



REPUBLIC OF THE PHILIPPINES  
COMMISSION ON HUMAN RIGHTS

**HUMAN RIGHTS ADVISORY ON PREMATURE  
CAMPAIGNING  
CHR (VI) No. A2025-010**

The Commission on Human Rights (the “Commission”), as the national human rights institution with “A” status compliance with the Paris Principles issues this advisory in fulfillment of its constitutional mandate to recommend measures for the promotion and protection of human rights.<sup>1</sup>

Ahead of the recently held 2025 National and Local midterm elections, concerns regarding early campaigning have reemerged, prompting doubts about the fairness of the electoral process and its potential impact on human rights. Although premature campaigning is not presently classified as an election offense, as evidenced in the case of *Penera vs. Comelec, et.al.*,<sup>2</sup> these concerns remain significant and can undermine the principles of fairness and equality that are fundamental to democratic elections.

In essence, premature campaigning is promotion of the victory of an electoral candidate before the official campaign period begins, a practice that many jurisdictions regulate or prohibit to safeguard the fairness and transparency of elections. This advisory aims to highlight the human rights dimensions of premature campaigning and advocate for measures that ensure a level playing field for all candidates in future elections.

**Domestic Legal Framework**

Premature campaigning in the Philippines is governed by several key legal frameworks and standards, primarily aimed at ensuring fairness and integrity in the electoral process.

Article II, Section 26<sup>3</sup> of the Philippine Constitution promotes equal access to opportunities for public service and prohibits undue advantages in elections, aligning with the prohibition on premature campaigning.

Under the Omnibus Election Code,<sup>4</sup> “election campaign” or “partisan political activity” pertains to “an act designed to promote the election or defeat of a particular candidate or candidates to a public office.”<sup>5</sup> The following are considered election campaign or partisan political activity:

(1) *Forming organizations, associations, clubs, committees or other groups of persons for the purpose of soliciting votes and/or undertaking any campaign for or against a candidate;*

(2) *Holding political caucuses, conferences, meetings, rallies, parades, or other similar assemblies, for the purpose of soliciting votes and/or undertaking any campaign or propaganda for or against a candidate;*

<sup>1</sup> 1987 Constitution, Article XIII, Section 18 (6)

<sup>2</sup> G.R. No. 181613, November 25, 2009, available at [https://lawphil.net/judjuris/juri2009/nov2009/gr\\_181613\\_2009.html](https://lawphil.net/judjuris/juri2009/nov2009/gr_181613_2009.html). (last accessed on 26 March 2025)

<sup>3</sup> “Section 26. The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law.

<sup>4</sup> BP Blg. 881.

<sup>5</sup> Section 79 (b), Omnibus Election Code

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(3) *Making speeches, announcements or commentaries, or holding interviews for or against the election of any candidate for public office;*

(4) *Publishing or distributing campaign literature or materials designed to support or oppose the election of any candidate; or*

(5) *Directly or indirectly soliciting votes, pledges or support for or against a candidate.*

However, the foregoing acts shall not be considered election campaign or partisan political activity if carried out to increase the probability of aspirants being selected for candidacy to a public office by a political party, grouping, or coalition of parties.<sup>6</sup> Public declarations, viewpoints, or conversations about conceivable issues in a forthcoming election, or relating to the characteristics or criticisms of probable candidates proposed for nomination during an upcoming political party convention, must not be viewed as elements of any election campaign or partisan political activity.<sup>7</sup>

It is important to highlight that an election campaign or partisan political activity technically takes place only if there is a "candidate". Hence, there is no election campaign if there is no candidate to speak of. Under the Omnibus Election Code, an individual becomes a candidate only at the moment he or she files a certificate of candidacy to an elective position.<sup>8</sup>

A campaign is considered premature when the promotion of the victory or defeat of a candidate before the start of or outside the campaign period set by law and as specified by the Commission on Elections. Hence, when an individual has already filed a certificate of candidacy, the candidate and his supporters cannot yet campaign, they must wait for the campaign period to commence.

Under the Omnibus Election Code the election period starts ninety (90) days before the day of the election and shall end thirty days thereafter.<sup>9</sup> The campaign period for election of President, Vice President and for national positions shall start ninety (90) days before election day; for election of local elective positions and Members of the House of Representatives shall commence forty-five (45) days before election day. For elections of Barangay and Sangguniang Kabataan officials shall start fifteen (15) days before the election day.<sup>10</sup> The campaign periods do not include the day before and the day of the election.<sup>11</sup>

This practice is expressly prohibited by Section 80 Omnibus Election Code<sup>12</sup> while Section 68<sup>13</sup> provides penalties, including disqualification for offenders. Section 80 thereof provides:

***Sec. 80. Election campaign or partisan political activity outside the campaign period – It shall be unlawful for any person, whether or not a voter or candidate, or for any party, or association of persons, to engage in an election campaign or partisan political activity except during the campaign***

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Omnibus Election Code, Section 79 (a)

<sup>9</sup> *Id.* Section 3.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Republic Act No. 7166 or the Synchronized Elections Law and Republic Act No. 9006, also known as, Fair Elections Act, also provide additional guidelines on campaign periods and practices.

<sup>13</sup> Sec. 68. *Disqualifications* – Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 85, 96, 97 and 104; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraph d, e, k, v and cc, sub-paragraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code, unless said person has waved his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

***period:*** *Provided, That political parties may hold political conventions or meetings to nominate their official candidates within thirty days before the commencement of the campaign period and forty-five days for Presidential and Vice-Presidential election”*  
(Boldfacing and underscoring, supplied)

## Legal Challenges

Despite legal provisions, premature campaigning remains a contentious issue due to loopholes and challenges in enforcement. The *Penera* case clarified that a person is only considered a candidate at the start of the campaign period, limiting the scope of premature campaigning offenses. Activities before this period are not penalized unless they occur during the campaign period.

The *Penera* ruling fundamentally changed how premature campaigning is viewed under Philippine election laws. It established that, under the Section 13<sup>14</sup> of the Automated Election System Law (Republic Act No. 9369)<sup>15</sup>, an individual who files a certificate of candidacy (COC) is not officially considered a candidate until the start of the campaign period. *Penera* effectively allowed candidates to engage in campaign activities without legal repercussions before the official campaign period begins.<sup>16</sup>

Recent challenges to the election law, such as the petition filed by the Kapisanan ng Social Media Broadcasters ng Pilipinas, Inc., highlight ongoing concerns about unregulated premature campaigning. The group’s legal counsel, Atty. Mark Tolentino, argued that RA 9369, which amended the law authorizing the COMELEC to use an Automated Election System, is unconstitutional as it violates the equal protection clause enshrined in the Constitution with how it defines a “candidate”, which makes them not liable for premature campaigning.<sup>17</sup>

## International Human Rights Standards

The authority of the government, under the Universal Declaration of Human Rights (UDHR), must be founded on the will of the people.<sup>18</sup> This is similar to one of the principles declared by the Constitution of the Philippines where it states that all

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<sup>14</sup> **Sec. 13.** Section 11 of Republic Act No. 8436 is hereby amended to read as follows:

“SEC.15. Official Ballot. – The Commission shall prescribe the format of the electronic display and/or the size and form of the official ballot, which shall contain the titles of the position to be filled and/or the proposition to be voted upon in an initiative, referendum or plebiscite. Where practicable, electronic displays must be constructed to present the names of all candidates for the same position in the same page or screen, otherwise, the electronic displays must be constructed to present the entire ballot to the voter, in a series of sequential pages, and to ensure that the voter sees all of the ballot options on all pages before completing his or her vote and to allow the voter to review and change all ballot choices prior to completing and casting his or her ballot. Under each position to be filled, the names of candidates shall be arranged alphabetically by surname and uniformly indicated using the same type size. The maiden or married name shall be listed in the official ballot, as preferred by the female candidate. Under each proposition to be voted upon, the choices should be uniformly indicated using the same font and size.” A fixed space where the chairman of the board of election inspector shall affix her/his signature to authenticate the official ballot shall be provided.

“For this purpose, the Commission shall set the deadline for the filing of certificate of candidacy/petition of registration/manifestation to participate in the election. **Any person who files his certificate of candidacy within this period shall only be considered as a candidate at the start of the campaign period for which he filed his certificate of candidacy:** Provided, That, unlawful acts or omissions applicable to a candidate shall effect only upon that start of the aforesaid campaign period: Provided, finally, That any person holding a public appointive office or position, including active members of the armed forces, and officers, and employees in government-owned or-controlled corporations, shall be considered ipso facto resigned from his/her office and must vacate the same at the start of the day of the filing of his/her certification of candidacy. (Boldfacing supplied.)

<sup>15</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 Elections Laws, Providing Funds Therefor and For Other Purposes

<sup>16</sup> Premature Campaigning in the Philippines: A Closer Look at the Loopholes and Legal Challenges, *available at* <https://www.ajalaw.ph/prematurecampaigning/>, (last accessed on 28 March 2025)

<sup>17</sup> Group challenges election law before SC over unregulated “premature campaigning”, *available at* <https://www.abs-cbn.com/news/nation/2025/3/26/group-challenges-election-law-before-sc-over-unregulated-premature-campaigning-1847>, (last accessed on 28 March 2025)

<sup>18</sup> Paragraph 3, Article 21 of the Universal Declaration of Human Rights.

government authority emanates from the people.<sup>19</sup> The will of the people must be expressed through elections that shall be regularly held (periodic), genuine and voting shall be accessible to all (universal), equal, and conducted secretly or via other equivalent free voting methods.<sup>20</sup> Further, the UDHR declares that everyone possesses the right to participate in their country's governance, either directly or through elected representatives of their choice<sup>21</sup> and that everyone is entitled to equal access to public services within their nation.<sup>22</sup>

Echoing the UDHR, the International Covenant on Civil and Political Rights (ICCPR), stresses the equality of right and opportunity to (1) participate in the administration of public affairs, either directly or through freely elected representatives; (2) the right to vote and stand for election in regular, genuine elections that are conducted by universal and equal suffrage, with voting conducted in secret to ensure the free expression of voters' will; and (3) The right to access public services and employment opportunities on an equal basis.<sup>23</sup>

The Human Rights Committee's General Comment No. 25,<sup>24</sup> which addresses the right to participate in public affairs, voting rights, and the administration of public elections, underscores that the rights to vote and to stand for election are fundamental to the effective operation of a democratic society. The Committee affirms that these rights serve as crucial instruments through which individuals can influence governmental actions and uphold accountability. It emphasizes that free and genuine elections, characterized by universal and equal suffrage and conducted by secret ballot, are indispensable for enabling citizens to express their political will, thereby strengthening democratic principles. Moreover, the Committee highlights that these rights not only facilitate citizen participation in decision-making processes but also contribute to the advancement of respect for human rights and the rule of law within democratic systems.

In the context of the right to stand for election, the ICCPR is emphatic that the right and the opportunity must be exercised equally or fairly by all citizens running for elective positions. Premature campaigning undermines the fairness of elections by giving some candidates an unfair advantage over others. When candidates or their supporters begin promoting their candidacy before the official campaign period, they disrupt the level playing field essential for democratic competition. This early promotion allows certain candidates to dominate public discourse prematurely, skewing the electoral process and compromising the principle that all participants should have equal opportunity to reach voters.

This imbalance directly also threatens citizens' right to participate in free and fair elections, a fundamental pillar of democratic governance. Elections are not just formal procedures; they represent the people's voice in choosing their leaders. When premature campaigning occurs, it privileges some candidates, limiting voters' ability to fairly evaluate all options. This undermines the democratic ideal that every voter should have access to balanced and comprehensive information before making electoral decisions.

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<sup>19</sup> Section 1, Article II, Philippine Constitution.

<sup>20</sup> Paragraph 3, Article 21 of the Universal Declaration of Human Rights

<sup>21</sup> *Id.* Paragraph 1.

<sup>22</sup> *Id.* Paragraph 2.

<sup>23</sup> Article 25 of the ICCPR states:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

<sup>24</sup> CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote), The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service, CCPR/C/21/Rev.1/Add.7

One key consequence of premature campaigning is its impact on voters' capacity to make informed choices. By influencing public opinion before the official campaign period, candidates can shape narratives and perceptions without the usual oversight and regulations that ensure fairness. This early influence often results in voters receiving incomplete or biased information, making it difficult to objectively compare candidates. As a result, the electorate's ability to engage in critical evaluation is weakened, diminishing the quality of democratic participation.

More importantly, premature campaigning disproportionately benefits candidates with greater financial resources. Wealthier candidates can sustain prolonged visibility through advertising, events, and media presence before the official campaign period begins. This financial edge marginalizes less affluent candidates, who may lack the means to compete with such early and sustained outreach. Consequently, political participation becomes less inclusive, as resource-poor candidates face barriers to visibility and voter engagement. When access to campaigning is tied to financial capacity, the democratic process loses its inclusivity and representativeness. Marginalized groups and less privileged candidates are often sidelined, reducing the diversity of voices and weakening the legitimacy of election outcomes.

### **Proposed Reforms**

There have been proposals to amend the Omnibus Election Code to strengthen regulations on premature campaigning. House Bill No. 9406, filed by Rep. Gus S. Tambunting, seeks to address the issue with regard to the definition and treatment of candidates in the context of premature campaigning. The proposed amendments recommend that individuals aspiring for public office should be considered candidates from the moment they file their COC and seek the extension of the election period to 120 days. The bill is pending in the House Committee on Suffrage and Electoral Reforms since November 8, 2023.

### **Comments and Recommendations**

In view of the above issues and legal challenges on premature campaigning, the Commission provides these recommendations aimed at strengthening the legal framework to safeguard electoral fairness and the right to participate in free, transparent, and inclusive elections.

1. The Commission recommends that Congress review and amend election laws to clearly define and penalize premature campaigning, ensuring that all candidates have equal opportunities to present their platforms.

2. Strengthen the role of the Commission on Elections (COMELEC) in monitoring and addressing premature campaigning, even if it does not currently fall under legal sanctions. It is noteworthy to mention that the COMELEC remains proactive in monitoring and regulating election activities. COMELEC has issued resolution<sup>25</sup> to address issues related to campaign conduct, including premature campaigning, within the bounds of existing laws and jurisprudence.

3. Conduct public education campaigns to inform voters about the implications of premature campaigning and the importance of a fair electoral process.

### **Conclusion**

The Commission on Human Rights emphasizes the need for a fair and transparent electoral process that respects the rights of all citizens to participate in

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<sup>25</sup> COMELEC Resolution No. 11086. Rules and Regulations Implementing Republic Act No. 9006, Otherwise Known as The "Fair Election Act", In Connection with the 12 May 2025 National, Local, & Bangsamoro Parliamentary Elections, available at [https://comelec.gov.ph/php-tpls-attachments/2025NLE/Resolutions/com\\_res\\_11086.pdf](https://comelec.gov.ph/php-tpls-attachments/2025NLE/Resolutions/com_res_11086.pdf), (last accessed on 28 March 2025)

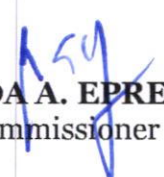
democratic governance. By addressing premature campaigning, we can strengthen the foundations of our democracy and ensure that elections truly reflect the will of the people.

**LET THIS ADVISORY** be adopted and circulated as widely as possible.

**ISSUED** this 6th day of August 2025 in Quezon City, Philippines.



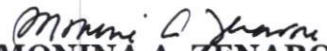
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