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Center for People Empowerment in Governance (CenPEG)

July 31, 2009

### **IS COMELEC-SMARTMATIC/TIM ENGAGED IN DELAYING TACTICS?**

A policy think tank based in the University of the Philippines (UP) today asked the Comelec to release the automated election source code now for review before Smartmatic-TIM's 82,000 counting machines are mass-produced.

The request for the release of the source code sent by the Center for People Empowerment in Governance (CenPEG) to Comelec Chairman Jose Melo last May 26 was approved by the poll body in an en banc resolution late June but was received by the policy institute only on July 10.

Responding to a follow-up communication and after CenPEG's meeting with Mr. Melo, Comelec Executive Director Jose M. Tolentino, Jr. in a one-page letter called the request "premature". He further hinted that the review can be conducted only in mid-November following the customization of the system or just five months before election day.

Two weeks ago, Comelec spokesperson James Jimenez said guidelines on the source code review are yet to be drafted.

CenPEG's IT Consultant, Dr. Pablo Manalastas, said both Comelec and Smartmatic-TIM are engaged in "delaying tactics" and this supports "our suspicion that the consortium may have only a binary-level license of the election programs, and our further suspicion that they do not have a source-level license, and so cannot produce the source code for our review."

Dr. Manalastas, former chair of Ateneo de Manila University's IT department and a lecturer at UP's computer science, reminded the Comelec that it is mandated by the election modernization law (RA 9369, Section. 14) to release the source code immediately.

Section 14 of the Act reads: "Once an AES technology is selected for implementation, the Commission shall promptly make the source code of that technology available and open to any interested political party or groups which may conduct their own review thereof." Moreover, Comelec's Terms of Reference (ToR) for the 2010 election mandates the poll body "to make the final source of the PCOS (precinct count optical scan) and CCS (consolidation canvassing system) and all of its components available and open to any interested party or groups which may conduct their own code review thereof."

The source code of the election programs for the thousands of PCOS and CCS computers is the human-readable version of these programs. A source code review done by independent interested parties, including CenPEG, it is part of the major safeguards to ensure the integrity of the vote.

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Without a source code review, the integrity of Comelec's automated election system cannot be established and will likely enhance the potential of internal rigging and wholesale automated cheating. It is a major concern in countries with computerized elections including in many states in the US to involve other experts outside of the government and vendor-assigned reviewers.

Moreover, without an independent authoritative source code review, only Smartmatic and its anointed reviewers will assure the public that the computers' program is operating as it should and that the system is free from malicious bugs or tamper-proof.

Due to time constraint, no source code review was done in the 2008 ARMM election.

The source code review is part of an ongoing policy study conducted by CenPEG's Fellows, researchers and consultants under the UP College of Law. The UP College of Law's AES policy study project has already a list of volunteers from the academe and IT professionals ready to conduct the source code.

"The source code should be released now before it's too late," CenPEG political analyst Prof. Bobby Tuazon also said today. "There is no way by which the review can be made in November since by that time all the machines would have been shipped to the Philippines. Ideally and legally, the review is made before the counting machines are manufactured."

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