FOREWORD

This is the post-election CenPEG Report on the Philippines' May 2010 Automated Elections, courtesy of "Project 30-30: Promoting the Integrity of the Vote and Transparency of the May Election" funded by the European Union-European Instrument for Democracy and Human Rights (EIDHR). Project 30-30 was so named after the first CenPEG study on the 30 vulnerabilities initially found on the chosen Precinct Count Optical Scan (PCOS) technology of the outsourced automated election system and the proposed 30 safeguards to address them.

The report, part of a two-year project for policy and law reforms, covers the technical, management, and legal concerns of the country's first nationwide automated elections. It was primarily prepared by the project team of the Center for People Empowerment in Governance (CenPEG) comprising of social, IT and political researchers from the professional, academic, and legal sectors; as well as experts from the Information and Communication Technology (ICT), media, and the academe who have extensive experience in elections and governance work. CenPEG with its partners, namely, the National Council of Churches in the Philippines, National Union of People's Lawyers, Health Alliance for Democracy, and Computer Professionals Union presented the consolidated report on October 5, 2010 or five months after the elections to a wide array of audience at the historic Club Filipino in San Juan, Metro Manila.

Early on, the project study drew in a large number of organizations, institutions, and groups from among different stakeholders in the public and private sector, broad enough to form Automated Election System Watch (pronounced "eyes" Watch) which soon became an independent watchdog of an interesting mix of academics and professionals, leaders of civic and non-government organizations, experts and practitioners of major national IT groups who believed that Filipino IT ingenuity was entirely left out and ignored in the planning and implementation of the first automated elections in the country. The project team was a whole research network where everyone was a researcher -- gathering data, monitoring and reporting every valuable piece of information-- from the hired and volunteer researchers at the national center to the regional Project 30-30 coordinators and their contact networks from the ground who also became poll watchers and AES monitors, to the student volunteers from the University of the Philippines in Manila and Los Banos who helped consolidate and compile these bits of information, to the project partners who each had to initiate their own individual data gathering in their areas of coverage, and the various conveners of AES Watch, leaders all in their own respective organizations, who certainly were a reliable source of documents and information for the project study. Together, they all began to set the wheels in motion for critically watching the P7.2-B automated elections and coming out with timely monitoring updates and analysis to help guide policy makers and the public.

In the end, everybody in the Project 30-30 network was a researcher, an investigator; and every vital piece of information and data that the project team culled for this compendium of various papers was a contribution of hundreds of informed and reliable informants from all over the country. Each paper – from election incidence, case study to data analysis – was written from a multi-disciplinary, scientific and participative perspective where authorship is collective and data gathering is engaged from many groups and people who count among the country's best in their respective fields.

Preparing the CenPEG Report was like running after a moving bus along the highway, and the final reaction on eventually making it to the running board is one of great relief and combined incredulity and exasperation.

Without sounding subjective and biased, perhaps the greatest difficulty, bordering on frustration, with which the Project team has to contend with in making the Report, aside from manpower and financial constraints, is the fact that the main and official source of information – the Commission on Elections -- offered the main obstacle to access them. While this problem is in a sense not a new one, it is nevertheless particularly intense and compelling given the avowed pledge of the Commissioners and their information-media department to be transparent and inclusive.

For basic election documents, CenPEG had to literally beg the Comelec with series of request letters and, failing to get any response, to go to court to compel it to do so. But even CenPEG's victory in the Supreme Court on Sept. 21, 2010, four months after the elections, about the release of a vital heart and soul of election technology - the source code - for independent review by political parties and other interested parties as prescribed by Republic Act 9369 has not been complied with as of this writing.

The Comelec, by its intransigence, defaulted on this responsibility to provide its clientele that includes those who disagree with its concept of transparent, accurate, and secured AES with basic information that should have been made public from the start. Despite this, the lack of transparency coupled with the absence of a Freedom of Information law did not at all deter the team in its search for facts and truth, and eventually in preparing this Report.

To offset the lack of official documents, the team had to exhaustively navigate around alternative networks, i.e., CSOs, NGOs, and backdoor contacts who were more than cooperative to provide data about contracts, licensing agreements, budget, technical specifications of software and hardware, customization up to Election Day inaccuracies, and other technical glitches. The internet was also a quick reference for news, websites, and other election literature. But for all intents and purposes, the Comelec website that should have served as the official information carrier became increasingly problematic as the days progressed from Election Day to canvassing.

To close many gaps in the study, a group of researchers were farmed out to conduct more interviews, surveys, and focus group discussions in several areas from where emanated glaring stories of technical troubles as well as inaccuracies in the election results – Samar, La Union, Caloocan, Masbate, Davao, among other provinces. There were also information volunteered, solicited and provided, sourced from multimedia and experts, government, civil society, and non-government organizations as well as from unofficial channels including those slipped from under the office door and backdoor.

On election day, thousands more – voters, watchers, election inspectors and even technicians hired by the contracted election vendor-- helped monitor and offered information from the ground especially on election day through texting, email, fax, and phone calls. There was also a deluge of information – that was consequently validated -- from ordinary citizens who were eager about the new mode of voting to political leaders and members of varied political parties and party lists, religious or inter-faith members and those who wanted to remain anonymous yet zealous about being citizen monitors who simply wanted the elections to work well. Added to this was the ambitious geographic information system which volunteer faculty and students of the UP Geography department designed and developed to help gauge the connectivity capacity of public schools used as election precincts nationwide.

Seeing all these information flowing from the volunteer poll watchers and citizen monitors on the ground at the clustered precincts and barangay halls of over 65 provinces to the national monitoring centers set up by Project 30-30 partners and AES Watch in Quezon City, and finally landing on the Ushahidi platform of www.eu-cenpeg,com and www.aeswatch.org gave every team member a sense of meaning, although not enough to compensate for the lack of access to more important information.

For CenPEG, at the heart of the study is public information. As a policy study, social research and advocacy center, the value and crucial role of free access to information especially of public documents in the hands of the prime government agency tasked to manage the elections, has not been more evident and its challenge as daunting than in the making of this Report. We believe that, as public policy researchers and social scientists, we owe our existence and our profession to the public and for public good, and no one else. Our job is to make sure we get the facts, we observe the incidents, we draw lessons, we analyze from the whole thread of data gathered from varied and reliable sources, and we write and publish these findings along with recommendations for policy and law reforms.

With the lack of official documents, the CenPEG Report may create the impression of being incomplete. In a sense, this is true. Until Comelec and its contracted vendor decide to comply and release, unconditionally the election documents (*see Annex*) that the Supreme Court already ruled to be released, questions that beg for factual answers will remain unanswered. To this day, despite the high court's rulings, CenPEG networks continue to demand for the May 2010 election black box of documents and information especially the source code of the computer program.

But even without the remaining undisclosed documents, CenPEG stands by its main findings after poll monitoring and thorough study of basic May 2010 election documents, including the Smartmatic contract, Terms of Reference (TOR) and the controversial Sys-Test Report. One of these findings is that the Sys-Test Labs-certified computer programs including the source code provided and leased to the Comelec for use in the first automated election in the country contained "serious programming errors," was "full of bugs and errors" ranging from critical to major and minor, but which, however, did not manifest during the testing in the US where the source code review was done. IT experts led by Dr. Pablo Manalastas, explained that such an erratic program "may cause, and actually did cause, execution errors on election day as evidenced by the PCOS program malfunctioning, the PCOS (counting system) and CCS (canvassing system) allowing transmission of FTS (final testing and sealing) results, and a significant number of tabulation errors in the Comelec's public website."

The CenPEG Report starts off with the Incidence narratives, followed by a consolidated technical analysis of the issues that emerged in an attempt to explain the troubles and glitches at the micro level. Then from a general perspective, it then proceeds toward an informative description of specific technical and technological requirements of the system like source code review, certification, testing and mock elections, among others; showing in the process how important is the matter of compliance with legal and highest industry standards toward ensuring that the new mode of elections promoted voters' rights and cohesion.

The Report also mentions how the study helped flesh out the production of multimedia illustrated materials – which a commissioner tactlessly labeled "libelous" -- that helped equip major CSOs, poll watchers, political parties and media groups with relevant inputs including the scoreboard of checklists on the AES to further enhance and make meaningful their valuable roles as monitors, watchdogs, and crusaders for honest and clean elections.

Modernization of the elections was the Philippine government's core response to address the endemic problem of election fraud and violence. Republic Act 9369 otherwise called the Poll Modernization Law provided the legal framework for the automated election system (AES) nationwide and the Comelec the mandate to select the modern technology and decide the modern process. But as the following pages of the CenPEG Report will show, poll modernization was more in form, not in substance.

If criticisms that came with the initial studies appeared too serious and hurting, negative and harsh to call CenPEG research as "doom saying", these were offered out of a deep desire to bring to the attention of the Comelec the importance of quality preparations and compliance to the constitutional and law provisions

about safeguards in automated elections as well as to ensure the integrity of the vote and transparency in the elections. CenPEG's critique of the May 2010 polls, "that speed is not the sole indicator or yardstick for success" that was editorialized in a major national broadsheet (Philippine Daily Inquirer, May 18, 2010) and call for an independent assessment encapsulates the over-all assessment of the CenPEG study on the May 2010 AES.

It is important at this point to correct the notion that the body of information that came to the Project's attention was only about problems and complaints. The wealth of information which is now contained in the succeeding pages also tell of lessons, proposals or safeguards, and best practices on how to do right when automating elections especially with a backward and undeveloped infrastructure such as what exists in the Philippines. Because automated elections has been a practice in some developed countries – some systems being enhanced, many experimental for years, a few being reviewed against the backdrop of their own particular conditions, and others already aborted – information from experts in the ICT sector as well as legal minds from around the world helped provide the project team with valuable insights about running the automated polls well. The experts from the state of California in the United States, for example, can help provide best practices on how to do a secured and independent source code review; the highest court in Germany, on the other hand, has a valuable lesson to share about voter verifiability and not relying on "blind faith" alone in the automated election technology. CenPEG had the privilege of meeting the ponente for the ruling of the German Federal Constitutional Court - Prof. Dr. h.c. Rudolf Mellinghoff – putting on hold the use of electronic voting who listened intently to our concerns with regard to the May 10 automated elections in the Philippines. Similarly, David Wagner, PhD, of the University of California – Berkeley who headed the team that found bugs in California's election source code shared with CenPEG the best practices for an independent source code review.

On a more positive note, the CenPEG Report gave due recognition to the dynamic role of citizens' groups and people's organizations in helping actualize the elections despite veiled attempts to derail or stop it; and in making the system work though with greater if pre-emptive human intervention and perseverance. Moreover, the role of women and the youth in all phases of the study and advocacy as researchers, organizers, educators and trainers, as well as event facilitators and participants cannot be overlooked.

Perhaps this is the greatest strength of this Report: A collaborative effort of many like-minded CSOs, NGOs, academe, inter-faith, media, and professional groups whose only desire is to have transparent, clean, and peaceful elections where the sovereign will of the people is upheld. Indeed - a product of collective labor and commitment.

The Philippines' 15th Congress and the Comelec, whose chairman and a few commissioners have already bade their colleagues adieu as early before the elections, would do well to listen to these voices that otherwise had been excluded and marginalized in the process of consultation and decision making before election day. This is the time to call for accountability and push for meaningful changes in the election laws of the land.

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