

**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 Noyoy

Published 2010-05-11 11:13:28 | Updated
By SOPHIA DEDACE, GMANews.TV

Breaking News: Manny Villar concedes to Noyoy 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

By Perfecto T. Raymundo Jr., Philippine News Agency on February 22, 2016

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

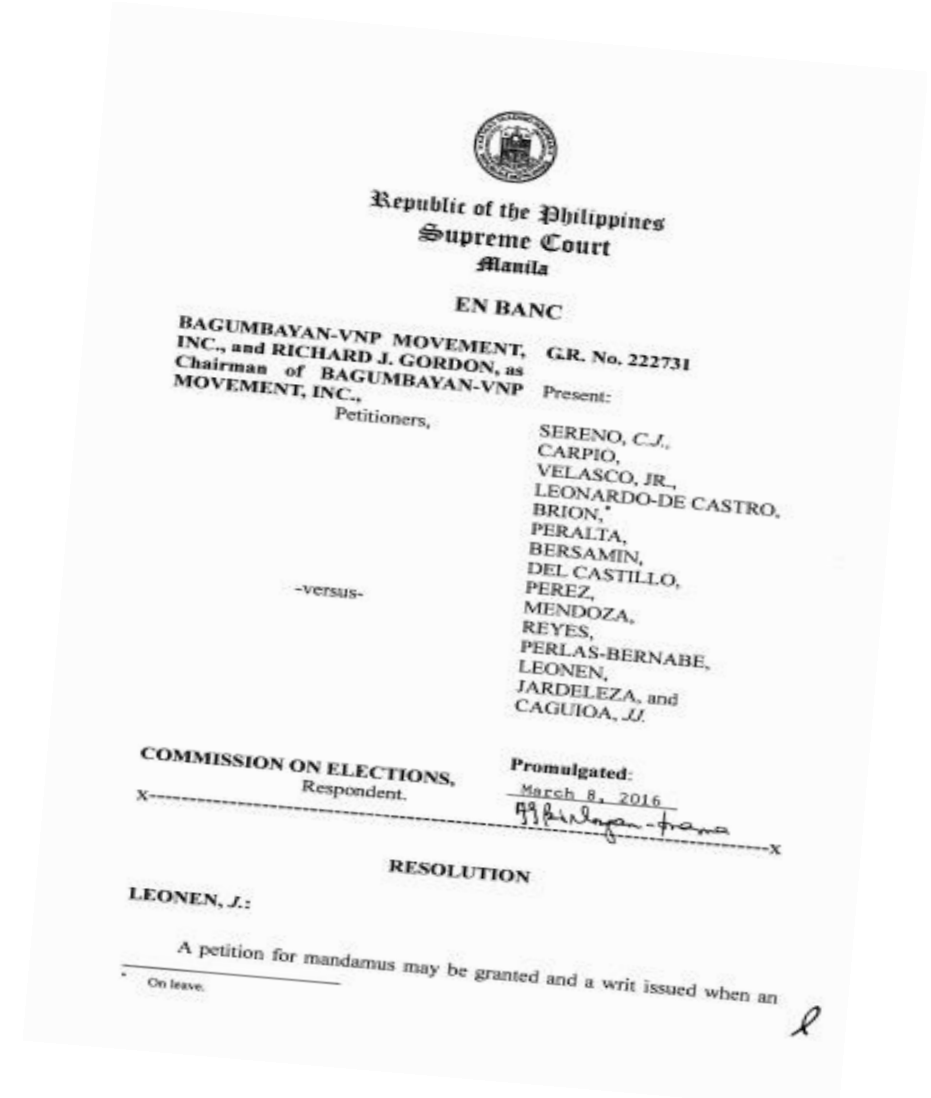
Former Sen. Richard Gordon on Monday asked the Supreme Court to require the Commission on Elections (Comelec) to activate the Voter Verification Paper Audit Trail (VVPAT) feature of the voting-counting machines for the May elections to allow for a receipt to be printed after a voter casts his vote.

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.

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...**”



SC to Comelec: Disclose May 2010 polls source code

Published September 26, 2010 10:24am

By SOPHIA DEDACE, GMAnews.TV

The Supreme Court has granted an election watchdogs' plea to compel the Commission on Elections to disclose the source code it used for the country's first nationwide automated polls last May 10.

The source code is the human-readable version of the computer programs that ran the ProCount Optical Scan (PCOS) machines used in the May 10 elections, ensuring that there are no holes or trap doors that can corrupt data or be used for cheating.

It could also reveal whether the voting and canvassing process was secure.

In a seven-page decision, the court said that the Commission on Government Procurement (CenPEG) should review the source code for review and approval.

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

By T. Raymundo Jr., Philippine News Agency on February 22, 2016



MANILA—Former Senator Richard J. Gordon asked the Supreme Court (SC) on Monday to compel the Commission on Elections (Comelec) to activate the Voter Verified Paper Audit Trail (VVPAT) feature of the automated election system to be used in the May 9, 2016 elections.

Gordon, who was the principal author of Republic Act No. 9369, or the Automated Elections System Law, and the Bagumbayan-VNP Movement Inc. filed a 24-page petition for mandamus before the SC.

They filed the petition after the Comelec announced that it would use the automated election system and a major security feature of the system is the VVPAT.

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

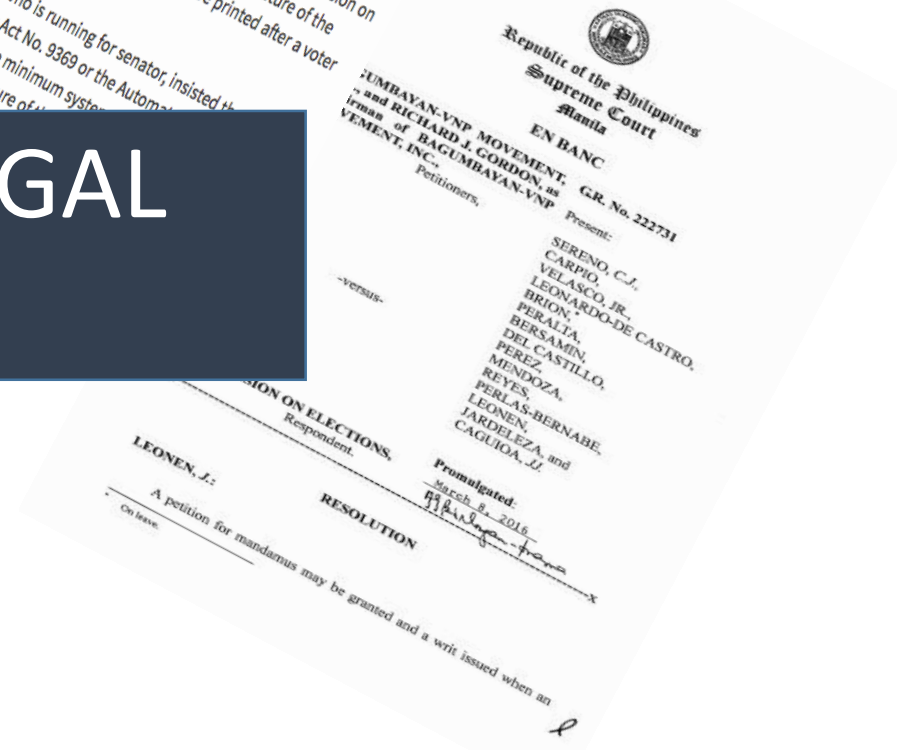
Published February 22, 2016 12:24pm
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DETERMINED LEGAL STANDARDS



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.



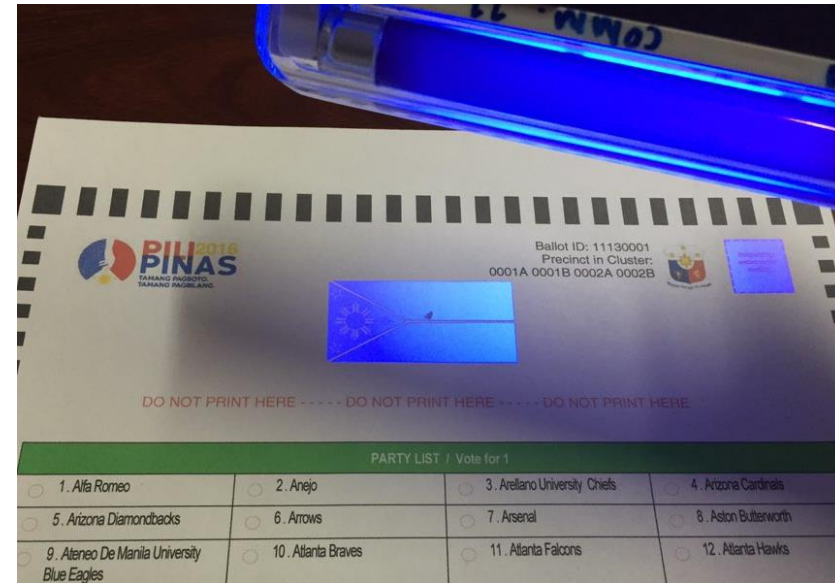
CREDIBILITY

Creation of an independent Technical Evaluation Committee.



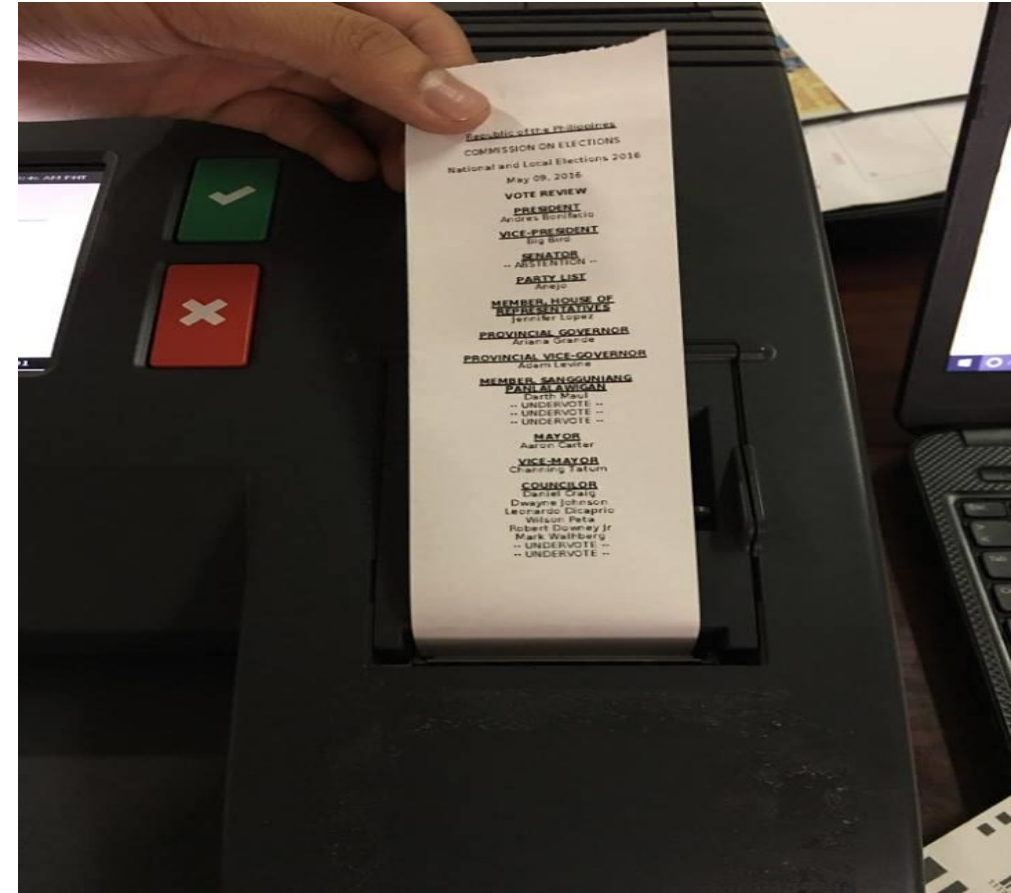
CREDIBILITY

Enumeration of the Minimum Systems Capabilities.



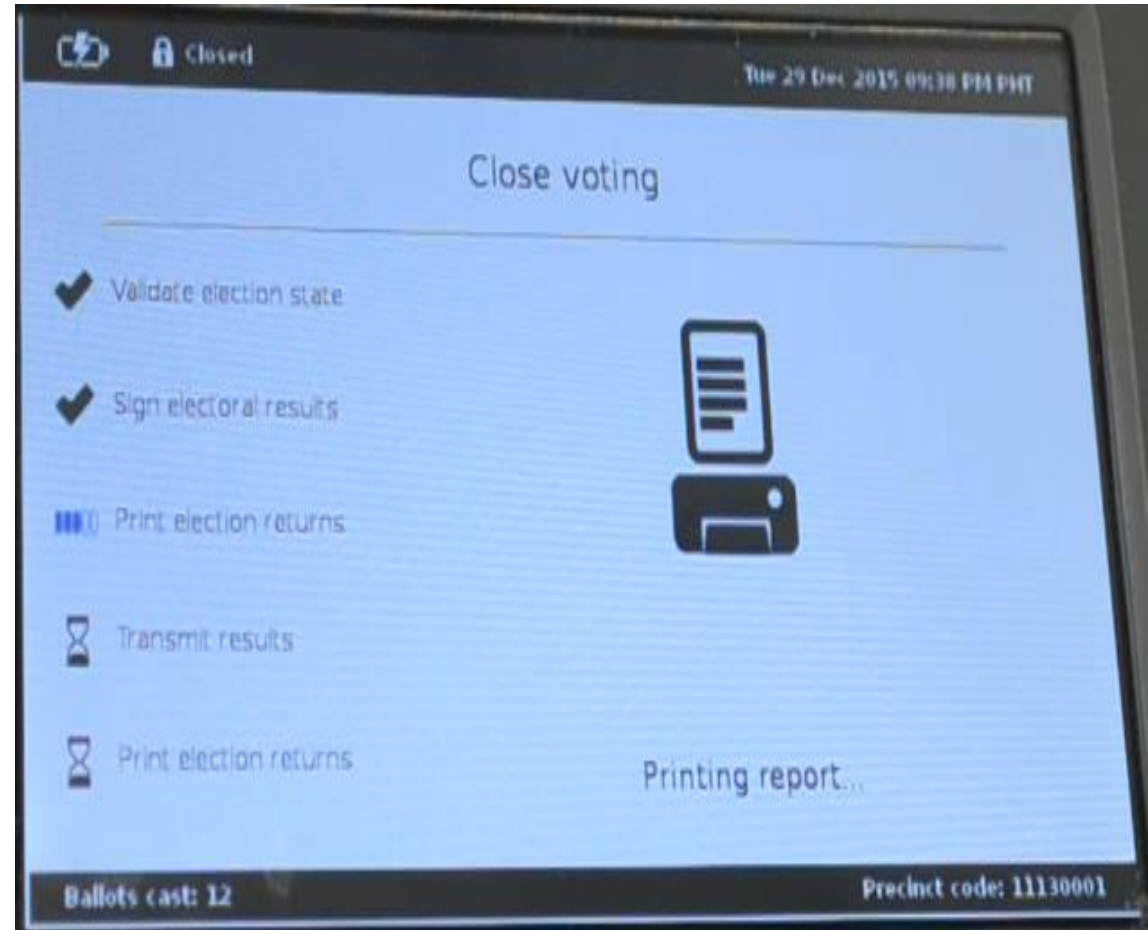
INTEGRITY

Enabling the Vote Verification Feature.



INTEGRITY

Printing and distribution of Election Returns.



TRANSPARENCY

Conduct of Random Manual Audit.

LLA, Antonio L.	Tony
P, Richard I.	Goma
IAN, Gregorio B.	Gringo
Jamalul D.	Kiram
N, Panfilo M.	Ping
DA, Loren B.	Loren
D, Oliver O.	Oli
YSAY, Vicente P.	Vic
INO, Cesar M.	Buboy
Teresa Tao A.	Tessie
A, Eduardo F.	Ed
IA, John Henry R.	Sonny
JINAN, Francis N.	Kiko
ES, Zosimo Jesus II M.	Jess Paredes
r, Prospero, Jr. A.	Butch
FEL, Aquilino L.	Koko
, Ralph G.	Korecto
Sonia M.	
ON, Luis C.	
Adrian O.	
Vicente III C.	
NES, Antonio IV F.	
Manuel Jr. B.	
Victor N.	
Manuel F.	



TRANSPARENCY

Conduct of source code review.



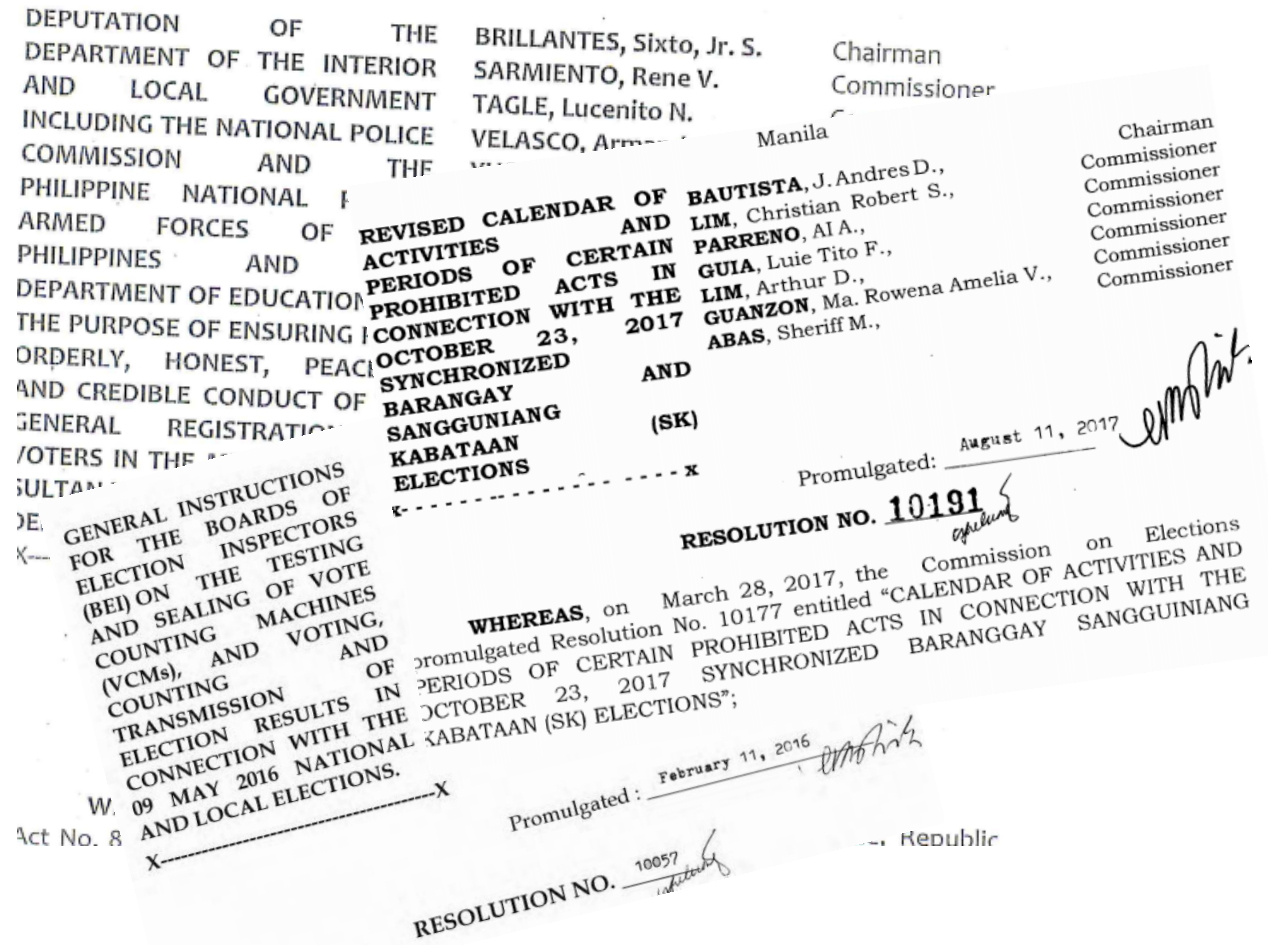
TRANSPARENCY

Encouraging stakeholders participation.



FLEXIBILITY

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



THANK YOU.