantes about the 2009 letter of Dominion Voting Systems, the owner of the election technology, not authorizing Smartmatic to release the source code for independent review and disallowing any modification should errors and bugs be found. The independent review by Filipino IT experts of interested groups and political parties and candidates running for office, among others, will not only be able to further validate the findings of Systest Labs, but will also certainly be able to detect the other errors and bugs that were not found during the short 4-month testing by Systest Labs under U.S. conditions.

We also submit that until all major election concerns – including the legal cases filed against the Comelec, the disclosure of all vital election documents including the source code as ordered by the Supreme Court, the full evaluation of the May 2010 elections by the Comelec itself – the use of the Smartmatic-Dominion election system and full disclosure of the expenses of the P7.2B May 2010 polls should be fully addressed altogether.

Especially in the ARMM – automation or no automation – elections have been critically affected by the use of violence and it is this situation that the Congress, Comelec, and the executive department should look into.

There is no choice now, rather than use Smartmatic's highly defective computer program which can be a cause of violent engagements during counting, we should prepare more vigilantly now, for a manual election system in the coming ARMM elections. We can, however, consider the option of using a new technology – even given the remaining time. It was done in 2008.

We also reiterate our proposal in the last House CSER committee hearing calling for the full evaluation of the ARMM governance including its electoral process so that future legislations and policies can be sufficiently guided. CenPEG is prepared to contribute its share in this regard.#

Evita Jimenez
Executive Director
Center for People Empowerment in Governance

Bienvenido Lumbera
Chair, Board of Directors CenPEG

Pablo Manalastas, PhD
Fellow and IT Consultant

Felix Muga II, PhD
Fellow

Lito Averia
IT Consultant

Bobby M. Tuazon
Director for Policy Studies