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Inputs to the House of Representatives'
Committee on Suffrage and Electoral Reforms
chaired by the **Honorable Teodoro Locsin, Jr.**
on the hearings on the **Automated Election System (AES) used on May 10, 2010**

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Mr. Chairman and Members of the House Committee on Suffrage and Electoral Reforms, thank you for allowing NAMFREL to contribute to the post-election discussion on the Automated Election System.

At the outset, let me say for the record that NAMFREL has supported calls for the automation of the counting and canvassing of the elections dating back to the Comelec's original MODEX Program in 1993 introduced by then-Chairman Christian Monsod. It was at that time that different technologies for counting and canvassing votes were first introduced. The legislation for that program was filed in Congress shortly after and the resulting Republic Act 8436 was passed in December 1997.

NAMFREL was a member of the first Advisory Council on Automation to the COMELEC. That committee recommended to the Commission that a pilot or partial automation of some parts of the country be undertaken for the May 1998 Presidential election to test systems which could then be rolled out in full at the 2001 and 2004 elections. Unfortunately, COMELEC decided not to pilot the automation system and instead opted to attempt a full automated system in 2001 using Megapacific as a supplier.

In all this time, NAMFREL has been guided by three basic principles:

- (1) that any system procured by the country be done in a transparent and fair manner, free of corrupt practices, and affordable for the nation;
- (2) that proper safeguards be put in place to prevent any electoral fraud but that if

any such fraud were attempted or took place, then such acts could be traceable and persons could be held accountable;

- (3) that the secrecy of voting be protected and that counting and canvassing be undertaken in as public and transparent a manner as possible.

By January 2007, without an automated election ever having being run on a national basis, Congress amended the law on automation and COMELEC released its terms of reference on its chosen technology and began its timetable for the 2010 elections. Although NAMFREL was not in full support of the chosen technology, we nonetheless supported the effort but stressed that safeguards be put in place and that the implementation of the project be done in a transparent manner.

Moving fast forward to the May 2010 elections, we expressed some concerns about the Automated Election System in the weeks and months ahead of elections, as follows :

- (1) The number of voters as reflected in the Certified Voters List was too high relative to population;
- (2) The CVL was not being posted up early enough for voters to check their names on the list;
- (3) The Project of Precincts or list of precincts was not being posted up early enough for voters to check their precinct assignments;
- (4) Precincts were being clustered in such a way that would lead to congestion and long lines; 11 hours would not be enough time to accommodate all the voters;
- (5) Voters would not know how their votes would be counted as the PCOS machines would not issue receipts for ballots received;
- (6) The use of portable UV lights to make up for the wrong UV ink would just result in more unnecessary spending without any deterrent effect on detecting fake ballots;
- (7) The removal of digital signatures would remove accountability for the transmission of data from PCOS machines;
- (8) The withholding of the source code review by local IT professionals was tantamount to less transparency and lead to future complaints;
- (9) The delay in the release of Random Manual Audit rules would lead to ineffective or incomplete audits, at a time when audits were important;
- (10) There was no review of the back-up or disaster-recovery process;
- (11) There were no time or date logs on the PCOS machines, making it difficult to undertake a forensic audit of the system;

- (12) There was no detailed inventory of both the deployed and spare PCOS machines and CF cards;
- (13) There were concerns about the data security of the CF cards and data transmission procedures;
- (14) There was no end-to-end test run of the system from voting to canvassing at all levels;
- (15) There was no full test of the canvassing software.

One week before elections, we came out in the media expressing concerns about the integrity of the AES in light of the discovery by the Boards of Election Inspectors (BEIs) that the machines had counted test ballots wrongly during the final testing and sealing on May 3. We asked the COMELEC to ensure that the PCOS machines be re-tested and certified after the program had been replaced and the compact flash (CF) cards containing this new program had been refitted in all the 76,000-plus counting machines.

We also asked for the full testing of the canvassing systems at the municipal, provincial and national levels. The suspicious and last-minute discovery of the programming error on the PCOS was too disconcerting, especially since there had not been any testing before the public or the congressional committees of the full canvassing system. Such activity would have ensured that “summations of Election Returns to Statements of Votes Cast (SOVs) and Certificate of Canvass (COCs) are carried out accurately” [Namfrel statement of May 5]. Finally we asked that the random manual audit (RMA) be performed immediately after the completion of the transmission of the results. This process was more valuable than ever because of the programming error discovered at the final testing and sealing just days before the polling.

As most, if not all, of these concerns remained unaddressed up to the week before elections, we also supported recommendations for a parallel manual verification count of three positions on all ballots. Given the numerous complaints after the elections, it would seem that addressing the early concerns may have prevented some of the problems we are seeing today. The preoccupation with new technology and speedy counting to impress the public may have come at the expense of greater transparency and accountability of the system.

The irony is that Congress’ new self-imposed deadline of June 15 for the completion of canvassing and proclamation of the President and Vice President comes 35 days after elections or just 5 to 7 days shorter than it did under previous manual elections. But since the counting took place much more swiftly in these

elections, that would mean that canvassing will actually take almost as long as in previous elections.

Mr. Chairman and Members of this Committee, today we come before you with these additional post-election observations and recommendations. We give these observations and thoughts in the spirit and hope that improvements can be made in future systems and elections, which will hopefully mitigate the types of problems that this Committee, Congress as a National Canvassing Board, and the Nation are facing :

1. The public reporting of electoral results stopped at 90.2% of precincts reported. This reflects that no reports were transmitted or disclosed to the public from some 7,500 PCOS machines. The COMELEC must explain where and why these machines failed to transmit data or why the data was withheld from the public. Such data, if they exist in COMELEC and Smartmatic servers, should have been made publicly available through the KBP or PPCRV servers and to the two main political parties. Such data may become important for comparing with Certificates of Canvass, if the need arises in electoral protests.
2. While the replacement of 76,400 defective CF cards nationwide took less than a week, why is it that three weeks after the elections and based on reports, the PCOS and the CF cards have not been retrieved in full by the COMELEC. It is becoming more important that the PCOS and other components of the AES be impounded and in safe custody as there will surely be a need for them to be examined to substantiate claims and for use in election protest cases. COMELEC should complete the recovery of these pieces of equipment and paraphernalia at the soonest possible time as well as account for those Elections Returns and CF cards which have been found dumped or disposed of improperly.
3. At selected random manual audits that Namfrel volunteers had witnessed, there were no representatives of political parties or of the accredited citizens' arm (except in Surigao del Sur) to witness the procedure. Thus, NAMFREL Volunteers were compelled to complete the task and thus filed the following observations :
 - (a) In Precinct Cluster 8 composed of Precincts 32-A, 33-A, 34-A, 35-A and 36-A at the San Perfecto Elementary School in San Juan, the PCOS machine counted 616 ballots although there were only 614 ballots in the box. The BEIs took an hour to check to ensure that their manual count of the number of ballots was correct, but the discrepancy prevailed. This precinct had 896 registered voters

and thus had a recorded turnout of 69%.

- (b) In Precinct Cluster 1223 of Krus na Ligas Elementary School in Quezon City, the PCOS machine counted 743 ballots but there were only 742 ballots in the box. The BEIs also took pains to recount the number of ballots to ensure that they counted correctly. Still the discrepancy prevailed.
- (c) In Precinct Cluster 1211 at the UP Integrated School in Quezon City, the PCOS machine counted 699 ballots but there were only 698 ballots in the box.
- (d) In Precinct Cluster 13 composed of Precincts 38A, 38B and 39A in Barangay Calagdaan in the municipality of Cantilan, Surigao del Sur, the PCOS machine counted 507 ballots but there were only 506 ballots in the box.

Before we move to the results of the audit, there is a need to ask the Comelec for an answer as to why it is possible that the PCOS recorded a number different from that of the actual number of ballots in the box.

- 4. In the example of the Precinct Cluster 8 of San Perfecto Elementary School, the discrepancies between the PCOS count and the RMA count were:

Position Audited	Total RMA Count	Total PCOS Count	Variance
President	613	607	6
Vice President	612	610	2
Representative	518	518	0
Mayor	551	553	2
Total		2288	10
Degree of variance (total PCOS count over total variance)			0.44% or 99.56% accuracy

In the audit of the precinct cluster 1211 at the UP Integrated School, discrepancies between the PCOS count and the RMA count were:

Position Audited	Total RMA Count	Total PCOS Count	Variance
President	689	695	6
Vice President	695	694	1
Representative	612	602	10
Mayor	660	660	0
Total		2651	17

Degree of variance (total PCOS count over total variance)	0.65% or 99.35% accuracy
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However, we should note that there could be errors committed by the RMA team in their manual appreciation of the ballots. Therefore, there would be a need to determine what standards were used in appreciating the shading of the ovals on the ballot.

5. Eighteen days after the elections, the COMELEC has not published the list of the 1,145 clustered precincts with their respective schedules that were selected on May 10 for the RMA. We enjoin the Comelec to communicate the results of the RMA conducted thus far, considering the value that it will contribute to the on-going discourse.
6. The National Canvassing Board spent a significant amount of time discussing the veracity of the transmitted results because of the absence of the digital signature that the BEIs were supposed to provide. Without it, the understanding is that the BEIs had not attested to the results of the balloting to which they had administered. It must be noted that this safeguard was lifted by the COMELEC itself when it amended its December 2009 General Instructions with its March 2010 General Instructions.
7. The issue of the time logs for the PCOS machines remains an unresolved issue. In a number of instances, PCOS machines' printed logs have indicated transmission dates and times that antedate the election date or that PCOS machines may have been turned on again and operated well after the polls had closed on May 10. The simplistic explanation of the COMELEC and Smartmatic that different machines may have had internal clocks set to different times is unacceptable. The accepted practice of large-scale automation and systems integration projects is that this most basic of functions is set properly across all components of a system, precisely so that time and date logs can be used for forensic audits of a system. That this can be allowed in a system as sensitive as an electoral system in the Philippines cannot be tolerated.
8. The expenses provided by Congress to the COMELEC for the May 10, 2010 election is estimated at P16.5 billion. Taxpayers deserve to know in sufficient detail how their money was spent by the COMELEC. This report should also include the cost of engagement and the performance of Smartmatic-TIM and other contractors of the COMELEC. As the COMELEC has the ultimate

responsibility for the administration of elections, we hope they will be clear with respect to the contractual obligations of Smartmatic-TIM so as to establish clear accountability for these obligations.

The Legal Network for Transparent Elections (LENTE) has reportedly been unable to access complete documentation on the contract between COMELEC and Smartmatic-TIM in order to assess the contractual obligations. These documents should be made accessible to LENTE and other groups so they can help ensure that the terms of the contract between a government contractor and the Filipino people are honored.

On the matter of fraud or manipulation within the AES, we would encourage those who have knowledge to come out with hard facts and data to substantiate their claims and file formal protests before the COMELEC or the appropriate courts. We enjoin the COMELEC to inform the public of the exact nature of these cases and how the COMELEC would address them.

Thank you Mr. Chairman and Members of this honorable Committee.

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