

Cleansing the Electoral Process

[Lecture of Prof. Nene Pimentel of the Pimentel Center for Local Governance for the students enrolled in the Executive Program of the College of Governance and Public Policy of the University of Makati on

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Some basic premises

Importance of Elections

In a direct democracy, people rule themselves directly.

Example: Athens circa 500BC. Agora - meeting place of people who participated in government decisions.

In a representative democratic country, people govern themselves through their duly elected representatives.

That is the kind of democratic rule we have in our country. But even here there are exceptions where the people may directly propose initiatives, engage in referendums or plebiscites to approve legislations or Constitutional amendments or recall elected local officials.



As the Constitution puts it:

The Philippines is a democratic and republican State. Sovereignty resides in the people. And all government authority emanates from them.

How is the sovereignty of the people to govern themselves transferred to their representatives?

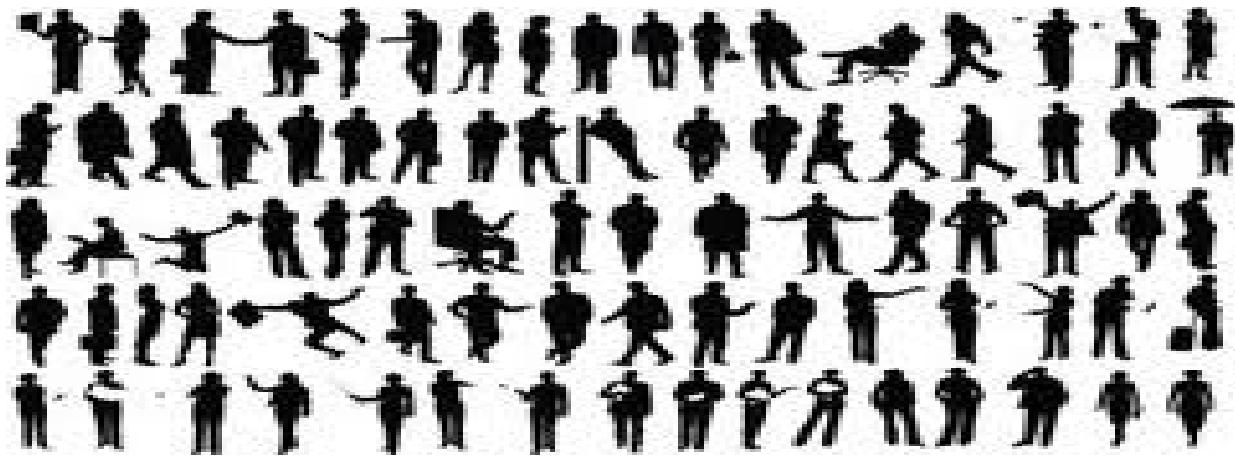


By Elections.



In separate Articles, the Constitution requires the President, the Vice President, the Senators, the Congress people, the Governors, the Vice Governors, the Board Members, the Mayors, the Vice Mayors, the Councilors, the Barangay Captains and the Members of the Barangay Sanggunian and the leaders of the Kabataan Barangay to be elected.

Elections are therefore vital to the maintenance of the principles of representative democracy. Without elections, there is no democratic and republican government. Without elections, the exercise of the sovereignty of the people is substituted by the unbridled will of one individual or group of individuals. Then, the whims of the powerful rule the people, instead of their being governed by their duly elected representatives.

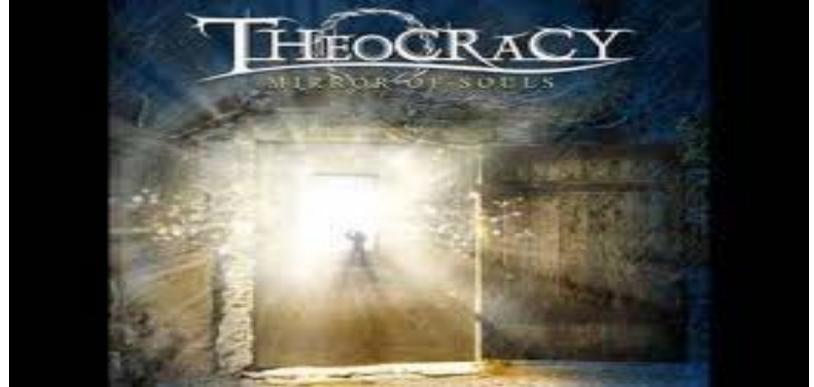


Some other governmental arrangements have been tried to take the place of democratic and republican rule in some States.

In place of the people's sovereignty, there may be a theocracy where the spiritual leader becomes the head of the government and the state. Or an oligarchy where the wealthy runs the government and the state. Or a dictatorship where one man defines what is good for the people and orders everyone to follow or else. Or worse, an ochlocracy where a mob or a gang of cutthroats prescribe and enforce their rules for the running the government as they please from moment to moment.

Theocratic Rule

Theocracy means rule of God. [In Greek, ‘theos’ means God and ‘kratein’ means to rule].



The internet mentions some examples of theocratic states in the modern world: Iran, Saudi Arabia, Sudan, Yemen, Afghanistan, the United Arab Emirates and even Pakistan whose religion is by State-mandate Muslim. Malaysia is also mentioned as a theocratic state but I think it is a mistake to do so. The leaders of Malaysia are duly elected by the people.

On the other hand, the Vatican is the only non-Muslim State that is considered a theocracy. And the reason why Vatican which is but small enclave (.17 sq m) within the territorial limits of Rome is deemed a State is that its status as such is recognized not only by Italy but by several countries as well. And its government is run by the Pope who is elected not by the residents of the Vatican but by a College of Cardinals who are empowered to do so by Church law promulgated by Popes in years gone by.

Oligarchic Rule

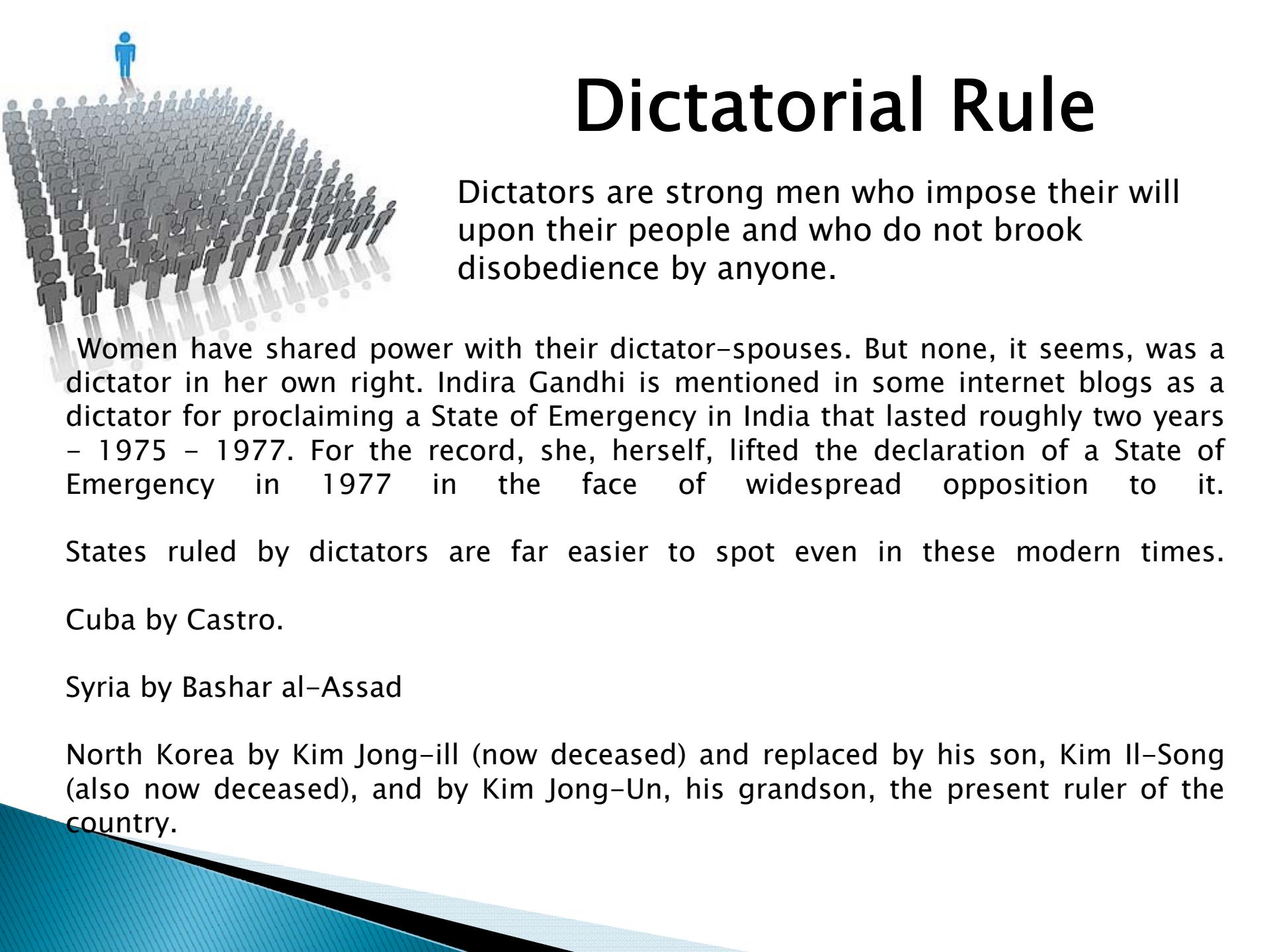


“Oligarchy” ... means the rule of the few who are richer and more powerful than others.

Some say that China, Cuba, North Korea and Tunisia are run by oligarchs.

In the ‘Dark Ages’, the City States of Greece (1000–500BC) were deemed classic examples of oligarchies.

Today, as a subset of Oligarchic Rule, corporate power in influencing public policy is said to be on the rise, at least, in the UK according to the 2012 Democratic Audit Report.



Dictatorial Rule

Dictators are strong men who impose their will upon their people and who do not brook disobedience by anyone.

Women have shared power with their dictator-spouses. But none, it seems, was a dictator in her own right. Indira Gandhi is mentioned in some internet blogs as a dictator for proclaiming a State of Emergency in India that lasted roughly two years – 1975 – 1977. For the record, she, herself, lifted the declaration of a State of Emergency in 1977 in the face of widespread opposition to it.

States ruled by dictators are far easier to spot even in these modern times.

Cuba by Castro.

Syria by Bashar al-Assad

North Korea by Kim Jong-ill (now deceased) and replaced by his son, Kim Il-Song (also now deceased), and by Kim Jong-Un, his grandson, the present ruler of the country.

Ochlocratic Rule



There's hardly any factually reliable example of an Ochlocracy running a State anywhere in the world.

If at all, perhaps, the Reign of Terror in France – from September 1793 to July 1794 – could be one example. The Reign of Terror was perpetrated by mobs in the name of the government under the leadership of Maximilien de Robespierre. Thousands in and around Paris who opposed the government led by Robespierre were guillotined. Thousands more elsewhere in France were executed, probably extra-judicially, to use a term more familiar to us.



Representative democracy best

The general experience of mankind indicates that governments more responsive to the will of the people are best instituted through the mechanisms of representative democracy. And to make representative democracy viable, elections are needed.

Periodic elections



In representative democracies, the people vest their sovereign power on their representatives – to govern their body politic – through periodic elections.

In brief, periodic elections are needed so that the individuals who are put in public offices know that there is a term fixed for their services to the people, that their holding office is not forever, and that during and at the end of that term, they are accountable for what they do and had done while in office.

Free elections



For elections to be meaningful, they must be free, clean and honest.

Otherwise, the whole electoral process becomes a sham device that merely serves to concentrate government power in the hands of usurpers who would advance not the general welfare but their personal interests.

Hence, the urgency of the citizens' vigilance over and their participation in the election process to ensure free, clean and honest elections.



Again, the Democracy Audit Report adverted to in Slide 7 puts it quite clearly:

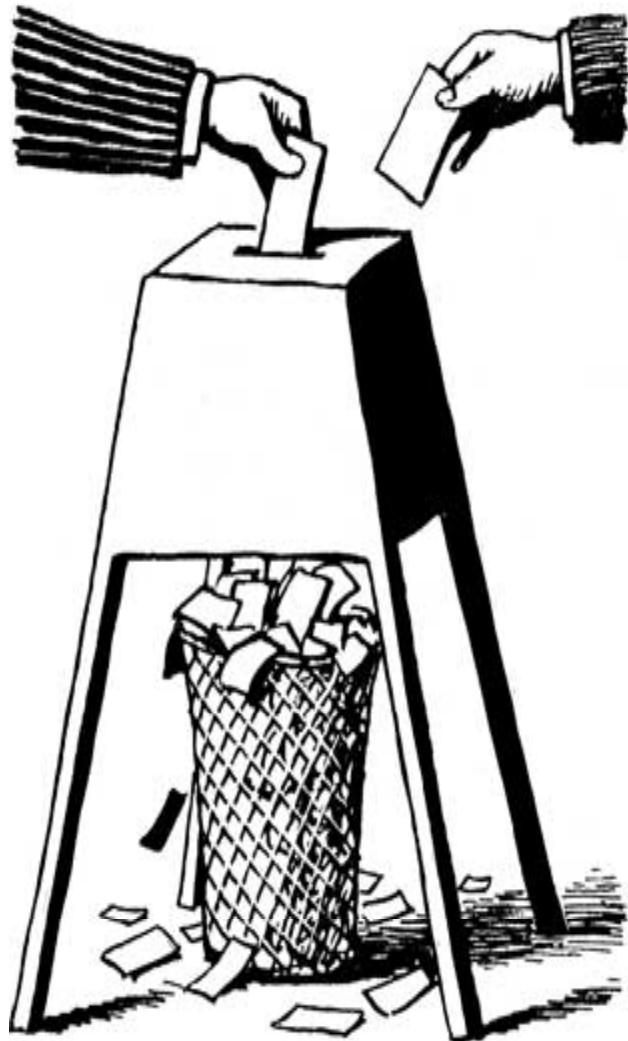
"The reality is that representative democracy, at the core, has to be about people voting, has to be about people engaging in political parties, has to be about people having contact with elected representatives, and having faith and trust in elected representatives, as well as those representatives demonstrating they can exercise political power effectively and make decisions that tend to be approved of.

Before we go into what we, as citizens, can do to help cleanse the electoral process, let us first take a quick look at the ways cheats misuse the electoral process for their personal gain.

Election cheating

Manual Voting

A friend of mine who has now gone to the Great Beyond, Ding Tanjuatco, has done a creditable job in cataloguing the various ways by which election cheating was done in the regime of manual voting. We will quote substantial parts of his work in this discussion.



Please note that although we are now using election machines to cast and canvass our votes, some of the old means of manipulating the elections could still be resorted to by election cheats.

I.Pre-Election Anomalies

"1. Registration of non-qualified voters"

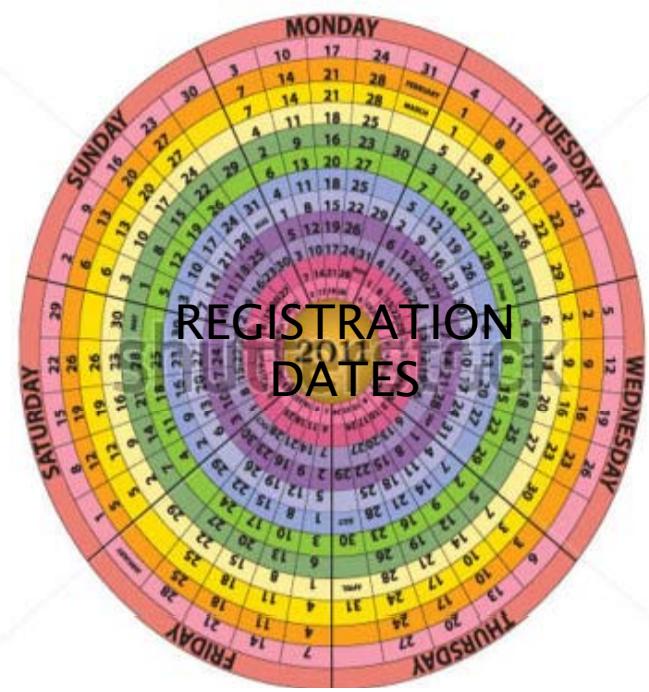
Today, the registration of voters is done throughout the year. Unlike in years gone by, the registration of voters could be done only in a specified period.

Now, people can go to the nearest office of the Comelec and register themselves.



Year-round registration

The idea to have year-round registration periods is good. It facilitates the registration of voters who may get registered at times that are convenient to them.



In days past, voters could register only during periods set by law. Watchers from accredited political parties were present when the registration process went into full swing.

Today, no accredited political party has watchers assigned to the Comelec the year-round. Hence, the registration process opens itself to manipulation by the evil-minded.

How registration of voters manipulated?



By registering voters who, as Ding Tanjuatco put it “do not meet the citizenship, age or residence requirements.”

Unfortunately, in general, the Comelec as an institution has lost the trust of the people because of the massive frauds that had usually characterized elections in the country. Frauds that people knew could not have been done without the complicity of officials of the Comelec.

And so, if no partisan watchers witness the registration of voters in the Comelec offices, the tendency is that anomalies will taint the proceedings.

“2. Preventing registration of qualified voters”

How is this done?



By persuasion, threats or direct physical intervention.

Or by financial or other material inducement.

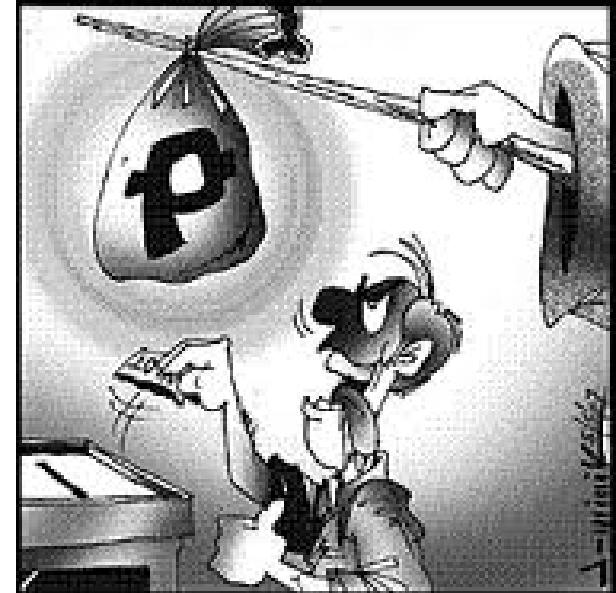
Or, as Ding Tanjuatco adds, by expunging their names “from the voters' lists through ... exclusion proceedings in court.”

This manner of preventing voters from exercising their right of suffrage is a little more difficult to do because the judiciary is involved. And unless the judge concerned is corrupted or is also terrorized, excluding voters through judicial proceedings is easier said than done.

II. Election Day Anomalies

1. Vote buying

- “a) individually, in groups, or
- “b) through “chained balloting”



These election-day anomalies are serially discussed below.

By its terminology, election-day vote buying is done mainly on the day of the election.

Usually (a) before the voting begins or
(b) while voting is on-going or
(c) on the days leading up to election-day.

How is it done?

Usually, out of sight of other people either (i) in the abode of the voter(s) concerned or (ii) in the Headquarters of the vote-buying candidate or in (iii) some other “friendly territory”.



Vote buying may be done individually, that is, the vote-seller agrees to vote for a particular candidate in consideration of a certain sum of money, material benefit or an expected favor.

Vote buying may also be ‘wholesale’, meaning every voter in a household, family or clan or living in a barangay, municipality or city zone is paid to vote for identified candidates. And the money or other consideration is given through whoever is deemed to be the house head or the leader of the family, clan or zone.

Whether done individually or wholesale, usually the transaction is done out-of-sight of other people.

May also be brazen

Sometimes, the election cheats who might have already corrupted the Commission of Election people and the law-enforcers feel that they enjoy a degree of impunity, and they would do the vote-buying activities right before the eyes of the curious, the idlers or the passersby.



Vote buying becomes more frenzied as the closing hours of voting near. Election operators know by then who have not yet voted, and, very likely, the reason for their not having done so yet.

In parts of the Visayas and Mindanao and I suppose in Luzon, too, some voters who want to sell their votes purposely delay their voting to wait for “alindahaw”.

Guaranteeing compliance

How does the vote-buyer satisfy himself or herself that the vote-seller will really vote for the candidates of the vote-buyer?

In the old days, if the vote-buying was done individually, one way was to make the vote-seller fill up his or her ballot on top of a carbon paper that would leave duplicate imprints of his or her vote on another piece of paper. After voting, the vote-seller would then present the duplicate imprints to the vote-buyer to prove compliance with the agreement.

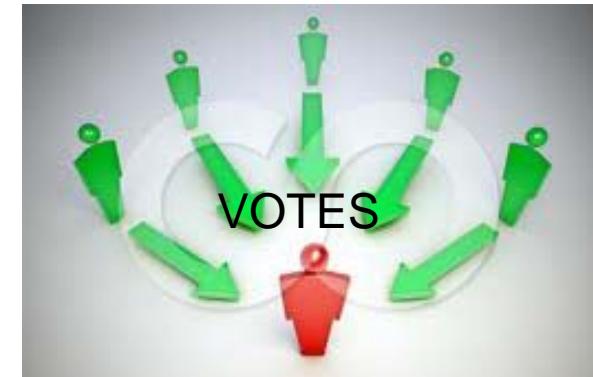
If the vote-buying was done wholesale, checking on compliance would be a little more difficult. In any case, the vote-buyer would usually rely on his or her close connections with the leader of the vote-sellers. And by closely checking on the results of the elections at the precincts, there would be subtle pressure on the vote-sellers who **do not wish to comply**.



Lansadera

There's a more sophisticated vote buying practice that is meant to ensure that a big number of voters in a precinct are bought and would deliver on their part of the bargain.

This is done through what Ding Tanjuatco calls “lansadera” or “chained balloting”.



As Ding Tanjuaco describes it, “at the start of the (election) day, all the potential (vote-sellers) are gathered in one place and, as soon as the polls are opened, one of them is sent to the polling place. After the usual identification process, he or she obtains a ballot from the poll clerk, which the person then takes with him or her to the polling booth.

“At this point, everything is still fine and dandy. But what he or she does with the ballot becomes the heart of the illegal scheme. Instead of filling up the ballot, the person puts it in his or her pocket and casts something that looks like a ballot into the ballot box. Thereafter, he or she presents the blank official ballot to the (vote) buyer who pays the individual an amount for his or her effort. The (vote) buyer then fills up the ballot and hands the same to the second voter. The second voter goes to the polling place and obtains a blank official ballot but does not drop this in the ballot box. Instead, the individual drops the ballot (that he or she secretly brings into the precinct and) which was filled up by the (vote) buyer. The vote-seller then turns over the blank official ballot to the (vote) buyer and the cycle is repeated.”

The presentation of the fake ballot can be frustrated by alert poll watchers and the teachers on election-day duty. Whether they do so or not, unfortunately, depends also on many factors, not the least of which is whether or not they are also on the take from the election operators.

I guess this manner of chained ballot cheating – also called “cadena de amor” in other places – may be difficult to do under the Automated Election System. Since the first fake ballot of the “chained balloting” would very likely be rejected by the election machine, the other links in the chain of pre-filled ballots, would likewise be exposed and thrown out.

To go on with Ding Tanjuatco’s treatise, he also says that the vote-seller’s ballot may be

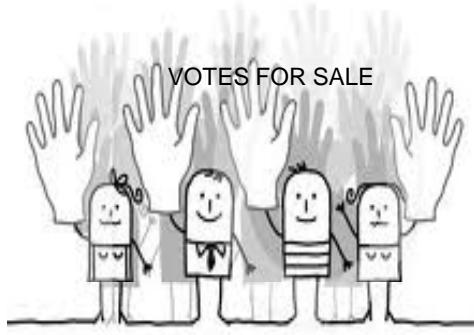
“b) with or without identifying marks”

Another way by which the vote-seller is made to live up to his end of the bargain is tell the person how to fill up his or her ballot. The vote-seller may be required “to write the candidate's name in a peculiar way, e.g. first name last (or) with a nickname (or) slightly misspelled etc.”



“3. Negative vote buying

“This is the simplest way of buying votes. Where a candidate is certain that a voter will not vote for him or her, the vote-seller is paid not to vote. Efficiency can be achieved by herding the voters together and getting them on a bus that will take them away for the rest of the day. A lot of times, the voters will be compelled to have their index fingers smeared with indelible ink.”



Payment, how made?

Sometimes by installment. One-half when the vote-seller goes to the precinct to vote. And the next half after he or she votes. Sometimes, payment is done in full only when the vote is done according to the transaction.

The manner of vote buying discussed above refers to **consensual transactions**.

The following discussion deals with the use of wile, intimidation, force or violence to frustrate the free exercise of the right of suffrage.

Here's Ding Tanjuatco again:

“4. Waylaying of voters

“a) through fraud or stealth

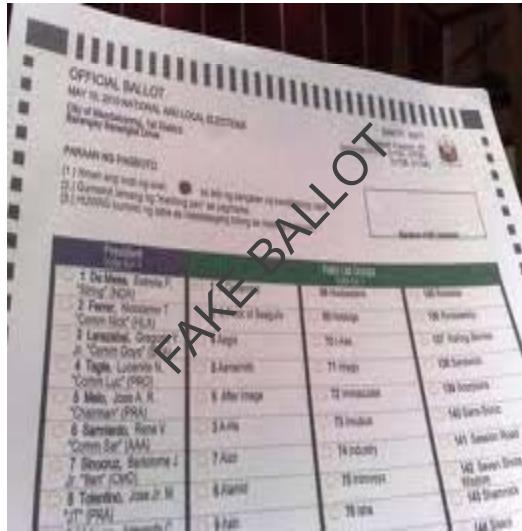
“This has the same objective as negative vote buying except that no financial benefit accrues to the voter. With the connivance of the Board of Election Inspectors, the voter's name is deleted from the list. This results in confusion resulting in the voter being disenfranchised.”



[Sometimes, the voters' list previously assigned to a precinct is transferred without adequate notice to the voters concerned. The search for the list can be time consuming and frustrating. And some voters just give up and forfeit their right to vote.]

“b) through intimidation or downright terrorism

“Disenfranchisement is also attained (by intimidating the voter(s) or (subjecting them to acts of terrorism). ... the means used are less subtle.



“5. Stuffing of ballot box with fake ballots

“The ballots stuffed ... with fake ballots that will have the name(s) of the candidate(s) written in the appropriate place(s).

“6. Ballots written by only one person or group of persons

“This is usually employed in highly controlled or highly terrorized areas. The legitimate voters are driven away and the henchmen of the warlord are left to do the voting for them.

“7. Voting by persons other than the registered voters

“Towards the end of the voting period, the list (of voters) is scanned for those who have not voted yet. Ballots are issued to persons other than the registered voters and are filled up by the co-conspirators [including BEI members and party watchers] of the cheating candidate. As expected, it is his (or her) name that will appear in the appropriate place.

“8. Misreading of Ballots

“This is a rather simple maneuver. All it requires is the blind albeit cooperative eyes of the Board of Election Inspectors and the complacency of the watchers.

The names read for the various elective positions will be the names of the cheating candidates.



“8. Ballot/Ballot Box snatching or destruction

“Where a candidate is losing in a precinct, the snatching of the ballot box or its destruction (together with its contents) will deny his (or her) opponent the lead that the latter could have enjoyed in that precinct.



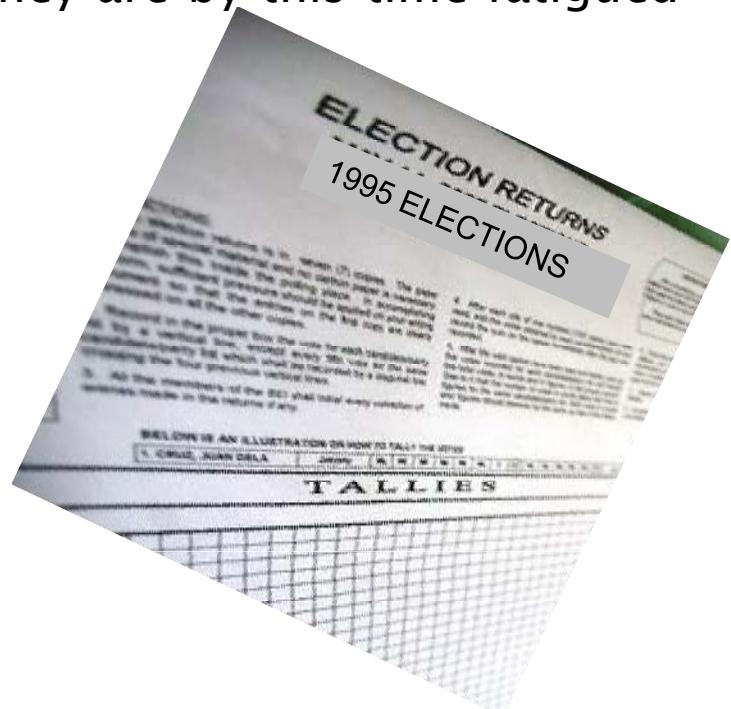
“9. Ballot/Ballot box substitution

“This is a refinement of snatching or destruction. Not only does it deny the opponent of the votes he (or she) could have gotten – it also credits the cheating candidate (with) as many votes as there are substituted ballots.

"10. Falsification of or tampering with Election Returns

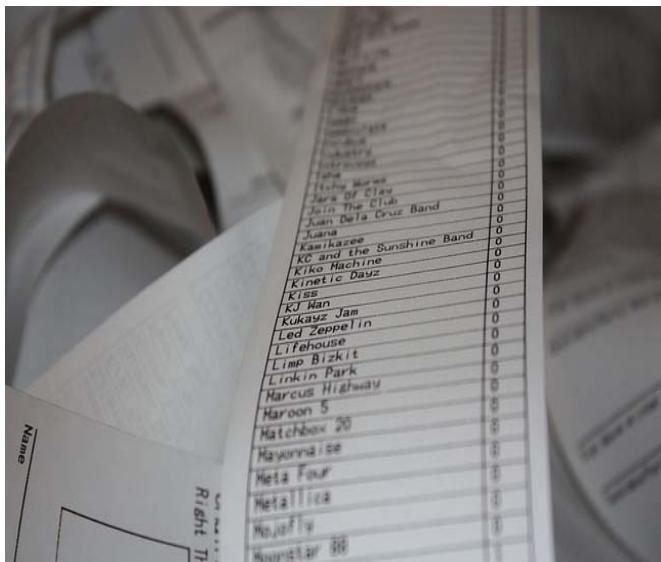
"This is a very cost efficient way of cheating. After the counting is completed in the precinct, the votes are recorded in a document called the Election Returns. The intercalation of a single digit can result in a hundred votes added in favor of a candidate. And this is so easy to do because by this time the level of awareness (of the Board of Election Inspectors, the Watchers and even the concerned citizens might have) relaxed (because they are by this time fatigued or for other less savory considerations.

[This is what happened when I was the principal victim of dagdag-bawas in the elections of 1995].



“11. Falsification of Statement of Votes or Certificate of Canvass in the Municipal or City Board of Canvassers

“This (manner of cheating) becomes even more vicious when the manipulation is done at the level of the city or municipal board of canvassers. The results of all the precincts in a city or municipality are recorded in a document called the Statement of Votes which is prepared by the board of canvassers. Note that municipalities or cities have thousands, tens of thousands or even hundreds of thousands of voters. The insertion or intercalation of one or two digits can result in tens of thousands of votes undeservedly added.



“12. Falsification of Statement of Votes or Certificate of Canvass in the Provincial Board of Canvassers

“The situation becomes fatal (to the party-cheated) if the manipulation is done at the level of the provincial board of canvassers, given the number of voters in most provinces which can go up to a million.

Automated Cheating

Now that we are using voting machines, we have to contend with Automated Election Cheating.

On June 9, 2010, in representation of the Senate Opposition, I made a statement as a member of the National Board of Canvassers entitled

**“HAIL TO THE CHIEF
and
BLESSED BE HIS VICE”**

at the proclamation of the newly-elected President and Vice President at the Session Hall of the Batasang Pambansa.

“Hail to the Chief” was my proffered greetings to the newly-elected President Benigno Simeon Aquino III. As everyone knows that is the title of the U.S. Presidential Hymn that is usually played when the President makes a public appearance.

And the phrase, “Blessed be his Vice”, I kidded, was not in reference to newly-elected President’s vice of heavy smoking but to the newly-elected Vice President of the Republic Jojo Binay.

With the felicitations done, I went on to criticize certain failures of the automated election system that we used for the first time nationwide in the elections in 2010.

Regrets

I expressed my regrets that the PCOS machines that we used for the very first automated elections on May 10, 2010 were not completely reliable and were tainted by certain anomalies.

The irregularities, abnormalities, or glitches, if you like, however, did not suffice to nullify the results of the entire electoral exercise, especially because President Noynoy Aquino had established an insurmountable lead of some five million votes over his closest rival.



Nonetheless, the automated electoral system left a long trail of deficiencies that I said needed to be remedied if we are to use AES machines in future political exercises. The defects were mostly machine-generated [but, at least, in one 2010-election-related incident in Cagayan de Oro, the anomaly was specifically man-made as is shown with more detail in Slides 56–59].

Right denied

As one of the AES defects, I pointed out that our voters were denied the right to know if the votes they had cast for their chosen candidates were duly recorded by the so-called Precinct Count Optical Scan (PCOS) machines. The paper-trail that I, as a lawmaker, was assured would be available for that purpose, never materialized in any of the election machines used all over the country. All that came out of the PCOS machines after every ballot was read by the machines was an inane, silly, and childish message that said: “Congratulations! You have successfully voted.”

For another, there were several certificates of canvass electronically sent to the national Canvassing and Consolidation Server (CCS) that contained data errors.

Strictly speaking, those mistakes should have resulted in the nullification of the votes enumerated in the certificates.



Wrong dates

Indeed, the certificates of canvass bore the correct date of the elections, May 10, 2010. But some misstated the date and the time of the closure of the polls. For example, in Bacolod City, copies of canvass reports from precincts in the city noted that the polls closed on January 18, 2010. If the closure date was correct, then, the people in Bacolod voted long before the official voting day that was May 10, 2010.



In Quezon City, Congresswoman Annie Susano shared with me the contents of a CF card that was presumably taken from one of the PCOS machines used in the elections in the city.

On-Off Sensors

When the CF card was opened by the use of a privately-owned computer, it disclosed that of the seven sensors in the PCOS machine from which the card was taken, four were put on and off at certain intervals and three were permanently switched off.



The sensors, I am told, are the devices that read the contents of the ballots when they are processed by the PCOS machines.

The CF card as read showed the following data:

Sensor Settings of PCOS

Item #	Time: from	Time: to	Duration	Acosta Aquino	Delos Reyes Estrada Gorden Fernando Legarda	Madrigal Teodoro Villanueva	Villar	?	?	?	# Ballots scanned	# of Ballots Running Total
				Binay Chipeco	Manzano Roxas	Sonza Yasay	?	?	?			
				PS1	PS2	PS3	PS4	PS5	PSDV	PSDSD		
10-May												
1	7:30:43	7:32:28	0:01:45	on	on	off	off	off	off	on	2	2
2	7:32:28	7:33:34	0:01:06	on	off	off	off	off	off	on	2	4
3	7:33:34	7:33:35	0:00:01	off	off	off	off	off	off	off	0	4
4	7:33:35	7:35:09	0:01:34	on	off	off	off	off	off	off	4	8
5	7:35:09	7:35:14	0:00:05	off	off	off	off	off	off	off	0	8
6	7:35:14	7:37:03	0:01:49	on	on	off	off	off	off	off	4	12
7	7:37:03	7:37:05	0:00:02	off	off	off	off	off	off	off	0	12
8	7:37:05	7:47:28	0:10:23	on	on	off	off	off	off	on	6	18
9	7:47:28	7:47:40	0:00:12	off	off	off	off	off	off	off	0	18
10	7:47:40	7:50:48	0:03:37	off	off	off	off	off	off	off	2	20
11	7:50:48	7:54:25	0:08:14	off	off	off	off	off	off	off	1	21
12	7:54:25	8:02:39	0:01:30	off	off	off	off	off	off	off	6	27
13	8:02:39	8:04:09	0:06:52	off	off	off	off	off	off	off	3	30
14	8:04:09	8:11:01	0:06:24	off	off	off	off	off	off	off	7	37
15	8:11:01	8:17:25	0:04:07	off	off	off	off	off	off	off	7	44
16	8:17:25	8:21:32	0:01:11	on	on	off	off	off	off	off	4	48
17	8:21:32	8:22:43	0:13:33	on	on	off	off	off	off	on	3	51
18	8:22:43	8:36:16	0:02:33	on	on	off	off	off	off	on	14	65
19	8:36:16	8:38:49	0:04:44	on	on	off	off	off	off	off	5	70
20	8:38:49	8:43:33	0:05:56	off	off	off	off	off	off	off	4	74
21	8:43:33	8:49:29	0:04:02	off	off	off	off	off	off	off	9	83
22	8:49:29	8:53:31	0:02:17	off	off	off	off	off	off	off	3	86
23	8:53:31	8:55:48	0:19:01	off	off	off	off	off	off	off	5	91
24	8:55:48	9:14:49	0:06:02	off	off	off	off	off	off	off	24	115
25	9:14:49	9:20:51	0:00:22	off	off	off	off	off	off	off	8	123
26	9:20:51	9:21:13	0:10:06	on	on	off	off	off	off	off	13	136
27	9:21:13	9:31:19	0:00:00	off	off	off	off	off	off	off	0	136
28	9:31:19	9:31:19	0:01:55	on	on	off	off	off	off	off	2	138
29	9:31:19	9:33:14	0:05:26	on	on	off	off	off	off	off	15	153
30	9:33:14	9:48:40	0:15:26	off	off	off	off	off	off	off	8	161
31	9:48:40	9:55:26	0:07:46	off	off	off	off	off	off	off	5	166
32	9:55:26	9:58:14	0:03:48	on	on	off	off	off	off	on	31	197
33	9:58:14	10:22:17	0:24:03	on	on	off	off	off	off	on	5	202
34	10:22:17	10:28:26	0:06:10	on	on	off	off	off	off	on	19	221
35	10:28:26	10:42:42	0:14:16	on	on	off	off	off	off	on	0	221
36	10:42:42	10:42:57	0:05:15	off	off	off	off	off	off	off	3	224
37	10:42:57	10:44:03	0:01:46	on	on	off	off	off	off	on	3	227
38	10:44:03	10:45:40	0:01:37	off	off	off	off	off	off	off	1	228
39	10:45:40	10:46:02	0:00:22	on	on	off	off	off	off	on	5	233
40	10:46:02	10:46:39	0:00:37	off	off	off	off	off	off	off	2	235
41	10:46:39	10:48:42	0:02:03	on	on	off	off	off	off	on	6	241
42	10:48:42	10:49:28	0:01:46	on	on	off	off	off	off	on	16	257
43	10:49:28	10:53:52	0:04:24	on	on	off	off	off	off	on	1	258
44	10:53:52	11:05:48	0:11:56	off	off	off	off	off	off	off	15	273
45	11:05:48	11:06:18	0:00:30	on	on	off	off	off	off	on	5	278

46	11:06:18	11:18:06	on	on	off	off	off	off	on	0	278	0	278
47	11:18:06	11:21:27	on	on	off	off	off	off	on	19	297	19	297
48	11:21:27	11:22:02	off	10	307	10	307						
49	11:22:02	11:32:10	off	0	307	0	307						
50	11:32:10	11:38:57	off	0	307	0	307						
51	11:38:57	11:38:58	off	9	316	9	316						
52	11:38:58	11:38:58	on	on	off	off	off	off	on	5	321	5	321
53	11:38:58	11:44:12	off	0	321	0	321						
54	11:44:12	11:51:11	on	on	off	off	off	off	off	2	323	2	323
55	11:51:11	11:51:13	off	2	325	2	325						
56	11:51:13	11:52:17	on	on	off	off	off	off	on	0	325	0	325
57	11:52:17	11:53:29	on	on	off	off	off	off	on	4	329	4	329
58	11:53:29	11:53:37	off	10	339	10	339						
59	11:53:37	11:57:22	off	11	350	11	350						
60	11:57:22	12:08:27	on	on	off	off	off	off	on	1	351	1	351
61	12:08:27	12:17:11	on	on	off	off	off	off	off	6	357	6	357
62	12:17:11	12:18:52	off	2	359	2	359						
63	12:18:52	12:21:17	on	off	off	off	off	off	off	2	361	2	361
64	12:21:17	12:23:07	on	on	off	off	off	off	on	7	368	7	368
65	12:23:07	12:23:59	on	on	off	off	off	off	off	2	370	2	370
66	12:23:59	12:27:22	off	1	371	1	371						
67	12:27:22	12:31:21	on	on	off	off	off	off	off	5	376	5	376
68	12:31:21	12:36:07	on	on	off	off	off	off	on	5	381	5	381
69	12:36:07	12:40:13	off	3	384	3	384						
70	12:40:13	12:44:18	off	3	387	3	387						
71	12:44:18	12:47:23	off	22	409	22	409						
72	12:47:23	12:51:24	off	5	414	5	414						
73	12:51:24	13:11:11	on	on	off	off	off	off	on	3	417	3	417
74	13:11:11	13:13:55	on	on	off	off	off	off	on	3	420	3	420
75	13:13:55	13:15:08	off	7	427	7	427						
76	13:15:08	13:16:45	on	on	off	off	off	off	on	10	437	10	437
77	13:16:45	13:23:08	off	6	443	6	443						
78	13:23:08	13:23:08	off	14	457	14	457						
79	13:23:08	13:29:05	on	on	off	off	off	off	on	1	458	1	458
80	13:29:05	13:34:15	on	on	off	off	off	off	off	0	458	0	458
81	13:34:15	13:44:21	off	13	471	13	471						
82	13:44:21	13:44:43	off	2	473	2	473						
83	13:44:43	13:44:45	off	4	477	4	477						
84	13:44:45	13:51:23	on	on	off	off	off	off	on	2	479	2	479
85	13:51:23	13:52:17	on	on	off	off	off	off	on	11	490	11	490
86	13:52:17	13:55:17	on	on	off	off	off	off	on	5	495	5	495
87	13:55:17	13:56:08	on	on	off	off	off	off	on	4	499	4	499
88	13:56:08	14:03:52	on	on	off	off	off	off	on	4	503	4	503
89	14:03:52	14:08:21	off	7	510	7	510						
90	14:08:21	14:10:16	on	on	off	off	off	off	on	2	512	2	512
91	14:10:16	14:15:48	on	on	off	off	off	off	on	17	529	17	529
92	14:15:48	14:19:30	off	9	538	9	538						
93	14:19:30	14:20:08	on	on	off	off	off	off	on	6	544	6	544
94	14:20:08	14:31:02	off	7	551	7	551						
95	14:31:02	14:41:47	off	0	551	0	551						
96	14:41:47	14:46:41	on	on	off	off	off	off	on	8	559	8	559
97	14:46:41	14:50:21	on	on	off	off	off	off	off	21	580	21	580
98	14:50:21	14:50:22	on	on	off	off	off	off	off	5	585	5	585
99	14:50:22	14:56:24	on	off	off	off	off	off	off	8	593	8	593
100	14:56:24	15:12:16	on	on	off	off	off	off	on	0	593	0	593
101	15:12:16	15:14:49	off	10	603	10	603						
102	15:14:49	15:20:22	off	5	608	5	608						
103	15:20:22	15:20:23	off	3	611	3	611						
104	15:20:23	15:20:24	off	3	614	3	614						
105	15:20:24	15:25:41	off	5	619	5	619						
106	15:25:41	15:31:07	on	on	off	off	off	off	off	0	619	0	619
107	15:31:07	15:34:16	on	off	off	off	off	off	off	3	622	3	622

Basically wrong

One does not need to be an IT expert to understand that a reading of Sensor Settings of the CF card cited above readily shows that something was basically wrong with that particular PCOS machine. The switching of sensors on-and-off meant that some votes were counted some of the time, while others were not counted most of the time.



The anomaly just described does not, however, speak of the ALL the PCOS machines that were used throughout the country.

Nonetheless, if one of the PCOS machines did go wrong or was programmed to read some votes in some of the columns listing the candidates and not read others at certain times, there is ground for alarm that all was not well with the AES process that we used in the May elections.

It is unfortunate that Congresswoman Susano, in my opinion, appeared unable to go for broke in her expose of the anomalies she encountered in her own district in Quezon City during the elections.



Board's duty

The rules governing the canvass of the certificates of votes in the Constitution (Article VII, Section 4) and the pertinent laws on the matter define one main thing. Our work as members of the Joint Congressional National Canvassing Board was to determine the 'due execution and authenticity' of the certificates of canvass electronically sent to us.

In layman's language that meant that we were obliged to find out if the certificates sent to us had been prepared properly by the persons (members of the provincial and city Board of Election Inspectors) authorized by law to do so and were true, real or genuine. If there were alterations, erasures or indications that the certificates had been tampered with, the Constitution and the pertinent laws mandated **us to** disregard the certificates concerned.

While the erroneous dates on the closure of the polls inscribed on some certificates of canvass as mentioned above did not strictly speaking refer to the number of votes the candidates received or the names of the candidates voted for in the places covered by the canvass, the thing is that those erroneous dates were a tell-tale sign that something was grievously wrong with the machines that tallied the votes and transmitted them electronically to the Joint Congressional National Canvass Center.

Signs of tampering?

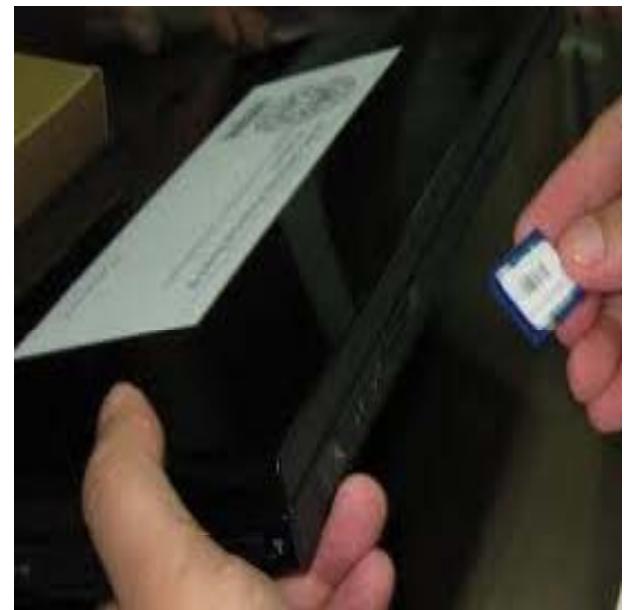


The errors in the dates of the closure of polls, I submit, indicated that the PCOS machines could have been tampered with or that the machines simply committed errors that corrupted the documents, i.e., the certificates of canvass they had sent to us. If erasures or alterations in the certificates of canvass in the old manual voting system that we followed in the past were deemed sufficient to cause the rejection of the certificates of canvass concerned, why were the error-filled electronically generated certificates of canvass although machine-caused (on the dates of the closure of the polls) considered valid?

As explained by Philippine Computer Society Director Edmundo Casino:

"The Inaccurate Date and Time stamped reflected on some Election Returns (ERs) that were transmitted to the subsequent level of board of canvassers as stipulated in the applicable laws cannot (be excused by) Smartmatic (the vendor of the machines) that their operator may have altered or the machines were inevitably 'shaken' (when transported to the Philippines). The same vendor, after all, had asserted that all PCOS machines were tested 100% for their durability in the Shanghai manufacturing plant and that the system clock is affixed and aligned to a global time zone, i. e. 8 hours from GMT (Manila–Beijing–Singapore Time). The normal reset of the system clock by default will bring it to 01-01-10 which is January 1, 2001, not January 27, 2010 or April 28, 2010 or May 3, 2010.

"The only plausible explanation for this (anomaly) is that some cloned or similar PCOS devices (were) used for scanning counterfeit ballots printed elsewhere in some clandestine areas so that the erroneous number of votes of the candidate(s) for local or national positions on the dates and times shown in the Election Returns were recorded and captured as if they were genuinely 'original' in the CF memory card. And possibly during Election Day, the CF Card bearing the pre-scanned and pre-counted results could have been switched with unused and real CF card."



Egregious error

There was one other egregious error that staggered the imagination and defied any explanation on the reliability of the PCOS machines.

The 'initialization message' sent electronically by the Comelec to the Senate President was dated correctly: May 10, 2010. In simple terms the initialization message was meant to alert the Senate through the Senate President that the computerized server in the custody of the Senate was now ready for activation, that is, to do its functions.



The initialization message, however, had a most glaring blunder. It recorded the voting population of the Philippines at 256,733,195 or roughly more than five times the true figure of some 51 million.

I thought out aloud for all to hear that the figures probably referred to Indonesia that had some in the audience tittering and Cesar Flores, the Venezuelan Smartmatic official, shifting uneasily on his seat.

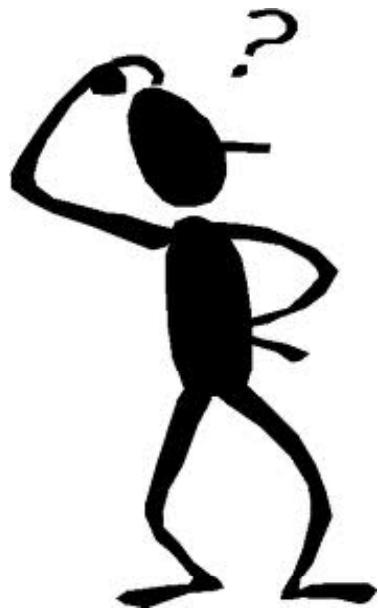
Asked to explain the error, Flores, who usually spoke for Smartmatic before public forums and even before the National Canvassing Board gave what amounted to a non-explanation that aggravated the situation.

Flores's clarification was unintelligible. His answer merely blamed the PCOS machine concerned for mechanically multiplying the real number of the registered voters of the country five times. He did not respond to the more fundamental question of why did it happen? Why was the factor of "five" used? Who did it? And why was it not detected earlier rather than later by an automated election system that was supposedly certified to be accurate, fast and reliable?

We underscored the adverb, supposedly, to qualify the word 'certified' for the reason that the certification issued by the Technical Evaluation Committee of the Comelec was essentially based on the certification of the Systest Lab, Inc., a U.S. based systems test company. And Systest Lab listed down a number of devices – 'compensating controls' – that had to be imbedded in the PCOS machines to enable them to function with a 99.995 percent accuracy.

Those compensating controls were not installed according to the Philippine Computer Society.

Small wonder that Ambassador Tita de Villa, head of the Parish Pastoral Council for Responsible Voting (PPCRV), reported to the Joint National Canvassing Board that on the average errors recorded by the PCOS machines was .007%, not .005%. That was a significant admission by an accredited NGO watchdog for clean and honest elections for the reason that only a .005% margin of error was deemed allowable by the contract between Smartmatic, the PCOS machines provider, and the Comelec, the government agency that handles elections in the country.



Rational explanation

Casino had a more rational explanation for the blatant irregularity.

“The erroneous numbers of Registered Voters of 256 million odd entered in the Senate Consolidation and Canvassing System (CCS) defies the claimed accuracy of the system procured from the vendor.

“Section 7 of RA 9369 (amended as Section 6) under the heading Minimum System Capabilities stipulates that the automated election system (AES) must have, among other things, at least, the following functional capabilities:

“1. **Accuracy** in recording and reading of votes as well as in the tabulation, consolidation and canvassing, electronic transmission, and storage of results;

“2. **System integrity** which ensures physical stability and functioning of the vote recording and counting process;

“3. **System audit ability** which provides supporting documentation for verifying the correctness of reported election results; etc.”

Casino argued further that “Given the unacceptable error of this magnitude, the issue of Smartmatic’s capability to deliver a reliable product that was clearly stated in Section 10 of RA 9369 (amended as Section 12) under the heading Procurement of Equipment and Materials, comes to the fore.

That section of the law stipulated that “With respect to the May 10, 2010 election and succeeding electoral exercises, the system procured must have demonstrated capability and been successfully used in a prior electoral exercise here or abroad.

“Participation in the 2007 pilot exercise shall not be conclusive of the system's fitness.

“If the vendor Smartmatic claims they are the experts in election systems, why would such blatant error manifest itself in the halls of the Senate on an actual live run?”

Casino’s thesis is that Smartmatic that supplied us the PCOS machines had not shown that the company’s system had been successfully demonstrated either here or elsewhere.

Other missteps

There were other specific missteps that were committed separately by either Smartmatic or Comelec, or, jointly by both entities.

Examples follow:



1. The arbitrary removal of security safeguards like the digital signatures of the Board of Election Inspectors that were supposed to accompany the electronically sent canvass reports from the provinces and the cities.

The deletion of the digital signatures mentioned above made our work as members of the National Canvassing Board more complicated. We could not immediately determine the due execution and authenticity of the COCs we were canvassing simply by looking over the documents.

2. The nonuse of the portable UV lamps that were supposed to spot spurious ballots even before their insertion into the PCOS voting machines in the precincts.

Making the use of the portable UV lamps non-obligatory put into doubt the validity and accuracy of the COCs sent to the Joint Congressional Canvass Board.

3. The disabling of the Ultra Violet (UV) Lamps in the PCOS machines.

The disconnection of the UV lamps in the PCOS machines apparently laid the basis for COMELEC's conducting an emergency procurement of the portable UV lamps worth 30 million pesos. Up to now, questions hover over the issue of the proper use of the P30m. Incidentally, the portable UV lamps were not used by the BEI as most of its members at the time did not know the purposes of the UV lamps.

4. The relaxation of the original requirement to use UV ink.

The use of the UV ink was meant to ensure the machine will only read official ballots printed by the authorized National Printing Office (NPO) as mandated by Section 13 of RA 9369 (amended as Section 15) under the title, Official Ballot.

The section states that “With respect to a paper-based election system, the official ballots shall be printed by the National Printing Office and/or the Bangko Sentral ng Pilipinas at the price comparable with that of private printers under proper security measures which the Commission shall adopt. The Commission may contact the services of private printers upon certification by the National Printing Office/Bangko Sentral ng Pilipinas that it cannot meet the printing requirements.

Accredited political parties and deputized citizen's arms of the Commission shall assign watchers in the printing, storage and distribution of official ballots.

“To prevent the use of fake ballots, the Commission through the Committee shall ensure that the necessary safeguards, such as, but not limited to, bar codes, holograms, color shifting ink, microprinting, are provided on the ballot.

“Since the UV reader of the PCOS machines was disengaged the probability that fake ballots were manufactured and used fraudulently and scrupulously is high.”

“5. The non-audit of the CF cards used in the PCOS machines throughout the nation in the elections.

The CF cards were supposed to be audited to remove doubts on their reliability. That the CF cards were not audited raised concerns that some of the COCs sent to the Joint Congressional Canvass Board might have been manipulated.

“6. The non-fulfillment with the manual audit set by the Comelec of five of the elective positions in selected precincts.

“The failure of the Comelec to conduct a manual audit of the votes for the president, vice president, members of congress, governor and mayor aggravated the mistrust of the people about the sincerity of the Comelec to verify the accuracy of the electoral count and heightened their anxiety over the possibility that the automated election results had not been that accurate.

“7. The failure of the AES to follow a “laderized system” of transmission of the results of the elections.

“The omission added to the perception of confusion in the summation of the results of the elections.

“The so-called laderized transmission system meant that:

“(a) The first transmissions are from the PCOS in the precincts to the city/municipality consolidation and canvassing servers;

“(b) The second transmissions come from the CMCCS to the Provincial/District PCCS; and

“(c) The third transmissions emanate from the PCCS to the Comelec and Congressional National Board of Canvassers servers.

“The existence of other servers such as those assigned for the use of the KBP/Majority–Minority parties/PPCRV and the Comelec ‘back-up’ servers is an admitted fact.”

Unofficial results

These PCOS machines, however, transmitted ‘unofficial results’ at the ER level where consolidation was not supposed to take place. But surprisingly PPCRV made a quick count from the consolidated unofficial results and so did the Comelec from their servers.

The consolidations of the ERs were legally infirm.

“It is NOT only the direction to which the transmissions were sent by the PCOS to the CMCCS which were important but also the transmission sequence. Transmissions from the PCOS SHOULD have been done FIRST towards the direction of the CMCCS and not anywhere else. What in fact happened was that the PCOS machines at the precincts transmitted the results to whatever communications link was available, thereby, bypassing the CMCCS at times when the links to them were not working. This was in violation of the law that specified that the ladderized system was strictly to be followed.”

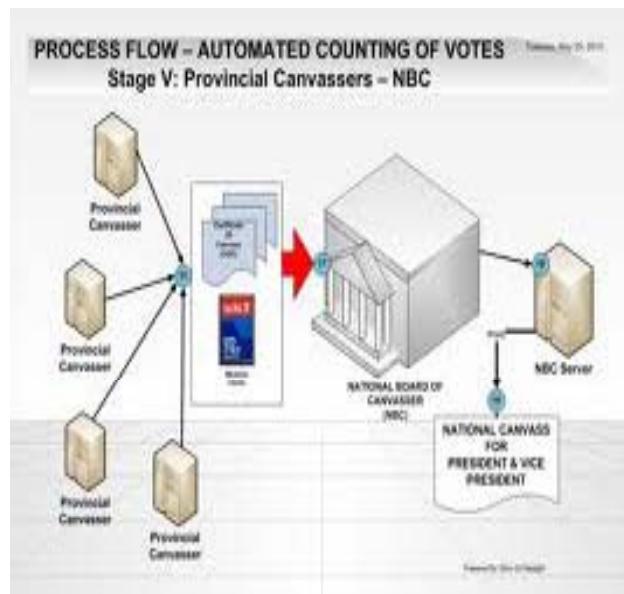
The rationale for the ladderized transmissions according to an IT person is that it is easier to collude with one set of people in the central server than to do so with 1,631 sets of people, I suppose, manning the CMCCS.

On Election Day “the PCOS were allowed to transmit to any of the three official transmission receivers depending on so-called link availability.”

Transmission logs

To establish the trustworthiness and credibility of the electronically transmitted election results, we needed to request the transmission logs from the Telecommunications Carriers to verify if such transfer of electronic data did occur between the PCOS to the CCS. I am not so sure that we as the National Board of Canvassers ever did that.

There is also a need for the people to know if the reconfiguration on the recalled CF cards did take place. The reconfiguration took place too close to Election Day. This matter was not verified and certified extensively.



As the day of the proclamation of the newly elected president and vice president arrived, I was told by Nikki Perlas that the forensic examination of six of the PCOS in the custody of the Senate showed that their 'hash codes' did not match the 'hash codes' of the machines as listed in the records of the Comelec/Smartmatic. [The 'hash code' is the output of an algorithmic process that verifies if an electronic (entry) is authentic or not.' – Forensic Report submitted by an alliance of socialist organizations]. The hash code is different from the Source Code, which, in brief, according to Ernie del Rosario, "is a set of humanly readable program instructions that tell the computer what to do."

Man-made anomaly

The problems that attended the automated election system that we used in 2010 were not confined only to machine-generated anomalies.

There was, at least, one documented instance, where CF cards and other election materials were dumped into a garbage landfill. This happened in Cagayan de Oro City a day or two after Election Day.



Four CF cards were recovered as well as assorted Election Returns and other election-related documents from the dumpsite as well as from a junk shop in the city.

That manner of disposal of election paraphernalia was a clear violation of Republic Act No. 9369 Section 28 (amended as Section 35) under the heading Prohibited Acts and Penalties. Paragraph (c) of the section restricts acts "Gaining or causing access to using, altering, destroying or disclosing any computer data, program, system software, network, or any computer-related devices, facilities, hardware or equipment, whether classified or declassified."

Incidentally, the Cagayan de Oro incident was material to our work in the National Canvassing Board even for the simple fact that CF cards were thrown along with other election documents into the dumpsite. The CF cards as we now know contained the votes not only of local officials but also of those running for national positions including the presidency and the vice presidency – votes that we were canvassing.

Promise unfulfilled

Happily, the election paraphernalia – I would say, at least, some of them – were heroically retrieved by Fr. Nathan Lerio, the PPCRV representative. Unfortunately, Fr. Lerio did not fulfill his promise to me that he would attend a hearing scheduled by the National Canvassing Board and turn over to us the CF cards in the company of Ambassador de Villa and some other legal personalities of the PPCRV.

In the end, under time constraints, we could only hear the testimony of lawyer Gina Luna Zayas-Sabio, the then city election officer of Cagayan de Oro.

Stolen?

At first Ms. Zayas-Sabio gave the alibi that the election materials were stolen. In this regard, she was rebuffed by the official report of the Cagayan de Oro Police (a copy of which was personally handed by me to Comelec Commissioner Larrazabal). The police report categorically stated that there were absolutely no signs of burglary or theft of the election materials in the Comelec Office in Cagayan de Oro.

Then, in an attempt to evade responsibility for the loss of the election materials from their office, Zayas-Sabio said in a subsequent public statement covered by the media that anyway, those materials were no longer needed or important because their contents had already been electronically sent to the Comelec/Smartmatic servers in Manila.

In that respect, she told the truth. But it is clear that under the pertinent laws, the personnel manning the Comelec office in Cagayan de Oro City were primarily responsible for the preservation and safekeeping of the election materials concerned.

Liable

Furthermore, the provisions of COMELEC Resolution 8823 dated April 23, 2010, COMELEC Resolution 8786 dated March 4, 2010 in particular Section 41 with the heading Disposition of Election Returns, and COMELEC Resolution 8809 dated March 30, 2010, were not observed.

In brief, it was the obligation of the Comelec officials of Cagayan de Oro City to preserve those election paraphernalia and not dispose of them in a manner not authorized by law.

They are, therefore, liable for violation of the pertinent provisions of those election laws and even of the article of the Revised Penal Code for infidelity in the custody of public documents.

I urged the Comelec officials in Manila not to turn a blind eye to that glaring misdeed of their Cagayan de Oro City personnel and cover-up for them. Whoever is responsible should be punished. That is just about the only way the Comelec may regain the credibility they had lost in the past.

Summing up

Following is a summary of how the AES Fared in 17 areas in relation to the Attributes of Trustworthy Elections:

1. Democracy

- 1.1 Metric: one eligible voter can cast one vote.
- 1.2 Verdict: Failed. Voters' lists were still bloated with double and multiple registrations. Many qualified voters were disenfranchised.

2. Accuracy

- 2.1 Metric: the final vote count should reflect the intent of voter
- 2.2 Verdict: Failed. Accuracy of the results is doubtful. All measures to assure accuracy were blocked.

3. Security

- 3.1 Metric: measures were supposed to be in place to protect the integrity of the process.
- 3.2 Verdict: Failed miserably. All layers of security were removed.

4. Secrecy

- 4.1 Metric: no vote could be traced to the voter.
- 4.2 Verdict: Failed. The long ballot made this difficult.

5. Verifiability/auditability

- 5.1 Metric: the vote results could be verified and the validity proven after the initial count
- 5.2 Verdict: Miserably failed. The Random Manual Audit was a farce. Wrong methodology. Almost a month after the elections, still no clear results have been reported.

6. Privacy/confidentiality

- 6.1 Metric: information collected on voters should used for election purposes only and within the scope for which it was collected
- 6.2 Verdict: Undetermined.

7. Transparency

7.1 Metric: the process should be open to outside scrutiny.

7.2 Verdict: Failed miserably. All avenues for reviewing system such as the source code review were blocked. Voter verification feature was removed. CF cards were flying all over.

8. Accessibility

8.1 Metric: the reasonable, specific needs of eligible voters should have been taken into account so that none are disenfranchised.

8.2 Verdict: Failed miserably as attested by the kilometric voter queues and the super delicateness of the ballot and the difficulty to register votes as attested by the 2.6 million null votes.

9. Neutrality

9.1 Metric: electoral processes or materials should not favor one candidate or party over another.

9.2 Verdict: Failed. The reconfiguration of the ballot might have given favorable edge for some candidates.

10. Simplicity

10.1 Metric: the voting processes should not make voting unduly complicated.

10.2 Verdict: Failed. Ballot was too long to navigate easily and difficult to mark especially for senior and less educated voters. No second-chance voting allowed (if the first ballot was accidentally damaged). No alerting message if the voter over- or under-voted. And no second ballot to replace damaged one.

11. Flexibility

11.1 Metric: the voting process should be able to handle a variety of ballot styles and counting formats.

11.2 Verdict: Passed. There were 9 to 11 canvassing models and some 2,000 ballot face variations.

12. Scalability

12.1 Metric: the voting process could be scaled to handle large and small electoral events.

12.2 Verdict: Passed. The system used industry standard servers and adopted the EML standards.

13. Recoverability

13.1 Metric: the voting process should provide for duplication of systems to prevent data loss.

13.2 Verdict: Passed. The system implemented high availability and back up redundancies in the data processing and data communications aspects.

14. Mobility

14.1 Metric: the voting process should provide for votes to be cast from locations other than the traditional polling station.

14.2 Verdict: Not rated for the law does not yet allow this.

15. Speed of count

15.1 Metric: results should be reported quickly.

15.2 Verdict: Miserably failed. Except for the election night announcement of quick count by Comelec which had doubtful source and progeny. In fact, the elections were not finished close to one month after May 10. Example: Lanao del Sur where up to June 8, there were still a number of barangays where special elections still had to be set and held.

16. Cost-effectiveness

16.1 Metric: the voting process should be effective and economical.

16.2 Failed. For the cost per voter was excessively high by international standards – PHP 285 or USD 6. Plus we don't even now own the system but just leased it for this ONE election.

17. Technical durability

17.1 Metric: the voting process should allow the basic electoral infrastructure to be reasonably insulated from obsolescence.

17.2 Verdict: Passed. Hardware, software and data adhered to internationally accepted standards.



Because too many questions remained unanswered, it was doubtful if the Comelec/PPCRV and Smartmatic could guarantee the due execution and authenticity of all the Certificates of Canvass that were used for the official canvassing and proclamation of the Presidential and Vice Presidential candidates. Consequently, it is also doubtful whether or not the Comelec/PPCRV and Smartmatic can now unequivocally guarantee the effectiveness and efficiency of the automated election system (AES) by the use of the PCOS machines for future elections.

Plug loopholes

That said, let me restate that the only reason why we took pains to record, at least, some of the deficiencies of the PCOS machines is to prod our government to plug the loopholes in the AES that was used in the 2010 elections.

Indeed some of the cited anomalies are rather serious. Still the remedies for candidates who felt cheated in the 2010 elections lie in appropriate presidential or vice presidential and other protests and in the prosecution of those responsible for the cheating.

In any case, corrective legislation by Congress and corresponding action by the Comelec to remedy the infirmities that attended the electronic elections of 2010 are crucial if the AES will continue to be used as the means of faithfully implementing the constitutional mandate of vesting in the representatives of the people the latter's right to govern themselves.

Unless the needed remedial measures are introduced seasonably the use of the PCOS machines for the 2013 elections will only serve to further alienate the people from their own government.

WHAT FOLLOWS IS A SUMMARY OF FRAUD-ENABLING
LOOPHOLES IN THE 2010 AES
which Ernie del Rosario authored
and which he stands ready to defend.

Pre-election

1. Source code (real) review barring

AES became a total black box for no one knows outside of Comelec and SMTT (plus Systest and IFES) the internal workings of the system. The system could have contained code that could have perpetrated fraud without anybody except some internal actors knowing. If Smartmatic and Comelec were not hiding anything then why did they in effect bar the code review? Their reason that this will prevent those who will see the code to themselves commit fraud is not valid for the RFP/TOR specifically mandated that code review will be allowed. All bidders were made to sign waivers that would allow such review on pain of being disqualified if they disallow it. Smartmatic signed such waiver.

2. Removal of vote verification feature

The removal of this feature could have opened the gates for pre-loaded votes that replaced the actual votes for the voters never knew if their votes were appreciated by the machine correctly. This could have opened the gates for pre-loaded votes replacing the actual votes. Comelec's contention that they did this to avoid delays in the submission of the ballots into the machine. On election-day, the long queues were caused mainly by the inefficient voter ID authentication and PCOS breakdowns.

3. Removal of UV ballot authentication feature and non-use of handheld UV lamps

Fake ballots not barred whereas the feature enabling detection of such was a mandatory requirement.. Audit logs revealed possible incidences of fake ballots thru recorded "invalid ballot sequence number" messages. To what extent this happened will never be determined.

4. Absence of hash code comparisons as part of FTS of PCOS and CCS

Election-day software version vis-a-vis that escrowed at BSP not verified to be the same. This could have enabled fraud at the PCOS level. As it turned out hash codes comparison between waylaid PCOS units in Antipolo and the web-published hash codes did not produce a match. Therefore the BSP-escrowed PCOS software and the PCOS software actually used on election day were not the same.

Worse, Philippine Computer Society in its case lodged with the Ombudsman claimed that according to the testimony of Comelec Executive Director Jose Tolentino in the Locsin Committee Hearing, Comelec might not have submitted hash codes for escrow at BSP but kept them at the first floor of the Palacio del Gobernador – open to all kinds of possible fraudulent code manipulation up to a few days before election day.

5. Anomalous TEC certification

Scanning accuracy not tested. Certification of each of the PCOS units as of the required accuracy was not done at all. Was this critical step not done to hide the PCOS' unacceptably low scanning accuracy ? Despite the requirement that all 80,000+ PCOS units must be subjected to such test to certify that all units that will be deployed pass the 99.995% accuracy hurdle, this was not done at all. All units that fail this test must be rejected and replaced with new ones which pass this test. So the PCOS' vote scanning accuracy before the elections was hidden. In fact the audit log of two PCOS units registered scanning error rates of 12 to 16% or 84 to 88% only accuracy rate.

Seven items, 5 of them critical, not certified. Systest did not categorically certify AES. Certification conditioned on application of compensating controls which were not fully satisfied. This deficiency could have opened the door to untold number of fraud possibilities.

6. May 3 onwards CF cards replacement theatre

Opened up possibility of introducing malware such as the so-called "Hursti Hack" *introducing fraudulent voting data into the PCOS*. Also, it could have enabled the "Koala" attack as well. ["Koala Boy" was the tag that Congressman Teddy Boy Locsin used to describe a masked witness who made a fleeting appearance through the media days after the 2010 elections ostensibly to expose what he said were the means that he and his gang of election cheats used to manipulate the said elections in favor of candidates who paid for their services. Nothing much came out of his 'expose' because to my recollection he simply vanished from public view after that first media exposure].

Election day and thereabouts

7. Ladderized transmission sequence violation

Opened up possible manipulation at central server or thru a possible rogue server somewhere. The law which approved the PHP 11.2 automation budget specifically required this transmission protocol. PCOS transmission should at all times be FIRST directed towards the city/municipal CCS before anywhere else because it is difficult to defraud almost 1,700 municipality and provincial servers compared to just one central server. What happened was transmissions were dependent on which links to the different transmission points were allowed.

8. Limits on issues that can be the subject of election protests

Barred ER- or ballot-based protests when fraud could have been perpetrated at the PCOS level. In fact, the protests proved such tamperings as shown by non-election date timestamps.

9. Removal of digital signature feature

Opened up *all possible sorts of canvass manipulation* for it cannot be determined who among the BEIs and COCs were transmitting the results or if in fact they were the ones transmitting. It could have been anybody else. Even if digital signatures were used, SMTT and Comelec have complete control of the BEI and BOC access codes plus no independent Certificate Authority was even considered to really secure the system.

Post-election

10. *Protest process started 10 months after elections day and made unnecessarily difficult and expensive to the protesting party through a belatedly-released Comelec resolution.*

Given that it is very doubtful if the ballot box/ballots chain of custody was never broken at some point in the chain and the 10-month impasse before the recounts were started, so many fraudulent actions could have happened within said long period such as post-election day switching of the ballots with re-marked ballots to suit the objectives of the cheaters. In fact, telltale signs of such cheating were discovered in some of the protests.

[Please note that Mr. del Rosario narrated some of the anomalies allegedly exposed in the election protest of Atienza vs. Lim involving the post of Mayor of Manila. His full report may be available upon request to him.]

11. Incorrect application of COC authenticity and due execution verification mechanism

Comparing the manually delivered and electronically transmitted COC is a pathetic way of verifying the authenticity and due execution of the COCs. There will practically be no defects or mismatch that can be found for the possible fraud is already a fait accompli at this point of the electoral data flow. The JCCC compared two COC printouts that came from the same canvassing process and machine. There definitely would not be any difference for both were generated by the CCS at the same provincial canvassing center with one being transmitted to the JCCC CCS and the other being printed at the provincial center by the same CCS. A saddening futile and expensive exercise proving nothing.

Reason? The process is still stuck to a manually-oriented procedure which CANNOT meet the real verification need in an automated system.

12. Premature announcement of national results just two hours after polls closed

Comelec did a quick count which is legally infirm even if it was unofficial for this already set the minds of the people on the yet unofficial count and partial at that point. It is the JCCC's constitutional mandate to canvass the votes of the Presidential and Vice Presidential results. The veracity and provenance of these results are questionable. It possibly just set the stage for the fraud that will widely ensue after this announcement.

13. Farcical random manual audit

We could have lost the only and last chance to certify the accuracy of the machine count by comparing it with the manual count. The RMA used the wrong methodology and the conduct of the RMA violated its own guidelines. It also took inordinately too long to finish. Delayed processes specially of the audit kind can encourage fraud. More than a month after elections it was still not finished and in the end it was never completed. Were the missing results those with widely gaping errors ?

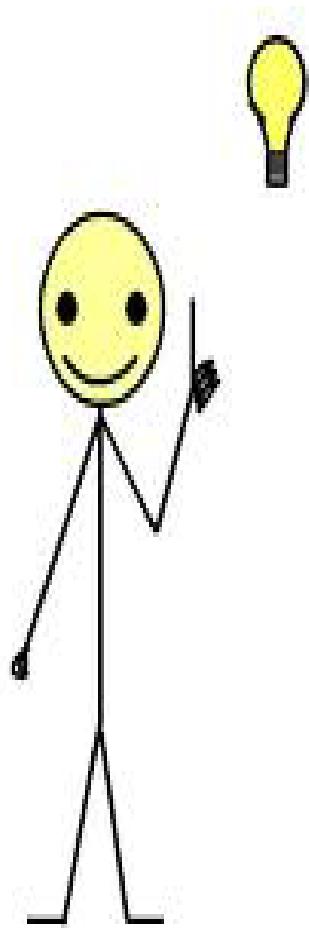
14. Difficulty in obtaining access to BSP-escrowed AES software copy and hashes

The very purpose of the escrow step is to verify that the software was not tampered with in case of protest.

15. An open port at the back of the PCOS

This is a sure ticket to an easy means of defrauding the election by anybody for it is totally unsecured. NOT NEED FOR PASSWORD, NOTHING CONTROLS ACCESS.

[END OF DEL ROSARIO'S PAPER]



OUR CONCLUDING STATEMENT

NOW that we had taken a look at how electoral cheating is done and some glaring glitches that hobbled the PCOS electoral machines in the 2010 elections, what do we do as a people?

In general, people must get involved in electoral activities. They should register and campaign and vote for candidates with unblemished records and who stand up for specific principles that redound to the welfare of the nation.

They should also organize themselves into poll-watching brigades throughout the nation.

Collectively, the people should demand that the Comelec:

1. Must restore the safety features of the PCOS machines that were disabled in the 2010 elections if these are to be used in future elections.
2. Exercise great care that future elections are free, clean and honest.
3. Prosecute the cheats responsible for the fraudulent electoral practices in past elections.

Additionally, we acknowledge that the ways of election cheating are as varied as man's capacity for mischief.

The enumeration here is, thus, by no means complete.

What seems apparent is that during election periods greed for power, lust for money, and the inordinate desire for fame drive otherwise sane people into the direction of insane electoral activities.

But all is not lost. As a people, we still can do a lot to help cleanse the country's election process.

Our representative democracy needs the participation of well-meaning people to ensure free, clean and honest elections.

A 2012 Democratic Audit Report that we had already cited says the same thing but for emphasis we take the liberty to cite its pertinent paragraph again as follows:

"The reality is that representative democracy, at the core, has to be about people voting, has to be about people engaging in political parties, has to be about people having contact with elected representatives, and having faith and trust in elected representatives, as well as those representatives demonstrating they can exercise political power effectively and make decisions that tend to be approved of.

Incidentally, the Report raises the alarm that "the state of democracy in Britain over the last decade ... is in 'long-term terminal decline' as the power of corporations keeps growing, politicians become less representative of their constituencies and disillusioned citizens stop voting or even discussing current affairs."

Although the report focuses on the state of democratic practices in the UK, some of its findings are relevant to our own democratic system of governance. The report, for instance, “found evidence of many other areas where Britain appeared to have moved further away from a benchmark of representative democracy: control over political decision-making.

The Report’s important warning is that

“... without mass political participation, the sense of disconnection between citizens and their representatives will inevitably grow.“

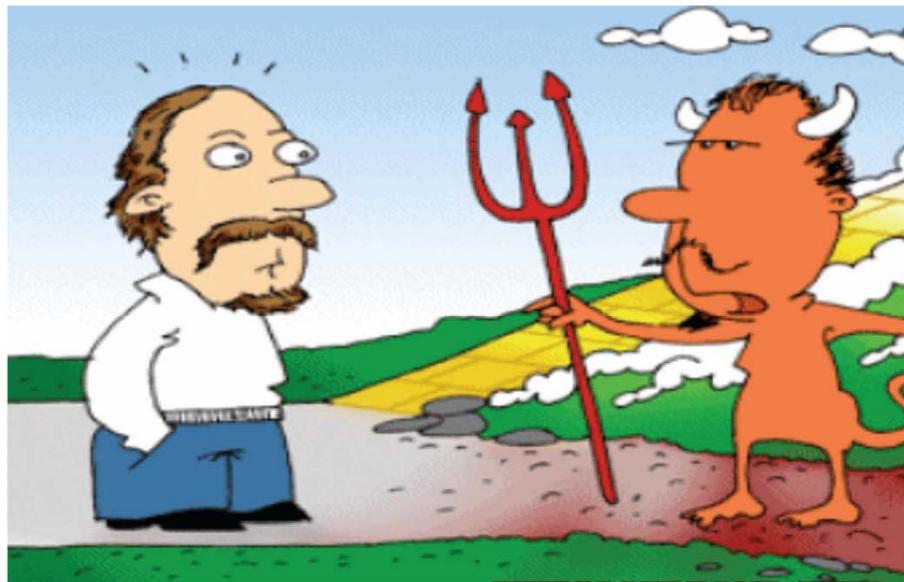
It seems that in the UK election turnout has fallen significantly in the last decade, “with ... just over six out of 10 eligible voters going to the ballot box in the 2010 general election and barely one in three in European and local elections.”

In comparison, our country’s voter-turnout for the 2010 elections of 38 million was placed by the National Statistical Coordination Board at 75% of the 50.7 million registered voters.

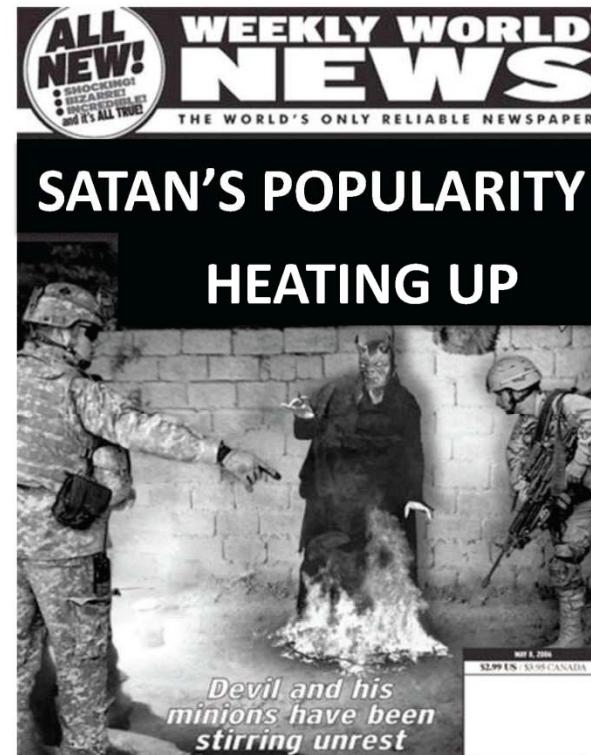
With God's blessings, there's
still hope for a brighter
tomorrow for our people.

AN ADDENDUM TO
MR. DEL ROSARIO'S SUMMARY IS
REPRODUCED HEREUNDER.

Step 1 – Solicit Candidates and Agree on a Winning Margin



Step 2 – Conduct and Release Survey Results



Step 3 – Allocate Votes to Assigned IP Addresses/CF Cards

IP Address	Number of Votes
666.173.936.081	150
666.193.356.991	215
666.523.956.721	200
666.323.726.020	198
666.923.106.510	197
666.193.413.813	195
666.613.511.381	200
666.023.256.850	200
666.723.612.555	199
666.543.486.291	195



Step 4 – Old Method: Send Embedded Data in CF Cards to Server



1. When date is not election day, use file table A. On election day, use file table B.

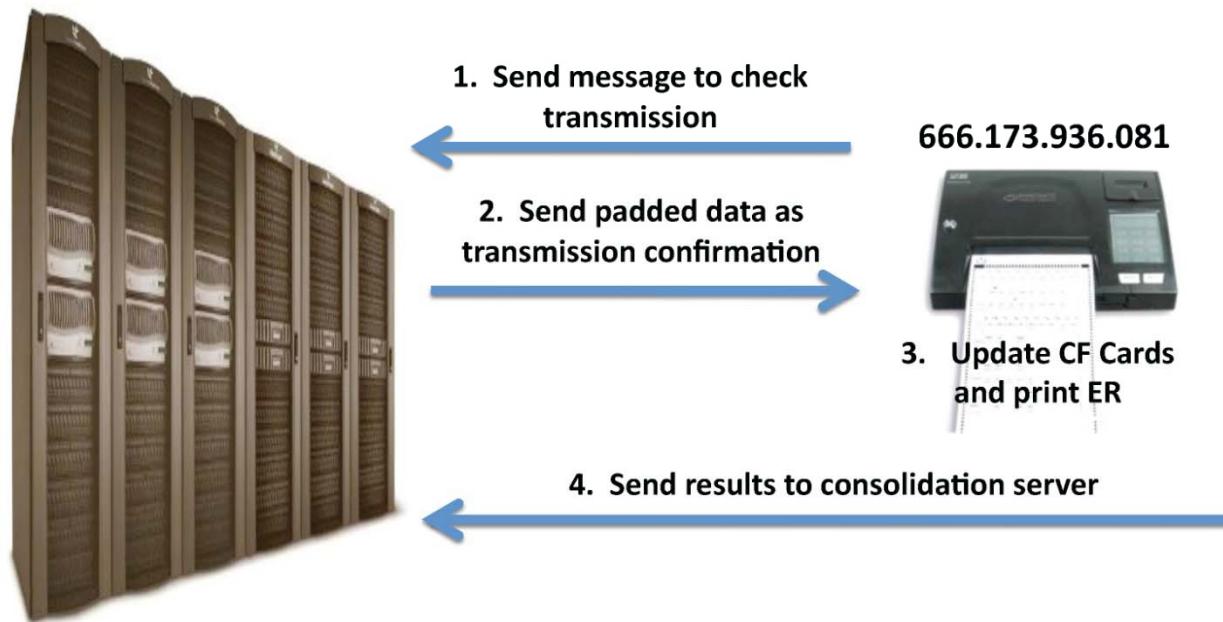


666.173.936.081

2. Send results to consolidation server



Step 4 – New Method: Send Data From Server to PCOS when Precincts Close



Step 5 – Contingency Plan: Use Extra PCOS

1. Consolidation server shows no safe margin by 12 midnight on election day



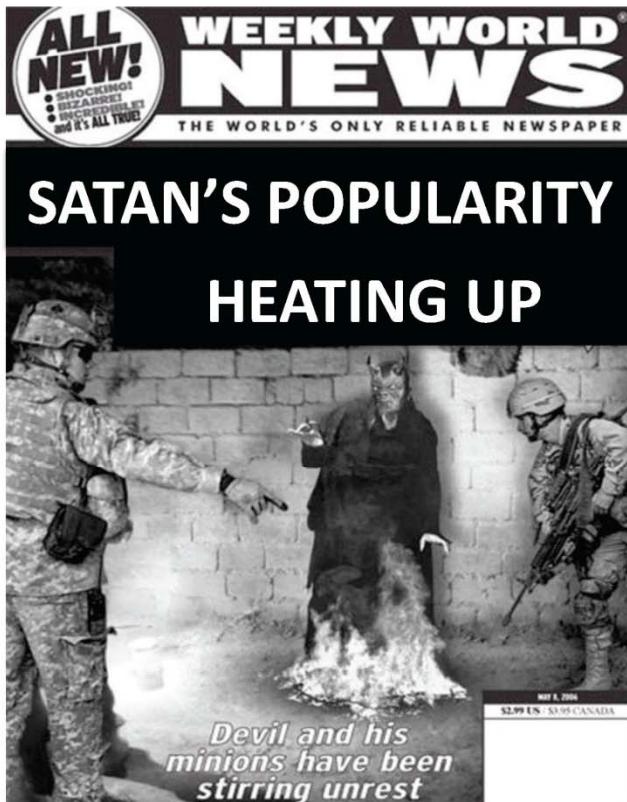
2. PCOS farms will send additional votes



666.173.936.XXX



Step 6 – Validate Results with Survey



Before elections



After elections

Alleged Vulnerability	Why It Can Happen
Assigning votes to IP addresses.	Smartmatic is the only entity that knows all IP addresses.
	Absence of digital signatures.
	No source code review.
PCOS receives data from server.	Smartmatic claims PCOS transmission is one way but there is no guarantee. Smartmatic also claimed there is no way to enter the system but forensic experts found a port that can be used to alter data.
CF cards are writeable.	Statements by COMELEC belie claims that CF cards are WORM as claimed by Smartmatic.
Extra PCOS sending data on same precinct.	Biliran audit trails shows 2 different IP addresses sending data on same precincts.
	Biliran audit trails show PCOS sending data 24 hours after precincts closed.
Making changes to consolidation servers during election day.	Smartmatic has done it in ARMM!

Practice Makes Perfect

ARMM was practice for 2010

But a member of the TWG explained to abs-cbnnews.com/Newsbreak that what Smartmatic only did to correct the anomaly was to **“unblock” the results** in the six precincts in question. “The results were only stored in the transmission, and what they did was to **unbar the data which were stored in its transmission server.** There was no irregularity. It was not as if they encoded a new data,” the TWG member said.

<http://www.abs-cbnnews.com/nation/06/02/09/losing-bidder-warns-electronic-dagdag-bawas>

Confidence Shakers

Why is Smartmatic and COMELEC Afraid of Public Bidding?

Not enough time.

The CAC recommended not to exercise the OTP but COMELEC deliberately waited until March 31 to sign agreement. Did COMELEC and Smartmatic realize that some bidders may have cheaper and better solutions than Smartmatic? We would never know because there was no public bidding. Why did COMELEC waste time and avoid public bidding?

No bidder can offer less than 1.8B

The objective of public bidding is to get the best solution at the most cost effective cost. If Smarmatic has the best cost effective solution, why is it afraid of public bidding?

COMELEC has the right to exercise OTP since the contract has not expired. Proof of which is the Performance Security Bond not being returned.

If the project was a success, what stopped COMELEC from returning the bond? If the project was a success, why is it afraid of public bidding?

Smartmatic has corrected all its deficiencies and will have a better PCOS in 2013.

If it has corrected all deficiencies in their PCOS, then why is it afraid of public bidding?