LEGAL CHALLENGES TO ELECTION TECHNOLOGY
Case of the Philippines

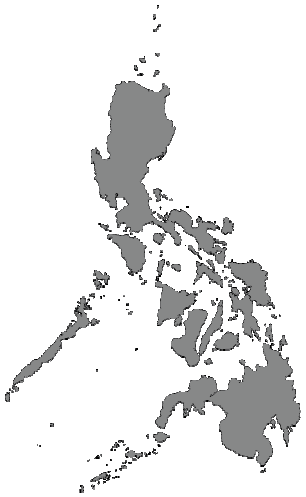
AL A. PARRENO

EARLY CHALLENGES

"To them, the automated election system and the untested technology Comelec has chosen and set in motion are pregnant with risks and could lead to a disastrous failure of elections. Comelec, they allege, would not be up to the challenge. Cheating on a massive scale, but this time facilitated by a machine, is perceived to be a real possibility."

HAS A HUGE VOTING POPULATION

Registered voters	54,363,844
Voting Precincts	92,509
Voters Abroad	1,376,067
Number of Countries	64
Number of Islands	7,641



20 Plus Years of Automated Election History

1995: Republic Act 8046 authorized pilot testing of a Computerized Election System in some provinces.

1996: Computerized election system was pilot tested in some provinces.

1997: Republic Act 8436 authorized the use of an Automated Election System.

2007: RA 9369 amended RA 8436.

2008: Automated election system was conducted in some provinces.

2010: Automated national election was conducted.

LEGAL CHALLENGES

Part 1: Legal Challenges to Automation

Part 2: Parameters of a Good Legal Framework

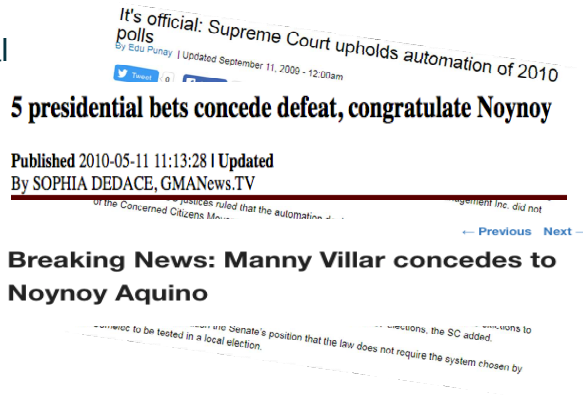
LEGAL CHALLENGES TO AUTOMATION

Part 1

RESOLUTION

"[T]he Court is fairly satisfied that the Comelec has adopted a rigid technical evaluation mechanism…to ensure **compliance with the minimum systems capabilities**."

"[T]he Court finds the project award to have **complied with legal prescriptions**…"



It's official: Supreme Court upholds automation of 2010 polls

By Edu Punay | Updated September 11, 2009 - 12:00am

5 presidential bets concede defeat, congratulate Noynoy

Published 2010-05-11 11:13:28 | Updated

By SOPHIA DEDACE, GMANews.TV

← Previous Next →

Breaking News: Manny Villar concedes to Noynoy Aquino

Image retrieved from http://www.philstar.com/headlines/503911/its-official-supreme-court-upholds-automation-2010-polls http://www.gmanetwork.com/news/news/nation/190657/5-presidential-bets-concede-defeat-congratulate-noynoy/story/ http://ratedralph.com/2010/05/breaking-news-manny-villar-concedes-to-noynoy-aquino/

CHALLENGES

"Petitioners seek to compel the Commission on Elections to have the vote-counting machine issue receipts once a person has voted."

Gordon asks SC: Compel Comelec to comply with automation law's voter verified paper audit trail requirement

Gordon asks SC to require Comelec to print receipts for May polls

Published February 22, 2016 12:24pm

Updated February 22, 2016 2:16pm

By MARK MERUEÑAS, GMA News

Former Sen. Richard Gordon on Monday asked the Supreme Court to require the Commission on Elections (Comelec) to activate the Voter Verification Paper Audit Trail (VVPAT) feature of the voting-counting machines for the May elections to allow for a receipt to be printed after a voter casts his vote.

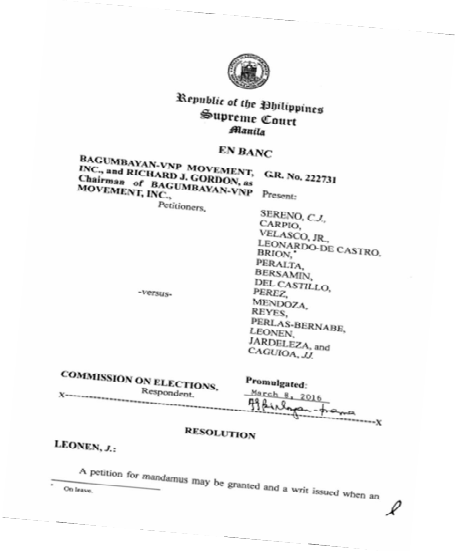
In his 24-page petition for mandamus, Gordon, who is running for senator, insisted that the Comelec should enforce Section 7(e) of Republic Act No. 9369 or the Automated Elections System (AES) Law, which states that the VVPAT is one of the minimum system capabilities of the automated election system and a major security feature of the automated voting machine.

Images retrieved from http://www.gmanetwork.com/news/news/nation/556247/gordon-asks-sc-to-require-comelec-to-print-receipts-for-may-polls/story/ and http://www.canadianinquirer.net/2016/02/22/gordon-asks-sc-compel-comelec-to-comply-with-automation-laws-voter-verified-paper-audit-trail-requirement/

CHALLENGES

"[T]he inaction of the Commission on Elections in utilizing the VVPAT feature of the vote-counting machines fails to fulfill the **duty required under Republic Act No. 8436, as amended.**"

"By setting the minimum system capabilities of our automated election system, **the law intends to achieve the purposes set out in this declaration**…"



Republic of the Philippines
Supreme Court
Manila

EN BANC

BAGUMBAYAN-VNP MOVEMENT, INC., and RICHARD J. GORDON, as Chairman of BAGUMBAYAN-VNP MOVEMENT, INC., Petitioners,

-versus-

COMMISSION ON ELECTIONS, Respondent.

G.R. No. 222731

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,*
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,
JARDELEZA, and
CAGUIOA, JJ.

Promulgated:
March 8, 2016

RESOLUTION

LEONEN, J.:

A petition for mandamus may be granted and a writ issued when an

On leave.

Image retrieved from http://barexamphil.com/wp-content/uploads/2016/03/222731.pdf

Images retrieved from Image retrieved from http://www.gmanetwork.com/news/news/nation/556247/gordon-asks-sc-to-require-comelec-to-print-receipts-for-may-polls/story/ , http://www.canadianinquirer.net/2016/02/22/gordon-asks-sc-compel-comelec-to-comply-with-automation-laws-voter-verified-paper-audit-trail-requirement/, http://barexamphil.com/wp-content/uploads/2016/03/222731.pdf , andhttp://www.gmanetwork.com/news/news/nation/201954/sc-to-comelec-disclose-may-2010-polls-source-code/story/

PARAMETERS OF A GOOD LEGAL FRAMEWORK

Part 2

PARAMETERS OF A GOOD LEGAL FRAMEWORK

"It is policy of the State to ensure **free, orderly, honest, peaceful, credible and informed elections**…"

(Declaration of Policy, Automated Election Law)

PARAMETERS OF A GOOD LEGAL FRAMEWORK

CREDIBILITY	• Credible elections
INTEGRITY	• Honest elections
TRANSPARENCY	• Informed elections
FLEXIBILITY	• Peaceful and orderly elections

CREDIBILITY

Creation of Advisory Council composed of representatives from different sectors.

CREDIBILITY

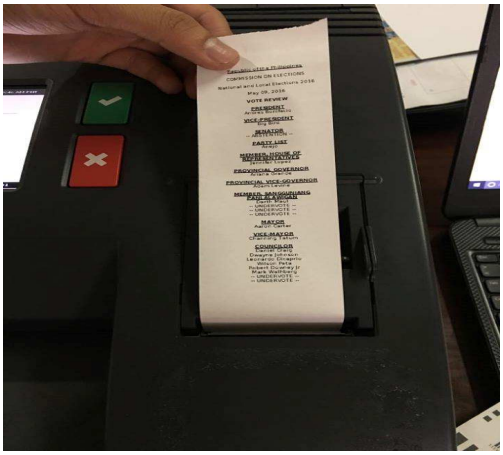
Creation of an independent Technical Evaluation Committee.

CREDIBILITY

Enumeration of the Minimum Systems Capabilities.

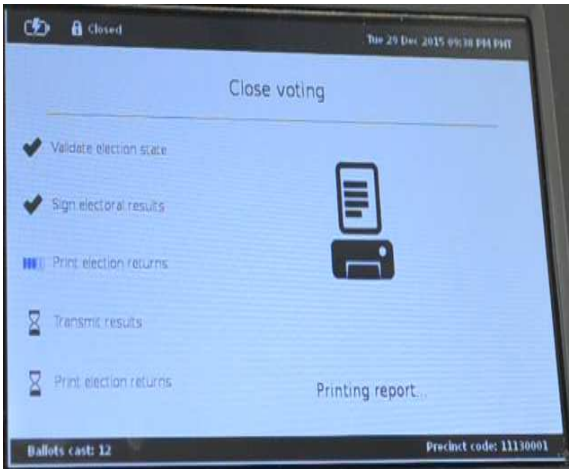
INTEGRITY

Enabling the Vote Verification Feature.



INTEGRITY

Printing and distribution of Election Returns.



TRANSPARENCY

Conduct of Random Manual Audit.

Image adapted from 2016 COMELEC RMAT Handbook

TRANSPARENCY

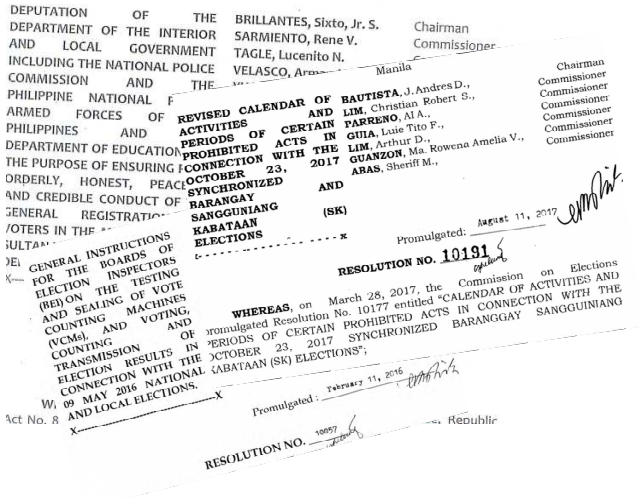
Conduct of source code review.

TRANSPARENCY

Encouraging stakeholders participation.

FLEXIBILITY

Mandating the Commission to prescribe the time, manner and procedure of voting.



DEPUTATION OF THE DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT INCLUDING THE NATIONAL POLICE COMMISSION AND THE PHILIPPINE NATIONAL P... ARMED FORCES OF PHILIPPINES AND DEPARTMENT OF EDUCATION... THE PURPOSE OF ENSURING ... ORDERLY, HONEST, PEACE... AND CREDIBLE CONDUCT OF ... GENERAL REGISTRATIO... VOTERS IN THE ... SULTAN... DE... GENERAL INSTRUCTIONS FOR THE BOARDS OF ELECTION INSPECTORS (BEI) ON THE TESTING AND SEALING OF VOTE COUNTING MACHINES (VCMs), AND VOTING, COUNTING AND TRANSMISSION OF ELECTION RESULTS IN CONNECTION WITH THE 09 MAY 2016 NATIONAL AND LOCAL ELECTIONS.

BRILLANTES, Sixto, Jr. S. — Chairman
SARMIENTO, Rene V. — Commissioner
TAGLE, Lucenito N. — Commissioner
VELASCO, Arr... — Manila — Chairman

REVISED CALENDAR OF ACTIVITIES AND PERIODS OF CERTAIN PROHIBITED ACTS IN CONNECTION WITH THE OCTOBER 23, 2017 SYNCHRONIZED BARANGAY AND SANGGUNIANG KABATAAN (SK) ELECTIONS

BAUTISTA, J. Andres D., — Commissioner
LIM, Christian Robert S., — Commissioner
PARRENO, Al A., — Commissioner
GUIA, Luie Tito F., — Commissioner
LIM, Arthur D., — Commissioner
GUANZON, Ma. Rowena Amelia V., — Commissioner
ABAS, Sheriff M., — Commissioner

Promulgated: August 11, 2017

RESOLUTION NO. 10191

WHEREAS, on March 28, 2017, the Commission on Elections promulgated Resolution No. 10177 entitled "CALENDAR OF ACTIVITIES AND PERIODS OF CERTAIN PROHIBITED ACTS IN CONNECTION WITH THE OCTOBER 23, 2017 SYNCHRONIZED BARANGAY SANGGUNIANG KABATAAN (SK) ELECTIONS";

Promulgated: February 11, 2016

RESOLUTION NO. 10057

Republic

Images retrieved from https://www.comelec.gov.ph/php-tpls-attachments/Elections/2013natloc/VoterReg/Resolutions/res9533.pdf, https://www.comelec.gov.ph/php-tpls-attachments/2017BSKE/Resolutions/com_res_10191.pdf and https://www.comelec.gov.ph/php-tpls-attachments/2016NLE/Resolutions/res_10057.pdf

THANK YOU.