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**Komisyon ng Karapatang Pantao ng Pilipinas**  
*(Commission on Human Rights of the Philippines)*

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**HUMAN RIGHTS ADVISORY**  
**CHR (IV) A2010-002**

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**ON THE PERMIT-TO-CAMPAIGN SCHEME IMPOSED  
BY THE NPAs AND OTHER  
NON-STATE GROUPS**

**Current Situation**

The Commission on Human Rights takes cognizance of various reports from the media with regard to the "Permit to Campaign" Scheme being implemented by the Communist Party of the Philippines (CPP), New People's Army (NPA) and other non-state actors. Under this scheme, said non-state actors solicit money from candidates amounting from Ten Thousand Pesos (Php10,000) to Half a Million Pesos (Php 500,000), or sometimes even millions (for congressional seats), depending on the position aimed for by the candidates and his/her capacity to pay. Current reports even show that these non-state actors plan to upgrade their permit to campaign scheme to "Permit to Win" which is more lucrative for their purposes.

Upon payment thereof, these non-state actors issue permits to campaign which, in turn, give the candidates the freedom to enter and campaign, unrestricted, in the hinterland barangays that are either rebel-infested or are within their "influence" or "control." Otherwise, candidates who refuse to pay the fees face threats upon their lives and security. One Samar town mayor admitted having paid the fee which allowed him to campaign in several far-flung barangays in their town. The town mayor eventually won. While another Samar town official was allegedly held hostage by the NPA during the 2004 elections due to her non-payment of permit to campaign fee, which also included the giving of firearms.

Several politicians have complained of this practice while the Armed Forces of the Philippines have affirmed the same. Various reports have shown that this scheme is flagrant in the regions of the Calabarzon and Mimaropa, the provinces of Sorsogon, Catanduanes, Masbate and Camarines Sur and Norte in the Bicol Region, Pampanga, Tarlac, Pangasinan, Bulacan, Bataan, Aurora and Nueva Ecija, Ilocos, Benguet, La Union, Isabela, Cagayan, Nueva Vizcaya, Quirino and Rizal in north-central

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Luzon. This is also present in Davao City, Butuan and other areas in Mindanao, as well as in Samar and Leyte and other parts of the Visayas region.

### **Basic Principles on the Human Rights to Electoral Participation and to Suffrage**

“Elections themselves are human rights events: first, because they give voice to the political will of the people involved; and secondly, because, to be truly free and fair consistent with international standards, they must be conducted in an atmosphere which is respectful of basic human rights.”<sup>1</sup>

The 1987 Constitution declares as State Policy that “The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them.”<sup>2</sup> And, “The State values the dignity of every human person and guarantees full respect for human rights”<sup>3</sup>

The Supreme Court decision in *Akbayan-Youth et. al. vs. the Commission on Elections* even states that “in a representative democracy such as ours”, the right to suffrage is “accorded a prime niche in the hierarchy of rights embodied in the fundamental law”<sup>4</sup>

The right to take part in government and other aspects of public life is proclaimed and guaranteed by international law instruments to which the Philippines is a State Party and which are applicable in the Philippines, including the Universal Declaration of Human Rights<sup>5</sup> and the International Covenant on Civil and Political Rights<sup>6</sup> and is recognized in many other international instruments.<sup>7</sup>

The Universal Declaration on Human Rights (UDHR) provides that,

“(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall

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<sup>1</sup> Ibharim Eall, Assistant Secretary-General for Human Rights, Professional Training Series No. 2, Human Rights and Elections, United Nations Centre for Human Rights, 1994

<sup>2</sup> 1987 Constitution, Article II, Section 1.

<sup>3</sup> 1987 Constitution Article II, Section 11

<sup>4</sup> *Akbayan-Youth et al. vs. Commission on Elections*, G.R. No. 147066, March 26, 2001

<sup>5</sup> Signed by The Philippines on December 10, 1948

<sup>6</sup> Entered into Force in the Philippines on January 28, 1987

<sup>7</sup> including the Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Elimination of Racial Discrimination and the Convention on the Political Rights of Women

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be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”<sup>8</sup>

In the same vein, the International Covenant on Civil and Political Rights (ICCPR) states that,

“Every citizen shall have the right and 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>9</sup>

These provisions speak of three central rights, viz: the right to take part in government; right to vote and to be elected; and right to equal access to public service.

International human rights standards and the human rights-based approach require elections to be free, fair and genuine.

To be free, participation in elections must be conducted in an atmosphere characterized by the absence of intimidation and the presence of a wide range of fundamental human rights.<sup>10</sup> To that end, obstacles to full participation must be removed and the citizenry must be confident that no harm will befall them as a result of their participation<sup>11</sup> – either as a candidate or a voter.

To be fair, elections must be equal, universal and non-discriminatory. The broadest pool of voters must be guaranteed participatory rights.<sup>12</sup> Any measure that is calculated to prevent a racial group or groups from participation in the political life of the country must be prohibited.<sup>13</sup>

To be genuine, an election must encourage political pluralism, that is, every voter shall be free to vote for the candidate or list of candidates he prefers and shall not be compelled to vote for any specific candidate or list of candidates.<sup>14</sup> Further, candidates and political parties and organizations must be allowed to function effectively. Equal access to public service must

<sup>8</sup> Article 21, paragraph 3, UDHR

<sup>9</sup> Article 25, paragraphs (a) and (b), ICCPR

<sup>10</sup> Paragraph 4, ICCPR

<sup>11</sup> Paragraph 28, page 6, Professional Training Series No. 2, Human Rights and Elections

<sup>12</sup> Paragraph 64, page 10, Ibid.

<sup>13</sup> Paragraph 66, page 11, Ibid.

<sup>14</sup> Principle VIII (a), Draft General Principles on Freedom and Non-Discrimination in the Matter of Political Rights adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, 1962

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be ensured and that voters must be presented with a real choice. Hence, the broadest pool of candidates must be allowed to yield genuine choice for the people.<sup>15</sup>

Implicit in the concept of free choice is that of informed choice. Voters can neither formulate nor express their will without access to information about the candidates, the parties and the process. Therefore, unhindered distribution and exchange of information must be assured.<sup>16</sup>

### **The Permit to Campaign Scheme, Repugnant To Human Rights and the Standards of Free and Genuine Elections**

The "Permit to Campaign Scheme" which, in plain language, is a form of extortion being perpetrated by the New Peoples Army and other non-state actors, is repugnant in all possible ways to valued human rights principles and standards, not only of candidates and political parties, but of the individual voters as well.

This practice effectively prevents candidates and parties from entering certain "territories" allegedly under the "control" of these non-state actors, unless a certain amount or other considerations of value is given as a license or a pass, a 'permit,' to enter and campaign.

Requiring the payment of permits to campaign fees imposes additional property requirement to candidates and political parties to exercise their right to participate in the conduct of public affairs contrary to the Constitutional provision that "No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage,"<sup>17</sup> and international human rights standards. Further, this practice limits and violates the rights to equality, free opinion, free expression, information, assembly, freedom of movement and freedom against discrimination, among others, of candidates and political parties who fail or refuse to pay the same.

Similarly, it effectively disenfranchises eligible voters who reside in the so-called "territories" of these non-state actors from fully exercising their right to suffrage. Without their consent, these voters are prevented from receiving valuable information, meeting and knowing the candidates face to face and hearing their programs of government that will help them choose their candidates and express their true and express will.

This practice arrogates to the requiring group the powers rightfully belonging to the people and lawfully designated authorities. It disregards

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<sup>15</sup> Paragraphs 80-84, pages 12-13, Professional Training Series No. 2, Supra.

<sup>16</sup> Paragraph 87, page 13, Ibid.

<sup>17</sup> 1987 Constitution, Article V, Section 1



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the rule of law, and scoffs at the principles of free, fair and genuine elections.

Just as it is generally accepted in international law that the State has the primary responsibility to protect, respect and promote human rights, it is enshrined in human rights instruments that limits to the enjoyment of human rights (only those which can be limited) can only be made by law and by legal authorities.

The Supreme Court recognizes the State's "inherent police power" in these matters and has stated that the right to suffrage "ought to be exercised within the proper bounds and framework of the Constitution and must properly yield to pertinent laws skillfully enacted by the Legislature, which statutes for all intents and purposes, are crafted to effectively insulate such so cherished right from ravishment and preserve the democratic institutions our people have, for so long, guarded against the spoils of opportunism, debauchery and abuse."<sup>18</sup>

Sectors which would take it upon themselves to control the elections without lawful authority are trying to subject democratic processes to the above-mentioned "opportunism, debauchery and abuse". They work to the detriment of human rights and deny the true and the express will of the people.

### **Human Rights Obligations and Liabilities of Non-State Actors**

The concept that non-state actors have human rights obligations to meet and liability for human rights violations is now settled in international law. "Despite common perception to the contrary, international law has long contemplated duties for non-state actors...."<sup>19</sup> As the UDHR states: "The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all people and all nations, to the end that every individual and every organ of society shall... promote respect for these rights and freedoms...."

Both the ICCPR and the International Covenant on Economic, Social and Cultural Rights (ICESCR) share a common provision that "the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized by the Present Covenant," including the right to political participation.

In Philippine practice, the National Democratic Front of the Philippines (NDFP) - comprised of the Communist Party of the Philippines

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<sup>18</sup> Akbayan-Youth et al. vs. Commission on Elections, G.R. No. 147066, March 26, 2001

<sup>19</sup> Confronting the Impunity of Non-State Actors: New Fields for the Promotion of Human Rights, Chris Jochnick, Human Rights Quarterly, 1999

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(CPP) and the New People's Army (NPA), an armed insurgency group - recognized its own obligations to respect human rights when it voluntarily entered into the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) with the Philippine Government in 1998. In this agreement, which continues in force today, the government and the NDFP agree that they "shall adhere to and be bound by the principles and standards embodied in international instruments on human rights."<sup>20</sup>

More specifically, the NDFP undertook to "uphold, protect and promote the full scope of human rights and fundamental freedoms, including:

1. The right of self-determination of the Filipino nation by virtue of which **the people should fully and freely determine** their political status... towards **genuine national independence, democracy**, social justice and development...
14. The right to free choice of domicile, movement and travel within the country and abroad... and against travel restrictions for political reasons or objectives.
17. The **right to universal suffrage** irrespective of sex, race, occupation, social origin, property, status, education, ideological and political conviction and religious belief. "  
(emphasis ours)

Under the CARHRIHL, the NPA as an organization and individual members have undertaken the clearly stated obligation to respect the rights of candidates to move around and campaign free from non-legal restrictions or demands and free from threats or intimidation.

The NPA and the CPP, together comprising the NDFP, also agreed that "(t)he persons liable for violations and abuses of human rights shall be subject to investigation and, if evidence warrants, to prosecution and trial."<sup>21</sup>

True, the State has the primary responsibility of promoting and protecting human rights, however, this does not in any way exempt nor diminish the obligations of non-state actors for violations of human rights under international law. Suffice it to say, the State and its actors does not have the monopoly of human rights violations. All violators of human rights challenge the human dignity of every human person.

This cannot be overemphasized in the instant case. Election is, after all, the concern of everyone – states, individuals and non-state actors.

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<sup>20</sup> CARHRIHL, Part III Respect for Human Rights, Article 1

<sup>21</sup> CARHRIHL, Part III Respect for Human Rights, Art. 4.

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## **Recommendations**

The Commission on Human Rights, mandated, among others, to lead advocacy for the promotion and protection of human rights and to monitor government compliance with international obligations on human rights, respectfully sets forth the following recommendations to address this recurring issue on permit-to-campaign scheme:

1. For the Department of Interior and Local Government, all concerned local government units and law enforcers:

a. to ensure that all candidates and political parties are allowed unhampered entrance in every municipality and barangay of all levels;

b. to secure the peace and order in all areas, including those considered as hotbeds of insurgency, so that all candidates and political parties are given access to the electorate during the campaign period without intimidation or manipulation by any group;

c. to ensure that all citizens, desiring to exercise their right to suffrage, are allowed, and encouraged in, and their rights protected when, participating in political assemblies and meetings, and in the dissemination and receipt of information on any and all election-related matters;

2. For the COMELEC to ensure the effective/implementation of relevant provisions of the Omnibus Election Code,<sup>22</sup> Republic Act No. 9006 or the Fair Elections Act, and its Implementing Rules and Regulations,<sup>23</sup> and to promptly act upon complaints thereof;

3. For all non-state actors, including armed insurgency groups as well as factions and members thereof, to strictly adhere to the provisions of the CARHRIHL, including the immediate cessation and desistance from the practice of requiring permits to campaign and other similar limitations to free expression, free assembly and the right to political participation free from intimidation or coercion; and to prevent members and factions from implementing the practice and similar practices for the 2010 elections and future elections, plebiscites and referenda;


4. For the Joint Monitoring Committee, established by the CARHRIHL, including the GRP Negotiating Panel, in which the Office of the Presidential Adviser on the Peace Process (OPAPP) plays a part, to take


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<sup>22</sup> Sections 83, 87, 88 and 261 (e)

<sup>23</sup> Sections 4, 26 and 29

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note of and investigate the human rights violations inherent in the practice of requiring permits to campaign and similar practices, as well as to uphold the CARHRIHL provisions towards peace building.;

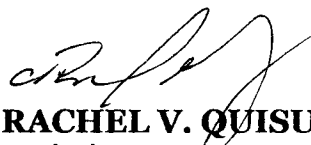
5. For political parties, candidates, political groups, media and other concerned citizens to refrain from cooperating with the practice of requiring permits to campaign and other similar limitations to free expression, free assembly and the right to political participation free from intimidation or coercion;

6. For the political parties, candidates, political groups, media and other concerned citizens media and other concerned citizens to immediately report the incidents when permits to campaign are required and similar other violations of the right of free suffrage and right to electoral participation to appropriate authorities for proper action; and

7. For the next Congress to enact a law specifically addressing and penalizing this practice.

Issued this 25<sup>th</sup> day of February 2010 at Quezon City, Philippines.

  
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Chairperson

  
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