

JOINT PRESS STATEMENT
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Center for People Empowerment in Governance (CenPEG)
Office of Former Vice President Teofisto Guingona, Jr.
AES Watch

WHAT IS COMELEC HIDING? Release vital election documents NOW!

Two motions –one to cite the Commission on Elections in contempt of court and the other for mandamus -- were filed today, Nov. 30, with the Supreme Court (SC) for the Comelec's refusal to comply immediately with the decisions of the High Court of May 6, 2010 (Guingona, et al vs Comelec) and Sept. 21, 2010 (CenPEG vs Comelec).

The motion filed by CenPEG today asks that the Comelec, through its incumbent chair Jose Melo and the other commissioners, be cited in contempt for refusing to comply with the SC order directing and ordering the national poll body to make the source codes for the May 10 automated elections pursuant to RA 9369 "immediately available to CenPEG and all other interested political parties or groups for independent review." Until now, no source code has been released by the national poll body; worse, despite the SC's ruling upholding the right to independent review under RA 9369 it wants CenPEG to conduct the review within the Comelec premises. This restrictive condition had been refused by CenPEG, AES Watch and political parties last February 2010 because it goes against the very essence of the law and goes against IT best practices.

On the matter of the Guingona, et al vs Comelec case, the Comelec tried to comply with the SC ruling but only in form and not in substance. The poll body disclosed some materials but not the whole information being sought for, including a copy of the source code.

Previously, both CenPEG and VP Guingona, et al sought out Comelec through several requests before they were compelled to file a motion with the Supreme Court. As for CenPEG, its request for the release of the source for independent study of its IT consultants and volunteer experts was approved by the Comelec en banc last June 2009. After several efforts to persuade the Comelec for the release of the source code including dialogs and series of letters, the poll body dilly-dallied, stonewalled, and subsequently refused to release the election software thus forcing CenPEG to seek the highest tribunal's intervention.

With the support of the broad citizens' election watch group, AES Watch (Automated Election System Watch), former Vice President Guingona and CenPEG wrote the Comelec a number of times for the release of 21 election documents. CenPEG's own letters, beginning last June, were denied outrightly by the Comelec – with nary a word of explanation which is, again, contrary to ethics of public service.

We are deeply saddened over the Comelec's intransigence in not only complying with the letter and intent of the Supreme Court rulings but consistently refusing to disclose public information vital to an

independent assessment of the automated elections and which is a citizens' right under the constitutional provision of right to public information.

Is Comelec flexing its muscle vis-à-vis the Supreme Court which has already upheld the right to public information with respect to the election in at least three cases? Is Comelec trying to hide something with respect to the automated elections issues and problems of which had been the subject of concern – ranging from the contracts, to source code, transmission data, CF cards and other legal requirements of the outsourced technology?

At this point, the Supreme Court remains our last resort so that Comelec will finally awaken to its constitutional duty to release vital public information. We reiterate our challenge to the Comelec to exercise real transparency in action and in substance not just in words and in form by releasing not just a few, but ALL of the 21 important documents sought for by AES Watch, the office of VP Guingona, and CenPEG. It should prove its claim that the May 10 election was a “resounding success” and a “dream poll” by releasing without fear and hesitance all empirical evidences and other documents related to the election.

We also urge the 15th Congress to do what the 14th Congress failed to do: to seek a just closure and find the answers to the many unresolved questions behind the technical glitches and inconsistencies of the outsourced automated election system that occurred nationwide in the last May 2010 elections, by demanding for the release of the 21 vital documents in the hands of the Comelec and its contracted vendor before the latter makes its final exit at the end of the year. The release and the study of these public documents would surely go a long way towards correcting past mistakes, promoting truthfulness, transparency and accountability of government officials and, in instituting meaningful policy and law reforms in our election system.

We also ask that this disclosure of election information be made before Comelec Chairman Jose Melo finally bids goodbye by the end of this year.

Teofisto Guingona, Jr.
Former Vice President of the Philippines

Center for People Empowerment in Governance (CenPEG)

AES Watch

For details, please contact:

Email address: aeswatch.2010@gmail.com

Mobile number: 0917-5198547

Telefax: +632-4344200; 929-8327