



Republic of the Philippines

Supreme Court SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

Manila

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AES WATCH, BUKLOD  
PAMILYA, CAPITOL  
CHRISTIAN LEADERSHIP,  
CITIZENS' CRIME WATCH,  
CONNECTING BUSINESSMEN  
IN THE MARKETPLACE TO  
CHRIST, LATTER RAIN  
HARVEST MINISTRIES, ONE  
VOTE OUR HOPE, UPPER  
ROOM BRETHERN CHURCH  
(PHILIPPINES), BERNARD C.  
ROQUE, DIEGO L.  
MAGPANTAY, DOLORES V.  
LAVADO, ERNESTO DELA  
ROSA DEL ROSARIO, JOSE  
LAGUNZAD GONZALES, JUAN  
SANTOS PRING, MARIA  
CORAZON MENDOZA AKOL,  
MELCHOR GRUELA  
MAGDAMO, NELSON JAVA  
CELIS, PABLO O. OLMEDA,  
TROADIO BENITEZ ABITONA,  
VICENTE ALEJO  
MACATANGAY, WENDELL  
ANACAY UNLAYAO,

Petitioners,

G.R. No. 246332

Present:

PERALTA, *CJ.*, Chairperson,  
PERLAS-BERNABE,  
LEONEN,  
CAGUIOA,  
GISMUNDO,  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ,  
DELOS SANTOS,  
GAERLAN, and  
ROSARIO, *JJ.*

— versus —

COMMISSION ON ELECTIONS  
(COMELEC), SMARTMATIC  
TOTAL INFORMATION  
MANAGEMENT,

Respondents.

X-----X

✓

**UNITED FILIPINO  
CONSUMERS & COMMUTERS  
(UFCC), FROILAN M.  
DOLLENTE, TEOFILO T.  
PARILLA**

Movant- Intervenors.

X-----X

**BAGUMBAYAN VNP  
MOVEMENT, INC. represented  
by CARISSA O.  
COSCOLLUELA,  
Petitioner-in-Intervention.<sup>1</sup>**

Promulgated:

December 9, 2020

*Handwritten signature: Anna-Li R. Papa-Grubis*

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**R E S O L U T I O N**

**LOPEZ, J.:**

This is a petition for *mandamus* to compel the Commission on Elections (COMELEC) to review the voter verifiable paper audit trail, to employ another method of digitally signing the election results, and to remove the supposed prohibition on capturing devices while inside the polling place.

**ANTECEDENTS**

In 1997, Republic Act (RA) No. 8436<sup>2</sup> authorized the COMELEC to adopt an automated election system (AES) using appropriate technology for voting and electronic devices to count votes and canvass or consolidate results. In 2007, RA No. 9369<sup>3</sup> amended the provisions of RA No. 8436 allowing the COMELEC to use a paper-based or a direct recording electronic election system as it may deem appropriate and practical.<sup>4</sup> The changes also provided the minimum system capabilities,<sup>5</sup> and required the authentication of electronically transmitted election results.<sup>6</sup> Accordingly, the COMELEC implemented a paper-based AES technology and utilized optical mark reader

<sup>1</sup> The motion to intervene is granted as discussed in this Resolution.

<sup>2</sup> AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES; approved on December 22, 1997.

<sup>3</sup> AN ACT AMENDING REPUBLIC ACT NO. 8436, ENTITLED "AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, TO ENCOURAGE TRANSPARENCY, CREDIBILITY, FAIRNESS AND ACCURACY OF ELECTIONS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 881, AS AMENDED, REPUBLIC ACT NO. 7166 AND OTHER RELATED ELECTION LAWS, PROVIDING FUNDS THERFOR AND FOR OTHER PURPOSES; approved on January 23, 2007; Republic Act (RA) No. 8436, as amended will be used to refer to the amendments introduced by RA No. 9369 for consistency.

<sup>4</sup> RA No. 8436, Sec. 5.

<sup>5</sup> RA No. 8436, Sec. 6.

<sup>6</sup> RA No. 8436, Sec. 30.

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machines in the 2010, 2013, 2016, and 2019 National Elections. Specifically, the COMELEC used the Precinct Count Optical Scan (PCOS) machines in 2010, and 2013, and the Vote-Counting Machines (VCM) in 2016 and 2019.<sup>7</sup> In these national elections, the members of the electoral board<sup>8</sup> are assigned with an *iButton* security key and a personal identification number (PIN), which they must use in initiating the voting machines to accept the paper ballots and in closing them to print and transmit elections results.<sup>9</sup>

Yet, several groups and individuals questioned the AES implementation and the use of voting machines.<sup>10</sup> In *Capalla v. COMELEC*,<sup>11</sup> the petitioners raised concerns about the alleged absence of digital signatures on the 2010 election results. The Court held that the PCOS machines could produce digitally signed transmissions.<sup>12</sup> In *Bagumbayan-VNP Movement, Inc. v. COMELEC*,<sup>13</sup> the petitioner sought to compel the COMELEC to enable the VCM's voter verification feature in the 2016 National Elections by printing the voter's receipts, which would allow voters to verify whether their votes are registered. The petitioner added that the COMELEC's position that the voter's receipts are not essential in a paper-based AES, which utilized paper ballots, is non-compliant with the minimum system capabilities under the law.<sup>14</sup> In that case, the Court ruled that the minimum system capabilities are mandatory and that the ballots and voter verifiable paper audit trail (VVPAT) are not the same:

The minimum functional capabilities enumerated under Section 6 of Republic Act 8436, as amended, are mandatory. These functions constitute

<sup>7</sup> *Bagumbayan-VNP Movement, Inc. v. COMELEC*, 782 Phil. 1306, 1309-1310 (2016); The PCOS and VCM are optical mark readers machines but refer to different models. See Commission on Elections, Resolution Nos. 8739 and 9640 (February 15, 2013), 10057 (February 11, 2016), 10460 (December 6, 2018). These resolutions serve as the implementing guidelines on the process of voting, counting and transmission of election results. A voter should accomplish the ballot by fully shading the oval appearing before the names of his or her chosen candidate. Thereafter, the voter shall insert the ballot to the voting machine's entry slot.

<sup>8</sup> See RA No. 10756 (April 8, 2016), Sec. 2 (c). Electoral board also refers to the Board of Elections Inspectors.

<sup>9</sup> See Commission on Elections, Revised General Instructions for the Board of Elections Inspectors (BEI) on the Voting, Counting, and Transmission of Results in Connection with the May 10, 2010, National and Local Elections, Resolution No. 8786 (March 4, 2010), Sections 34 and 40; Commission on Elections, Vote-Counting Machine (VCM) Operation Procedures for Final Testing and Sealing (FTS); Election Day and Transmission of Election Results in Connection with the May 13, 2019 National and Local Elections, Resolution No. 10487 (January 23, 2019) Sec. 3. The procedure in using the *iButtons* and PINs are essentially the same in the 2010, 2013, 2016 and 2019 National Elections.

<sup>10</sup> *Bagumbayan-VNP, Inc., v. COMELEC*, *supra* note 7; *Capalla v. COMELEC*, 687 Phil. 617 (2012); *Guingona Jr. v. COMELEC*, 634 Phil. 516 (2010); *Roque, Jr. v. COMELEC*, 615 Phil. 149 (2009).

<sup>11</sup> *Capalla v. COMELEC*, *supra*.

<sup>12</sup> The Court quoted the clarificatory questions of former Associate Justice Antonio Carpio and Attorney Lazatin's response regarding the digital signature to explain this capability and the process on how the election results are authenticated using the digital signature. *Id.* at 681-688.

<sup>13</sup> *Supra* note 7.

<sup>14</sup> RA No. 8436, as amended by RA No. 9369, SEC. 6. Minimum System Capabilities. – "The automated election system must at least have the following functional capabilities

x x x x

(e) Provision for voter verified paper audit trail;

(f) System auditability which provides supporting documentation for verifying the correctness of reported election results;

x x x x

(n) Provide the voter a system of verification to find out whether or not the machine has registered his choice[.]



the most basic safeguards to ensure the transparency, credibility, fairness and accuracy of the upcoming elections.

**The law is clear. A “voter verified paper audit trail” requires the following: (a) individual voters can verify whether the machines have been able to count their votes; and (b) that the verification at minimum should be paper based.**

There appears to be no room for further interpretation of a “voter verified paper audit trail.” **The paper audit trail cannot be considered the physical ballot**, because there may be instances where the machine may translate the ballot differently, or the voter inadvertently spoils his or her ballot.

X X X X

The required system capabilities under Republic Act No. 8436, as amended, are the *minimum* safeguards provided by law. Compliance with the minimum system capabilities entails costs on the state and its taxpayers. If minimum system capabilities are met but not utilized, these will be a waste of resources and an affront to the citizens who paid for these capabilities.

It is true that the Commission on Elections is given ample discretion to administer the elections, but certainly, its constitutional duty is to “enforce the law.” The Commission is not given the constitutional competence to amend or modify the law it is sworn to uphold. Section 6 (e), (f), and (n) of Republic Act No. 8436, as amended, is law. Should there be policy objections to it, the remedy is to have Congress amend it.

**The Commission on Elections cannot opt to breach the requirements of the law to assuage its fears regarding the VVPAT. Vote-buying can be averted by placing proper procedures. The Commission on Elections has the power to choose the appropriate procedure in order to enforce the VVPAT requirement under the law, and balance it with the constitutional mandate to secure the secrecy and sanctity of the ballot.**

We see no reason why voters should be denied the opportunity to read the voter’s receipt after casting his or her ballot. There is no legal prohibition for the Commission on Elections to require that after the voter reads and verifies the receipt, he or she is to leave it in a separate box, not take it out of the precinct. Definitely, the availability of all the voters’ receipts will make random manual audits more accurate.<sup>15</sup> (Emphases and underscoring supplied; citations omitted.)

Thus, the Court ordered the COMELEC to enable the VCMs’ vote verification feature, which prints the voter’s receipts showing the voter’s choice. The Court likewise clarified that the COMELEC could issue guidelines regulating the release and disposal of the voter’s receipts. On motion for reconsideration, the Court explained that the VVPAT requirement is substantially complied with when the voter’s receipt is printed, and the

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<sup>15</sup> *Bagumbayan-VNP Movement, Inc. v. COMELEC*, *supra* note 7, at 1322-1323.

voters can physically verify their votes. Also, the COMELEC may add features to the VVPAT in future elections.<sup>16</sup>

The COMELEC complied with the Court's directive in *Bagumbayan* and issued Resolution No. 10088<sup>17</sup> to serve as guidelines and regulations on election day. The COMELEC enabled the VCMs printing capability of the voter's receipts and provided the mechanism for objections on VVPAT discrepancies. However, the COMELEC prohibited voters to "[u]se capturing devices, including, but not limited to, digital cameras or cellular phones **for whatever purpose while inside the polling place**" during the casting of votes.<sup>18</sup> In the 2019 National Elections, the COMELEC issued Resolution No. 10460,<sup>19</sup> which adopted the procedures on the implementation of VVPAT in Resolution No. 10088 with modification in that the phrase "*for whatever purpose*" on the use of capturing devices was deleted.

On April 24, 2019 or days before the May 13, 2019 National Elections, AES-WATCH, *et al.*,<sup>20</sup> filed a petition for *mandamus* seeking the COMELEC to faithfully implement the directive in *Bagumbayan* case. They claimed that the COMELEC had not adopted measures for the VVPAT's "*auditability*" and proposed a "*camerambola*"<sup>21</sup> solution as follows:

V	V	P	A	T
VOTER	VERIFIED	PAPER	AUDIT	TRAIL
Each Voter may Verify the Paper that rolls out from the counting machine. The voter may not yet take any photograph of that paper until after deposit of that paper into a box, to randomize voter identity, after which deposit the vote can no longer be marketable for sale to any vote-buyer (if any).			Audit Trail can be done at the close of polls by shuffling the box ("karambola") and then allowing volunteers to use their own cameras to take photos of each VVPAT which by rule must remain inside the precinct. Photos become the Audit Trail for the People. <sup>22</sup>	

Also, AES-WATCH, *et al.* asked to declare as unconstitutional the prohibition on poll watchers to take photographs of the proceedings during the

<sup>16</sup> *Bagumbayan-VNP Movement, Inc. v. COMELEC*, G.R. No. 222731 (Notice), March 17, 2016.

<sup>17</sup> AMENDING CERTAIN PROVISIONS OF RESOLUTION NO. 10057 DATED FEBRUARY 11, 2016 OR OTHERWISE KNOWN AS THE GENERAL INSTRUCTIONS FOR THE BOARDS OF ELECTION INSPECTORS (BEI) ON THE TESTING AND SEALING OF VOTE COUNTING MACHINES (VCMs), AND VOTING, COUNTING AND TRANSMISSION OF ELECTION RESULTS IN CONNECTION WITH THE 09 MAY 2016 NATIONAL AND LOCAL ELECTIONS, RESOLUTION NO. 10088; promulgated on April 12, 2016).

<sup>18</sup> See COMELEC Resolution No. 10088, Section 2.

<sup>19</sup> COMMISSION ON ELECTIONS, GENERAL INSTRUCTIONS FOR THE ELECTORAL BOARDS (EBS) ON THE PROCESS OF VOTING, COUNTING, AND TRANSMISSION OF ELECTION RESULTS IN CONNECTION WITH THE 13 MAY 2019 NATIONAL AND LOCAL ELECTIONS, RESOLUTION NO. 10460; promulgated on December 6, 2018.

<sup>20</sup> Petitioners are composed of groups and individuals belonging to different religious groups, election reform advocacy group, and anti-crime/corruption groups. The individual petitioners are composed of church leaders and advocates of election reforms and anti-crime and corruption; *rollo*, pp. 3-46.

<sup>21</sup> Petitioners combined the words "camera" and "karambola" (to shuffle); *id.* at 7.

<sup>22</sup> *Id.*

elections. They claimed that the prohibition is inconsistent with Section 179 of the Omnibus Election Code and that the phrase “*for whatever purpose*” was sweepingly broad to include proceedings during the counting of votes, and the transmission and printing of election returns. Moreover, AES-WATCH, *et al.* argued that the COMELEC must comply with the method of digitally signing the election results under Sections 22 and 30 of RA No. 8436, as amended. They alleged that the *iButtons* and PINS were not personal to the members of the electoral boards but are mere machine identifiers. Thus, the previous elections’ electronically transmitted results were not adequately authenticated because they lack the members’ electronic signatures. The pronouncement in *Capalla* case on the matter of digital signature requirement was not categorical but a mere *obiter dictum*.<sup>23</sup>

On May 2, 2019, United Filipino Consumers & Commuters, Froilan M. Dollente, and Teofilo Parilla intervened in the case. They supported AES-WATCH, *et al.*, and urged the COMELEC to submit a complete list of the Media Access Control (MAC) and Internet Protocol (IP) addresses in the 2019 National Elections. On May 10, 2019, Bagumbayan-VNP Movement Inc. likewise intervened. It adopted the AES-WATCH, *et al.*’s arguments and added that the prohibition against capturing devices inside the polling place would make it difficult for poll watchers to record any irregularity and for voters to object on the VVPAT discrepancies due to limited time to verify their votes.

On May 22, 2019, the COMELEC, through the Office of the Solicitor General (OSG), averred that the conclusion of the 2019 National Elections mooted the petition. Alternatively, the OSG claimed that AES-WATCH, *et al.* have no legal standing to file the petition for lack of material interest and that *mandamus* will not lie because COMELEC had yet to respond to the letter/request on their queries.<sup>24</sup> On the substantive issues, the OSG claimed that COMELEC had already implemented the VVPAT capability and that no law expressly allows “*camerambola*.” The proposed solution is very tedious because it amounts to a manual audit of all the votes in all precincts by taking a photograph of every VVPAT issued by the voting machine. At any rate, the random manual audit under COMELEC Resolution Nos. 10458<sup>25</sup> and 10525<sup>26</sup> sufficiently addressed the objective of testing the voting machines’ accuracy and reliability. Also, the OSG agreed that Section 179 of the Omnibus Election Code allows poll watchers to take photographs during the counting of votes, but not during the casting of votes. Lastly, the *Capalla* ruling already settled the issue on digital signatures. On May 24, 2019, SMARTMATIC Total

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<sup>23</sup> *Rollo*, p. 24.

<sup>24</sup> *Id.* at 98-129.

<sup>25</sup> IN THE MATTER OF THE GENERAL INSTRUCTIONS FOR THE CONDUCT OF RANDOM MANUAL AUDIT (RMA) FOR THE 13 MAY 2019 AUTOMATED SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND SUBSEQUENT ELECTIONS THEREAFTER, RESOLUTION NO. 10458; promulgated on December 5, 2018.

<sup>26</sup> COMMISSION ON ELECTIONS, IN THE MATTER OF THE AMENDMENTS TO THE GENERAL INSTRUCTIONS FOR THE CONDUCT OF RANDOM MANUAL AUDIT (RMA) FOR THE 13 MAY 2019 AUTOMATED SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND SUBSEQUENT ELECTIONS THEREAFTER, RESOLUTION NO. 10525, promulgated on April 11, 2019.



Information Management filed a comment which essentially reiterated the OSG's arguments.<sup>27</sup>

## RULING

*AES-WATCH, et al. and Bagumbayan-VNP Movement, Inc. have legal standing but not United Filipino Consumers & Commuters, Froilan Dollente, and Teofilo Parilla.*

Judicial review is not just a power but also a duty.<sup>28</sup> Yet, it does not repose upon the courts a “*self-starting capacity*.”<sup>29</sup> Specifically, judicial review may be exercised only when the person challenging the act has the requisite legal standing which refers to a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement.<sup>30</sup> The party's interest must also be material as distinguished from mere interest in the question involved, or a mere incidental interest. It must be personal, and not based on a desire to vindicate the constitutional right of some third and unrelated party.<sup>31</sup>

In private suits, standing is governed by the “*real-parties-in interest*” rule as contained in the Rules of Civil Procedure.<sup>32</sup> The question as to real party in interest is whether he is the party who would be benefited or injured by the judgment, or the party entitled to the avails of the suit. It is important to note that standing, because of its constitutional and public policy underpinnings, is different from questions relating to whether a particular plaintiff is the real party in interest or has capacity to sue. Standing is a special concern in constitutional law because cases are brought not by parties who have been personally injured by the operation of a law. The plaintiff who asserts a “*public right*” in assailing an allegedly illegal official action, does so as a representative of the general public. Hence, he has to make out a sufficient interest in the vindication of the public order and the securing of relief.<sup>33</sup> The question in standing is whether such parties have “*allege[d] such a personal*

<sup>27</sup> *Rollo*, pp. 136-179.

<sup>28</sup> Judicial power refers to the duty and power “to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.” (CONSTITUTION, Art. VIII, Sec. 1).

<sup>29</sup> The Court has no self-starting capacity and must await the action of some litigant so aggrieved as to have a justiciable case. (Shapiro and Tresolini, *American Constitutional Law*, Sixth Edition, 1983, p. 79).

<sup>30</sup> Cruz, *Philippine Political Law*, 2002 Ed., p. 259. See also *Angara v. Electoral Commission*, 63 Phil. 139, 158 (1936); *Board of Optometry v. Hon. Colet*, 328 Phil. 1187, 1196-1197 (1996); *Police General Macasiano (Ret.) v. National Housing Authority*, 296 Phil. 56, 63-64 (1993); *Santos III v. Northwestern Orient Airlines*, 285 Phil. 734, 742-743 (1992); and *Nat'l Economic Protectionism Association v. Ongpin*, 253 Phil. 643, 649 (1989).

<sup>31</sup> *Hon. Aguinaldo v. Pres. Benigno Simeon C. Aquino III*, 801 Phil. 492, 522 (2016).

<sup>32</sup> It provides that “every action must be prosecuted [or defended] in the name of the real party in interest.” Accordingly, the “*real-party-in interest*” is “the party who stands to be benefited or injured by the judgment in the suit or “the party entitled to the avails of the suit.” Succinctly put, the plaintiff's standing is based on his own right to the relief sought. (*Salonga v. Warner Barnes & Co. Ltd.*, 88 Phil. 125, 131 [1951]).

<sup>33</sup> *Prof. David v. Pres. Macapagal-Arroyo*, 522 Phil. 705, 756 (2006).

*stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court [so largely] depends for illumination of difficult constitutional questions.”<sup>34</sup>*

This Court has previously ruled that for suits filed by taxpayers, legislators, or concerned citizens, they must still claim some kind of injury-in-fact and allege that the continuing act has denied them some right or privilege to which they are entitled.<sup>35</sup> These parties have no legal standing unless they sustained or are in imminent danger of sustaining an injury as a result of the complained act.<sup>36</sup>

Here, AES-WATCH, *et al.* assail the constitutionality of the prohibition on poll watchers from taking photographs of the proceedings during the elections as well as the COMELEC’s compliance with the *Bagumbayan* ruling. However, they did not allege any material injury or claim that they are poll watchers, registered voters, candidates, members of a political party, or members of an accredited citizens group in the 2019 National Elections. Nevertheless, we deem it proper to relax the requirement of legal standing given AES-WATCH, *et al.*’s allegation that they are filing the petition as citizens.<sup>37</sup> Moreover, they raised questions relating to the importance of having credible and informed elections such as the AES’ minimum system capability and the VVPAT requirement. Similarly, we grant Bagumbayan-VNP Movement Inc.’s intervention because it has a material interest in the case as a political party which tends to suffer injury if its poll watchers cannot exercise their rights and duties under the Omnibus Election Code. Besides, it has candidates in the 2019 National Elections and will be affected if there is non-compliance with the VVPAT requirement.<sup>38</sup>

On the other hand, United Filipino Consumers & Commuters, Froilan Dollente, and Teofilo Parilla failed to establish that they have the requisite personal and substantial interest. They did not sustain any direct injury or is in danger of suffering any damages from the assailed COMELEC actions. They were silent in what capacity they are seeking for intervention. They claimed that the issues are of “*transcendental importance*,” but failed to allege any interest in the outcome of the case.<sup>39</sup> Hence, their motion to intervene must be denied.

<sup>34</sup> *J.G. Summit Holdings, Inc. v. CA*, 490 Phil. 579 (2005).

<sup>35</sup> *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019, citing *Francisco, Jr. v. House of Representatives*, 460 Phil. 830 (2003).

<sup>36</sup> *Private Hospitals Association of the Philippines, Inc. (PHAPI) v. Medialdea*, G.R. No. 234448, November 6, 2018, 884 SCRA 350, 416.

<sup>37</sup> See *Guingona Jr. v. COMELEC*, 634 Phil. 516 (2010); *Roque, Jr. v. COMELEC*, 615 Phil. 149 (2009); See also *Integrated Bar of the Phils. v. Hon. Zamora*, 392 Phil. 618 (2000).

<sup>38</sup> *Rollo*, p. 78.

<sup>39</sup> See *Francisco Jr. v. The House of Representatives*, 460 Phil. 830, 899 (2003). In that case, the Court observed that it has “*adopted a liberal attitude on the locus standi of a petitioner where the petitioner is able to craft an issue of transcendental significance to the people, as when the issues raised are of paramount importance to the public. Such liberality does not, however, mean that the requirement that a party should have an interest in the matter is totally eliminated. A party must, at the very least, still plead the existence of such interest, it not being one of which courts can take judicial notice.*” (Emphases and italics supplied; citation omitted.)



*Mandamus will not lie to control the judgment of an independent constitutional body over matters which the law gives it the authority to decide absent grave abuse of discretion.*

*Mandamus* is a command requiring the performance of a specific duty resulting from the party's official station to whom the writ is directed or from the operation of law.<sup>40</sup> It is available when a tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office.<sup>41</sup> The remedy lies to compel the performance of a ministerial duty.<sup>42</sup> It can only direct the tribunal, body, or official to act, but not in a particular way.<sup>43</sup> It cannot direct the exercise of judgment<sup>44</sup> unless there is grave abuse of discretion.<sup>45</sup>

A ministerial act is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. It is one as to which nothing is left to the discretion of the person who must perform the act. On the other hand, a discretionary act refers to the liberty to decide according to the principles of justice and one's idea of what is right and proper under the circumstances, without willfulness or favor. As applied to public functionaries, it means a power or right conferred upon them by law of acting officially in certain circumstances, according to the dictates of their own judgment and conscience, uncontrolled by the judgment or conscience of others. If the law imposes a duty upon a public officer and gives him a right to decide how or when the duty shall be performed, it is discretionary and not ministerial.<sup>46</sup>

The following requirements must be present to warrant the issuance of a writ of *mandamus*, to wit: (1) the petitioner has a clear and unmistakable legal right to the act demanded;<sup>47</sup> (2) it is the duty of the respondent to perform the act because it is required by law; (3) the respondent unlawfully neglects the duty enjoined by law or unlawfully excludes the petitioner from the use or enjoyment of the right or office; (4) the act to be performed is ministerial; and (5) there is no plain, speedy, and adequate remedy in the ordinary course of law.<sup>48</sup> These requirements are wanting in this case. The assailed COMELEC

<sup>40</sup> See Justice Jose Feria, *et al.* Civil Procedure Annotated (2001 ed.), p. 486.

<sup>41</sup> RULES OF COURT, Rule 65, Sec. 3.

<sup>42</sup> See *Quizon v. COMELEC*, 569 Phil. 323, 329 (2008); *Knecht v. Hon. Desierto*, 353 Phil. 494, 503 (1998); Justice Jose Feria, *et al.* Civil Procedure Annotated (2001 ed.), p. 486.

<sup>43</sup> See *Ampatuan, Jr. v. Sec. De Lima*, 708 Phil. 153, 167 (2013).

<sup>44</sup> See *Quizon v. COMELEC*, *supra*.

<sup>45</sup> See *Angchangco, Jr. v. Hon. Ombudsman*, 335 Phil. 766, 772 (1997).

<sup>46</sup> *Lamb v. Phipps*, 22 Phil. 456, 474 (1912).

<sup>47</sup> See Justice Jose Feria, *et al.* Civil Procedure Annotated (2001 ed.), p. 488.

<sup>48</sup> See *Bagumbayan-VNP Movement, Inc. v. COMELEC*, *supra* note 16.

actions involve the exercise of judgment. Moreover, there was no grave abuse of discretion.

Foremost, the COMELEC is vested with the constitutional power and function to “[e]nforce and administer all laws and regulations relative to the conduct of an election.”<sup>49</sup> Among its powers is the promulgation of rules and regulations of election laws.<sup>50</sup> It exercises discretion on how certain aspects of elections are implemented. This is explicit in the following provisions of RA No. 8436, as amended, by RA No. 9369, thus:

SEC. 13. *Continuity Plan.* — The AES shall be so designed to include a continuity plan in case of a systems breakdown or any such eventuality which shall result in the delay, obstruction or nonperformance of the electoral process. Activation of such continuity and contingency measures shall be undertaken in the presence of representatives of political parties and citizens’ arm of the Commission who shall be notified by the election officer of such activation.

All political parties and party-lists shall be furnished copies of said continuity plan at their official addresses as submitted to the Commission. The list shall be published in at least two newspapers of national circulation and shall be posted at the website of the Commission at least fifteen (15) days prior to the electoral activity concerned.

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SEC. 18. *Procedure in voting.* — The Commission shall prescribe the manner and procedure of voting, which can be easily understood and followed by the voters, taking into consideration, among other things, the secrecy of the voting.

SEC. 19. *Closing of polls.* — The Commission shall prescribe the time, manner and procedure of closing the polls and the steps for the correct reporting of votes cast and the proper conduct of counting for areas covered by the AES.

X X X X

SEC. 21. *Counting Procedure.* — The Commission shall prescribe the manner and procedure of counting the votes under the automated system: *Provided*, That apart from the electronically stored result, thirty (30) copies of the election return are printed.

X X X X

SEC. 37. *Rules and Regulations.* — The Commission shall promulgate rules and regulations for the implementation and enforcement of this Act. x x x.

X X X X

<sup>49</sup> CONSTITUTION, Art IX-C, SEC. 1; Batas Pambansa Bilang 881, SEC. 52 (c).

<sup>50</sup> OMNIBUS ELECTIONS CODE, SEC. 52 (2).

Here, the petitioners and intervenors failed to show that the COMELEC unjustifiably neglects the performance of a duty enjoined by law. They maintain that the COMELEC did not adhere to the *Bagumbayan* ruling on the matter of VVPAT requirement. As a solution, they propose the “*camerambola*” method. However, a comparison of the dispositive portion of the *Bagumbayan case* and the COMELEC guidelines in the 2019 National Elections reveals the futility of their theory. As held in the *Bagumbayan*, the VVPAT requirement is substantially complied with when the voter’s receipt is printed, and the voter can physically verify his or her vote,<sup>51</sup> to wit:

**WHEREFORE**, the Petition for [*Mandamus*] is **GRANTED**. The Commission on Elections is **ORDERED** to enable the vote verification feature of the vote-counting machines, which prints the voter’s choices without prejudice to the issuance of guidelines to regulate the release and disposal of the issued receipts in order to ensure a clean, honest, and orderly elections such as, but not limited to, ensuring that after voter verification, receipts should be deposited in a separate ballot box and not taken out of the precinct.

**SO ORDERED.**<sup>52</sup>

The COMELEC implemented this directive and issued guidelines that the VVPAT must be printed in the form of paper receipts and that the voters can verify their votes through these receipts. The voters were also allowed to register their objections in case of discrepancies with their actual votes. Apropos is Section 73 of the COMELEC Resolution No. 10460, thus:

SEC. 73. Manner of Voting. —

a. The voter shall:

1. Using a ballot secrecy folder and the marking pen provided by the Commission, accomplish the ballot by *fully shading the oval* appearing before the names of the candidates and the organizations participating in the party-list system of representation; and

2. After accomplishing the ballot, insert the ballot in the VCM’s ballot entry slot, after which the voter shall return the ballot secrecy folder and the marking pen to the third member;

<sup>51</sup> *Bagumbayan-VNP Movement, Inc, supra* note 16.

<sup>52</sup> *Id.* In resolving COMELEC’s motion for reconsideration, this Court made its directive to COMELEC clear:

**WHEREFORE**, the Commission on Elections’ Motion for Reconsideration dated March 11, 2016 filed by respondent Commission on Elections is **DENIED WITH FINALITY**, the basic issues raised having previously been duly considered and passed upon by this Court in its Resolution dated March 8, 2016.

The Writ of [*Mandamus*] issued in Resolution dated March 8, 2016 must be fully implemented for the upcoming elections. The Commission on Elections is ordered to enable the vote verification feature of the vote counting machines, which prints the voter’s choices without prejudice to the issuance of guidelines to regulate the release and disposal of the issued receipts as well as other measures that it deems necessary to ensure clean, honest, and orderly elections such as, but not limited to, ensuring that after voter verification, receipts should be deposited in a separate ballot box and not be taken out of the precinct. *Id.* at 10.

**b. The EB third member shall position/stand beside the VCM without being able to view the screen, but near enough to be able to perform the following:**

- 1. Monitor the VCM to ensure that the ballot is successfully accepted and the VVPAT is printed. Every time the end-of-roll color indicator appears, the third member shall replace the thermal paper;**
- 2. Fold the VVPAT in such a way that its contents cannot be seen, and then cut the end of the VVPAT using non-pointed scissors; and**
- 3. Apply indelible ink to the voter's right forefinger nail or any other nail if there be no forefinger nail, and give the VVPAT to the voter for review;**

**c. The EB shall ensure that only the voter can read the VVPAT and advise the voter that bringing of the VVPAT outside the polling place shall constitute as an election offense.** For this purpose, the box containing the Official Ballots shall serve as the VVPAT receptacle which shall be placed in an area visible to the EB members/support staff/citizens' arm, watchers and other persons allowed inside the polling place.

The EB shall ensure that all Official Ballots are removed from the box before the same is used as a VVPAT receptacle. The VVPAT receptacle shall be properly sealed using the packaging tape, on which the EB and watchers, if any, shall affix their names and signatures.

**d. The EB shall instruct the voter to go near the VVPAT receptacle located beside the VCM, and verify the votes as appearing on the VVPAT, drop the same in the VVPAT receptacle and leave the polling place.**

**e. In case an objection is raised by the voter on how the VCM reads the ballot, the chairperson shall:**

- 1. Instruct the voter to affix his signature at the back of the VVPAT;**
- 2. Note the specific objection in the Minutes; and**
- 3. Attach the VVPAT to the Minutes (copy for the Ballot Box).**

**The objection shall be raised before the VVPAT is dropped in the VVPAT receptacle.**

**The filing of frivolous objections shall constitute an election offense punishable under the Omnibus Election Code. For this purpose, the EB is allowed to administer oaths so that if the protest is frivolous, falsification or perjury charges may be filed.**

**f. At the close of polls, the EB shall then place the VVPAT receptacle inside the ballot box. (Emphases supplied.)**

In stark contrast, the petitioners and intervenors did not establish the legal basis of the proposed "*camerambola*" solution. They merely want to



**audit all VVPATs immediately after the elections** and compare it with the election results but are silent on the intended purpose and how COMELEC should mobilize the volunteers and watchers nationwide to conduct this audit. On this score, the conduct of a random manual audit is sufficient to determine whether there are discrepancies between the manual count and the automated count, *viz.*:

**SEC 29. Random Manual Audit.** — Where the AES is used, there shall be a random manual audit **in one precinct per congressional district randomly chosen by the Commission in each province and city.** Any difference between the automated and manual count will result in the determination of root cause and initiate a manual count for those precincts affected by the computer or procedural error.<sup>53</sup> (Emphasis supplied.)

The COMELEC Resolution Nos. 10458 and 10525 provide that at least one clustered precinct in every legislative district shall be randomly selected to determine whether there is a discrepancy between the automated and manual count of votes and to determine the root cause of discrepancies, if any. In this audit, VVPAT serves as an essential tool to reconcile any discrepancies between the manual count and machine count, thus:

RESOLUTION No. 10525

**SEC. 4. — *Number Precincts to be Randomly Selected for the RMA.*** At least one clustered precinct in every legislative district shall be randomly selected for the RMA.

The actual number of precincts to be selected in a legislative district shall be determined by proportional allocation, that is, based on the number of clustered precincts a legislative district has in proportion to that of all the other legislative districts in the country.

The COMELEC, upon the recommendation of the RMAC, shall decide on the maximum total number of clustered precincts to be selected based on statistical sampling principles and taking into consideration resources available.

For purposes of the 13 May 2019 National and Local Elections, the maximum total number of clustered precincts to be selected shall not be more than seven hundred and fifteen (715).

Once the maximum total number of clustered precincts to be selected is determined, COMELEC shall approve the proportional allocation of the actual number of clustered precincts to be selected in each legislative district based on the recommendation of the PSA. The approval on the proportional allocation shall be made not later than ninety (90) days before the election.

**SEC. 15. *Manner of Counting of Votes.*** — x x x

k. In case the RMA results do not match the AES results, the RMA members shall review all ballots and the corresponding entries in the Audit Returns for purposes of excluding the possibility of human error.

<sup>53</sup> RA No. 8436, as amended by RA No. 9369.



**After determination that human error was not committed as having caused the discrepancy, the Chairman shall determine if the total number of VVPAT receipts is equal to the total number of valid ballots. If so, the RMA members shall use the VVPAT receipts to count the votes counted in favor of the candidate with the reported discrepancy/ies.**

SEC. 18. - Discrepancy Between AES and RMA. - In the event that the RMA reports a discrepancy between the AES and RMA results which exceeds the allowable margin of an aggregate difference of ten (10) votes, the RMA-VT shall:

x x x x

e. In the event of a finding that the discrepancy exists or is not due to mere mathematical error, the RMAC shall turn over the ballot box to the Technical Evaluation Committee (TEC) **for determination of the root cause in case the finding is that the discrepancy is valid.** (Emphases supplied.)

Verily, the random manual audit should have satisfied petitioners and intervenors' concern about possible discrepancies between the machine and manual count of votes. If they are apprehensive about the sample size of audited precincts in a legislative district, then the recourse is not with COMELEC but with Congress to amend Section 29 of RA No. 8436, as amended.

The petitioners and intervenors also failed to show that the prohibition of using capturing devices in COMELEC Resolution No. 10460 is unlawful. It is true that Section 179 of the Omnibus Election Code allows poll watchers to use capturing devices at different stages of the election process except when voters are casting their votes, to wit:

SEC. 179. Rights and duties of **watchers.** - x x x The watchers shall have the right to stay in the space reserved for them inside the polling place. They shall have the right to witness and inform themselves of the proceedings of the board of election inspectors, including its proceedings during the registration of voters, to take notes of what they may see or hear, **to take photographs of the proceedings and incidents, if any, during the counting of votes, as well as of election returns, tally boards and ballot boxes,** to file a protest against any irregularity or violation of law which they believe may have been committed by the board of election inspectors x x x (Emphasis supplied.)

These rights and duties are reiterated and clarified in Section 46 of COMELEC Resolution No. 10460 for the 2019 National Elections, thus:

**SEC. 46. Rights and Duties of Watchers.** - x x x

x x x x

The watchers shall have the right to:

- a. Stay in the space reserved for them inside the polling place, except under the last paragraph of Section 44 of this Resolution;
- b. Witness and inform themselves of the proceedings of the EB;
- c. Take note of what they may see or hear;
- d. **Take picture, image or photo of the proceedings and incidents, if any, during testing and sealing, counting of votes, transmission and printing of election returns provided the secrecy of the ballot shall be maintained at all times. In no case shall taking of pictures, images or photos be allowed during casting of votes;**
- e. **File a protest against any irregularity or violation of law which they believe may have been committed by the EB or by any person present;**
- f. Obtain from the EB a certificate as to the filing of such protest and/or the Resolution thereof; and
- g. Position themselves behind the chairperson of the EB in such a way that they can read the election returns while the chairperson is publicly announcing the precinct results.

x x x x (Emphases supplied.)

Contrary to petitioners' claims, the poll watchers can still register their protest on any irregularity and use capturing devices during the counting of votes and the transmission and printing of election returns, which will help them record their observations. However, they are prohibited from using these devices during the casting of votes to observe the constitutional policy of securing ballots' secrecy and sanctity.<sup>54</sup> The prohibition is consistent with the Omnibus Election Code, which considers it unlawful for any person to avail of any scheme to discover the contents of the ballots of a voter:

OMNIBUS ELECTION CODE

SEC. 261. Prohibited Acts. — The following shall be guilty of an election offense:

x x x x

(z) On voting:

x x x x

(5) Any person who avails himself of any means of scheme to discover the contents of the ballot of a voter who is preparing or casting his vote or who has just voted.

<sup>54</sup> CONSTITUTION, Art. V, Sec. 2. This section provides that “[t]he Congress shall provide a system for securing the secrecy and sanctity of the ballot as well as a system for absentee voting by qualified Filipinos abroad;” See RA No. 8436, as amended, Sec. 1.

Notably, the VVPAT reflects the votes of a voter. Allowing the poll watcher or even the voters to take a picture of their VVPATs during the casting of votes may run contrary to the constitutional policy of keeping the ballots' secrecy and sanctity. The COMELEC may adopt measures to prevent this from happening. In their attempt to show that poll watchers are prohibited from using capturing devices even during the counting of votes, the petitioners and intervenors point to the prohibition **imposed on voters** instead, which includes the phrase "*for whatever purpose.*" This claim is misleading because they are referring to COMELEC Resolution No. 10088, which served as guidelines for the 2016 National Elections. Yet, the COMELEC Resolution No. 10460 for the 2019 National Elections already removed the phrase "*for whatever purpose.*"

Resolution No. 10088 (2016 NLE)	Resolution No. 10460 (2019 NLE)
<p>SEC. 2. Sections 20(a) and (f) of <u>Resolution No. 10057</u> are hereby amended to read as follows:</p> <p>“SEC. 20. Prohibitions on voting. – It shall be unlawful for a <u>voter</u> to:</p> <p style="text-align: center;">x x x x</p> <p>f) Use capturing devices, including, but not limited to, digital cameras or cellular phones <b>for whatever purpose while inside the polling place[.]</b>” (Emphasis supplied.)</p>	<p>SEC. 64. Prohibitions on Voting. – It shall be unlawful for a voter to:</p> <p style="text-align: center;">x x x x</p> <p>(f) Use of capturing devices such as but not limited to digital cameras, cellular phones with camera, <b>or other means to copy the contents of the ballot, or otherwise make use of any other scheme to identify his vote[.]</b> (Emphasis supplied.)</p>

More importantly, the *Capalla* ruling is clear that the PCOS machines are capable of digitally-signed transmissions, as can be distilled from the clarificatory questions of former Associate Justice Antonio Carpio and Atty. Lazatin’s response. A digital signature requires private and public keys. In the case of PCOS machines, algorithms generate these keys and the method of comparing these keys. The private key in the electronic transmission of results and the public key possessed by COMELEC must match to consider the electronic transmission of results as an official election return. The private key is generated when the members of the electoral board use their respective *iButtons* and input their respective PINs on the voting machines. Although *Capalla* discussed PCOS machines’ capability, the procedure concerning *iButtons* and PINs remains the same in the 2019 National Elections using VCMs. As such, the authentication process of electronically transmitted results is compliant with jurisprudence.

Yet, the petitioners and intervenors insist that *Capalla* was not categorical whether the requirement of digital signatures was complied with using the *iButtons* and PINs. The gist of their contention is that the *iButtons* and PINs should not be considered as the electoral board members’ electronic



signatures because they are machine identifiers and are not personal to the EB members. The recent case of *Bagumbayan-VNP Movement, Inc v. COMELEC*<sup>55</sup> already addressed these contentions in ruling that the *iButtons* and PINs are the functional equivalents of the signatures of the members of the electoral board, to wit:

The Court rules that the electronic transmission through the method promulgated by the COMELEC, as well as the authentication of the results, are valid under the law. According to A.M. No. 01-7-01-SC, or the Rules on Electronic Evidence, promulgated by the Court and alluded to with regard to the above mentioned authentication process, a “digital signature” refers to an electronic signature consisting of a transformation of an electronic document or an electronic data message using an asymmetric or public cryptosystem such that a person having the initial untransformed electronic document and the signer's public key can accurately determine: (i) whether the transformation was created using the private key that corresponds to the signer's public key; and (ii) whether the initial electronic document had been altered after the transformation was made, and that for purposes of the Rules, a digital signature is considered an electronic signature.

An electronic signature is likewise defined as “any distinctive mark, characteristic and/or sound in electronic form representing the identity of a person and attached to or logically associated with the electronic data message or electronic document or any methodology or procedure employed or adopted by a person and executed or adopted by such person with the intention of authenticating, signing or approving an electronic data message or electronic document.”

**As gleaned from the wording of the law, the signature may be any distinctive mark or characteristic that represents the identity of a person. Thus, a machine signature of a PCOS machine may validly be considered the functional equivalent of the aforementioned “digital signature,” as it represents the identity of the individual, said signature naturally being created specifically for the person him or herself inputting the details.**

**It is critical to note that the Court *En Banc* has already recognized that the PCOS machines produce digital signatures. In *Archbishop Capalla*, the Court clarified during the oral arguments that there is no infirmity as regards the signature of a PCOS machine being the equivalent of a digital signature. The Court, in that case, categorically stated that the PCOS machines produce digitally-signed signatures, and the Court sees no need to disturb that finding absent any compelling evidence to the contrary adduced by the petitioners. (Emphases supplied; citations omitted.)**

Taken together, the petitioners and intervenors failed to prove that the COMELEC unlawfully neglected any duty enjoined by law. The adoption of the “*camerambola*” solution, or another method to digitally sign the election results, or policies regarding the use of capturing devices are all suggestions subject to the COMELEC’s sound judgment. The exercise of discretion on how to implement the chosen AES must be accorded with the presumption of

<sup>55</sup> G.R. Nos. 206719, 206784, and 207755, April 10, 2019.



regularity and should be respected.<sup>56</sup> In *Sumulong v. COMELEC*,<sup>57</sup> the Court highlighted COMELEC's role as an independent constitutional body:

The Commission on Elections is a constitutional body. It is intended to play a distinct and important part in our scheme of government. In the discharge of its functions, it should not be hampered with restrictions that would be fully warranted in the case of a less responsible organization. **The Commission may err, so may this court also. It should be allowed considerable latitude in devising means and methods that will insure the accomplishment of the great objective for which it was created – free, orderly and honest elections. We may not agree fully with its choice of means, but unless these are clearly illegal or constitute gross abuse of discretion, this court should not interfere.** Politics is a practical matter, and political questions must be dealt with realistically — not from the standpoint of pure theory. The Commission on Elections, because of its fact-finding facilities, its contacts with political strategists, and its knowledge derived from actual experience in dealing with political controversies, is in a peculiarly advantageous position to decide complex political questions.

x x x x

There are no ready-made formulas for solving public problems. Time and experience are necessary to evolve patterns that will serve the ends of good government. In the matter of the administration of the laws relative to the conduct of elections, as well as in the appointment of election inspectors, we must not by any excessive zeal take away from the Commission on Elections the initiative which by constitutional and legal mandates properly belongs to it. Due regard to the independent character of the Commission, as ordained in the Constitution, requires that the power of this court to review the acts of that body should, as a general proposition, be used sparingly, but firmly in appropriate cases. We are not satisfied that the present suit is one of such cases.<sup>58</sup> (Emphasis supplied.)

*At any rate, the petition for mandamus is dismissible for being moot and academic.*

Lastly, the petition for *mandamus* is dismissible on the ground of mootness. A case becomes “moot” when it ceases to present a justiciable controversy by supervening events so that a declaration thereon would be of no practical use or value.<sup>59</sup> Here, the conclusion of the 2019 National Elections rendered the petition academic. The issues on the absence of digital signatures, prohibition on the use of capturing devices, and adoption of the “*camerambola*” solution, are part of the election day proceedings and refer to the chosen AES system implemented for that particular election. The prayer

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<sup>56</sup> See *Aratuc v. COMELEC*, 177 Phil. 205, 224 (1979).

<sup>57</sup> 73 Phil. 288 (1941).

<sup>58</sup> *Id.* at 294-296.

<sup>59</sup> *So v. Hon. Tacla, Jr.*, 648 Phil. 149, 163 (2010), citing *David v. Macapagal-Arroyo*, 522 Phil. 705, 753 (2006).

to compel the COMELEC to make an inventory of the list of MAC<sup>60</sup> and IP<sup>61</sup> addresses is likewise mooted. This relief will serve no practical purpose because it was intended to be implemented during the transmission of results in the 2019 National Elections to avoid data interception and ensure that the COMELEC can only receive data from its recognized devices. It will also be impractical to require the submission of the devices' MAC addresses for purposes of future elections. The Court cannot preempt the COMELEC's choice on which AES should be implemented and whether the same devices will be used again in subsequent elections.<sup>62</sup> These data issues are impermanent as they can change with technological progression dependent to the necessity at a given time. In *Vitangcol III v. COMELEC*,<sup>63</sup> we dismissed similar petition for being moot and academic after the 2016 National Elections, thus:

According to the petitioners, when polls close on May 9, 2016, the VCMs would transmit the election returns to the Comelec central server, the transparency server, and the server at the Joint Congressional Canvassing. Elections results would also be transmitted to the appropriate municipal, provincial and national canvassing centers. During such transmissions, however, data may be compromised. Hackers could intercept (thru sniffing), alter, and send the altered data to canvassing centers and Comelec servers without any traces that such data had already been tampered. To prevent this, **petitioners pray to compel the Comelec to make an inventory of all the MAC and IP addresses of all its electronic devices, as well as IMSI and IMEI of all its communication devices, that would be used in the May 9, 2016 elections.** That way, the recipients of the data, particularly the Comelec, could crosscheck whether the data they received actually came from Comelec-recognized devices.

**The conclusion of the May 9, 2016 elections, however, mooted the issues raised in these Petitions. In addition, it should be noted that IP addresses are not permanent. Internet Service Providers (ISP) can change it from time to time. Connecting to the internet thru different ISPs also results in the change of IP addresses. In other words, the IP addresses used relative to the May 9, 2016 will no longer be the same IP addresses that will be used in the subsequent elections. The same goes true for the MAC address and IMEI. While these identifying codes are permanently embedded on electronic devices, no one knows, at this point, whether the Comelec will utilize the same electronic devices for the same precincts in future elections.**<sup>64</sup> (Emphases supplied; citation omitted.)

On a final note, the COMELEC exercised its judgment to ensure free, orderly and honest elections and to protect the secrecy and sanctity of ballots

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<sup>60</sup> MAC or Media Access Control address refers to a unique identifier assigned to a network device. It is made up of six two-digit hexadecimal numbers separated by colons. It is permanently embedded on the device and assigned by the vendor or manufacturer of the device. MAC Address, the Tech Terms Dictionary. Accessed on August 25, 2020 at <https://techterms.com/definition/macaddress>.

<sup>61</sup> IP or Internet Protocol address is a unique address that enables a network device to communicate with and locate other devices within the same network. IP Address, the Tech Terms Dictionary. Accessed on August 25, 2020 at [https://techterms.com/definition/ip\\_address](https://techterms.com/definition/ip_address).

<sup>62</sup> See Republic Act No. 8436, Section 5.

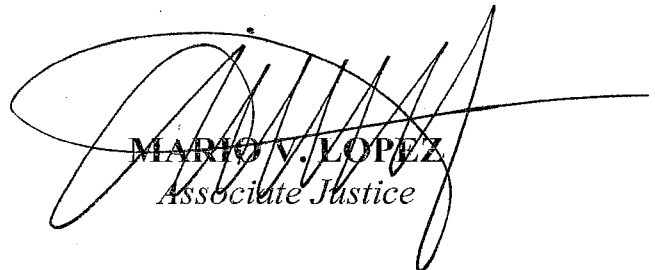
<sup>63</sup> (Notice), G.R. No. 224027, October 11, 2016.

<sup>64</sup> *Id.*

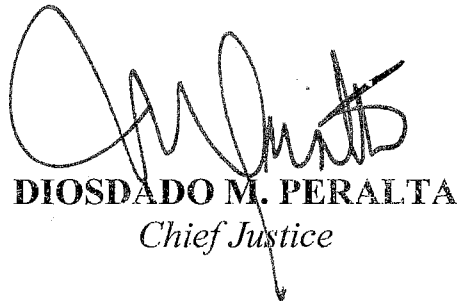
without grave abuse of discretion. To be sure, the Court will not hesitate to exercise its jurisdiction to compel the performance of a duty provided by law in appropriate cases.<sup>65</sup>

**FOR THESE REASONS, the petition is DISMISSED.**

**SO ORDERED.**

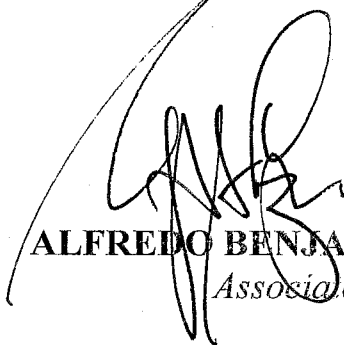
  
**MARIO V. LOPEZ**  
*Associate Justice*

**WE CONCUR:**

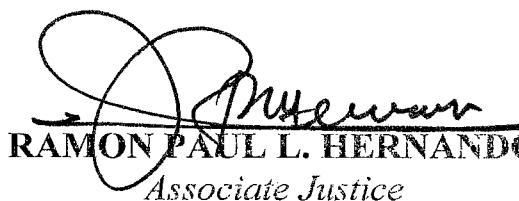
  
**DIOSDADO M. PERALTA**  
*Chief Justice*

  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

  
**MARVIC M.V.F. LEONEN**  
*Associate Justice*

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*


  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*


  
**ROSMARI D. CARANDANG**  
*Associate Justice*


<sup>65</sup> See *Bagumbayan-VNF Movement, Inc., supra* note 7, at 1319; *Guingona, Jr. v. COMELEC, supra* note 37, at 530-531; *Center for People Empowerment in Governance v. COMELEC*, 645 Phil. 293 (2010).

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

  
**RODIL V. ZALAMEDA**  
*Associate Justice*


  
**EDGARDO L. DELOS SANTOS**  
*Associate Justice*


  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

  
**DIOSDADO M. PERALTA**  
*Chief Justice*

**Certified True Copy**  
  
**ANNA-LI R. PAPA-GOMBIO**  
 Deputy Clerk of Court En Banc  
 OCC En Banc, Supreme Court