Introduction

This **CenPEG Report** is based on a study undertaken by the Center for People Empowerment in Governance (CenPEG) titled, "EU-CenPEG Project 3030: Action to Protect the Integrity of the Vote and Transparency in the 2010 Elections."

The CenPEG Report is the sixth of a series of studies made by CenPEG, starting with its "Observations on the August 11, 2008 ARMM automated elections" (Sept. 9, 2008). What followed were longer studies: "Comelec's PCOS-OMR Favors Big-Time Cheats: A Policy Critique," May 7, 2009; "The Automated Election System 2010 of Comelec: Challenges and Prospects," May – August, 2009, in cooperation with the Office of the Dean, University of the Philippines' College of Law, October 27, 2009; "30-30 Vulnerabilities and Safeguards: A Guide to AES 2010," Monograph, 67 pages, begun in April 2009 and completed on February 18, 2010; and "The Final Stretch: Gearing Up for the May 10 Automated Elections: Project 3030 Preliminary Report," covering the period January 15-March 31, 2010 under the EU-CenPEG Project 3030, which is unpublished.

Findings of The CenPEG Report were first presented to the public and media during the October Post-Election Summit (October PES) held on Oct. 5, 2010 at Club Filipino, Greenhills, San Juan City. The post-election summit, organized by the Automated Election System Watch or AES Watch which also presented a post-election STAR (for System Transparency, Accountability, and Reliability) Card report, was also co-sponsored by CenPEG, Concerned Citizens Movement (CCM), La Liga Filipina, and National Movement for Free Elections (Namfrel) and with the technical assistance of the University of the Philippines Alumni Association (UPAA) office and National Secretariat for Social Action (Nassa) of the Catholic Bishops Conference of the Philippines (CBCP). Aside from CenPEG's Fellows and IT consultants, key program participants in the October PES included former Vice President Teofisto Guingona; AES Watch, through convener Alfredo Pascual; CCM through Atty. Harry Roque; Transparency International-Philippines through its Chair, Judge Dolores Espanol; Namfrel Executive Director Eric Alvia; and DLSU-CCS's Profs. Sherwin Ona and Allan Borra.

Objectives of the Study

Taking off from the "30-30 Vulnerabilities and Safeguards" study, CenPEG's two-year election research (January 2010 – January 2012) aims to deepen the understanding of the automated election system's 30 identified vulnerabilities and propose corresponding 30 safeguards and safety measures as a mechanism for protecting the integrity of the vote and transparency in the 2010 elections in accordance with the Center's policy research and advocacy program. The first phase of the research covered the critical technical, management, and legal components of the automated election system. The findings and policy recommendations of this and other studies will then become the subject of advocacy in our engagement with Congress, Comelec, and other institutions.

In the Philippines' enduring quest for democratic and credible election, the Project 3030 study expects to contribute toward developing an electoral process that is suited not only to the country's "actual conditions," as the election law provides, but will best represent the people's sovereign will in choosing a government that is truly responsive to their rights and development. Until an election system evolves that suits this fundamental need – and, ultimately, addresses the deeply-entrenched problem of fraud and level off the election playing field to all Filipinos especially the poor – this current study will be considered as a major step toward reaching such goals. The immediate challenge, as far as the Project 3030 study is concerned, is not just to complete it but to spread its findings, lessons, and policy proposals to the broad public in the interest of truth, good governance, transparency, and accountability.

Research Organization and Methodology

For this particular report (covering January – July 2010), a research infrastructure was set up that includes a Research desk; consultants and scholars representing the disciplines of Information Communication Technology (ICT) - computer studies, programming, and security; policy analysis, mathematics, law, and Geographic Information System (GIS). Election monitoring and documentation was also beefed up by Project research coordinators in 12 regions, thousands of trained poll watchers from at least 50 provinces, and 18 student researchers from UP Manila and UP Los Banos. Expert data and other information was also gathered through the broad spectrum of citizens watchdog, AES Watch (of which CenPEG is a lead convener) representing 40 citizens and advocacy groups as well as IT disciplines from all over the country, including De La Salle University's College of Computer Studies, Ateneo, and UP. In about 300 voter education, poll watch training, and election briefing activities conducted nationwide from mid-2009 to May 2010 by CenPEG in partnership with various organizations, valuable information was also gathered from various political parties, schools, church institutions, teachers and students, grassroots communities, poll watchers, voters, and media.

Other research inputs were gathered from CenPEG's Project 3030 partners who were involved in election voter education and poll watch training, monitoring and documentation particularly the National Council of Churches in the Philippines (NCCP) which convened the 86-member People's International Observers' Mission (PIOM) that observed the May 10 automated elections in eight regions including the Autonomous Region of Muslim Mindanao (ARMM); the Council for People's Development and Governance (CPDG), education; and the Computer Professionals Union (CPU) which helped provide the technical expertise for the Ushahidi-tooled two-week election monitoring under the Citizens Election Monitoring Group (CEMG) in partnership with bloggers groups and major TV networks. CenPEG, which conducted a similar two-week Ushahidi-tooled election monitoring also partnered with AES Watch's election monitoring volunteers in cooperation with Eastern Telecommunications and UPAA.

Coverage and instruments

Conducted nationwide, this CenPEG research used the methodologies of guided observation research, paper trail analysis, close monitoring, time-and-motion study, content analysis of voter education materials, and interviews covering the remaining four-month preparations for the AES, including nationwide field tests and mock elections, ballot printing, deployment and storage of election paraphernalia, final testing and sealing (FTS), and other preparations. Election monitoring and poll watching was assisted by standard checklists that were circulated nationwide to Project 3030 researchers, poll watchers, and network of data-sharers. Election incidence reports, covering May 2 – 31, 2010, were collected, collated, and verified for online posting on the Ushahidi-tooled Project 3030 monitoring website.

Nationwide incidence reports on the conduct of the May 10 automated elections were validated by post-election case studies. The pursuit of case studies and further investigation became more imperative following the premature euphoria generated by claims of "fast results" and "election success" on May 10. Two days after election, CenPEG issued a statement cautioning against accepting hook, line and sinker Comelec's claim of "success" and "celebration of democracy" until a full assessment is done on the conduct of the elections especially after overlooking many legal procedures, requirements, and safeguards. "A process that is inherently flawed, is infirmed, and compromised cannot make the election results accurate let alone credible," CenPEG said. The "fast results" – which turned out to be disbutable – may be "stunning" as claimed by many quarters but the integrity of such results is more critical, the policy institution said.

The follow-up research was conducted immediately after CenPEG called on May 17, 2010 for a continuing independent and impartial appraisal of the elections. Conducted in nine selected provinces and cities, the Case Studies on the automated elections sought to validate incidence reports on the May 10 elections and evolve a holistic lens of this vital political exercise involving system/technical, management, and legal aspects. The case studies were instrumentalized by key informant interviews (KIIs), focus group discussions (FGDs), ocular inspections, and in some areas GIS site surveys. Various informants were involved in these research methodologies including key local Comelec officials, BEI chairpersons and members, Smartmatic-TIM supervisors and technicians, local DOST officials, volunteers from PPCRV and other poll watchdogs, voters, and media. Other case study informants were lawyers and independent IT analysts.

The analysis of the AES preparations and post-election incidence reports, including the random manual audit (RMA) and estimates of voter disenfranchisement, was generated by discussions through project-based workshops as well as round-table discussions (RTDs) joined by statisticians, pollsters, mathematicians, academics, social researchers, and IT scholars many of whom are also affiliated with AES

Various engagements in pursuit of research

As a whole, CenPEG research required access to public information especially in relation to a political exercise that is supposed to be governed by "transparency" and a marketing ad about the AES being the "dream poll" that will "modernize democracy." As non-profit research scientists, academics, and policy advocates we aimed to test and validate the claims of Comelec and technology provider, Smartmatic-TIM, about the system's accuracy, security, and transparency – all in the interest of truth, public interest, and voters' rights. In the course of the Project 3030 research, as Comelec denied policy research center access to valuable public information including contracts, technology systems and programs, source codes, and other documents and instead of responding to our inquisitive minds called us names ("fear mongers," "doomsayers") while refusing to divulge the source code which they had approved en banc, we sought the only tested means of finding out some truths: constant engagement with Comelec though dialogues, exchange of letters, and public communication through media.

Research seeks out facts. Facts are sourced through various means. When documents and information are withheld by official sources, questions are left unanswered and truth is compromised. Fortunately, in many instances, CenPEG received information from unofficial sources – slipped under the door, from anonymous informants, from emails and courier.

CenPEG's research and policy engagement was also pursued in Congress through the Joint Congressional Oversight Committee (JCOC) and various committees on suffrage, electoral reform, and constitutional amendments, as well as in consultations with leading candidates, various political parties, PPCRV, CBCP and Nassa, Namfrel, and other citizens watchdogs and election stakeholders. Research consultations and forums were also held with a number of foreign election agencies as well as the Peoples International Observers Mission (PIOM), which was convened by Project 3030 partner, National Council of Churches in the Philippines (NCCP).

Had we been given access to valuable public information in accordance with our constitutional rights, numerous questions and electoral protests about automated fraud would have been fully explained and verified. Why is it that after outsourcing the election system to a foreign company Comelec has been more than happy to turn over all election documents and papers to another foreign agency supposedly to conduct its own assessment of the May 10 election – denying the same access to CenPEG? Comelec's intransigence and consistent refusal to deny CenPEG access to vital public documents is the main stumbling block to our study – and this is precisely what provides the limitation to this report.

Supreme Court finally rules on public information

But hope is not remote after all. On Sept. 21, 2010 after almost a year of waiting, ruling on CenPEG's Oct. 5, 2009 petition for mandamus the Supreme Court has directed the Comelec to turn over copy of the source code of the AES technologies for independent review by CenPEG – and other interested parties and groups. Before this, a few days before the May 10 election, in the case of Guingona et al vs Comelec, the high court also compelled the national election manager to release all documents related to the elections in accordance with the citizens' right to know and access to public information.

There remain major legal hurdles to address, however, including Comelec's refusal to release 21 election documents despite numerous letters of request by CenPEG.

The researches and case studies of this Project 3030 main report were prepared by Project Researchers Nadja A. Castillo, Ayi dela Cruz, and Rodelyn Manalac; IT Consultants Pablo Manalastas, PhD, and Angel Averia, Jr.; research contributor Jeric Abasa; CenPEG Senior Fellow Felix Muga II, PhD; and CenPEG Senior Fellow Atty. Cleto R. Villacorta.

Project research guidance was provided by Project Coordinator and CenPEG Executive Director Evi-ta Jimenez. Organizing, wrapping up, and editing this report was Prof. Bobby Tuazon, CenPEG Senior Fellow and Board Member, who also provided research policy guidance.

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The views and opinions contained in the report however is strictly CenPEG's and do not necessarily reflect those of the partner agency, EU.