



# Political Finance in the Philippines



The Legal Network for Truthful Elections

14 September 2021

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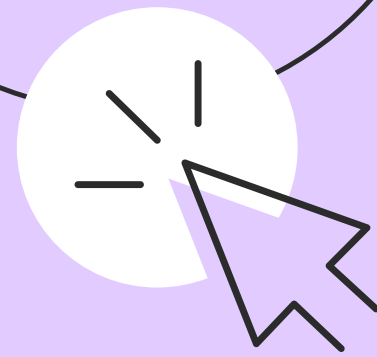
National Public Confidence



# Objectives:

- 1) Analyze and review the design of political party finance and electoral campaign finance laws and regulations in the Philippines
- 1) Identify the problems related to political party finance and electoral campaign finance in the Philippines
- 2) Draft policy recommendations to improve political party finance and electoral campaign finance in the Philippines

# Presentation Flow



## A. Introduction

## B. Theory Framework

### 1. Political Context

- Institutional Design
- Clientilistic-Charismatic Political Parties

### 2. Legal and Regulatory Aspects

- Contributions
- Expenditures
- Reporting
- Enforcement
- Developments in Legal and Regulatory Framework

## C. Political Party Finance

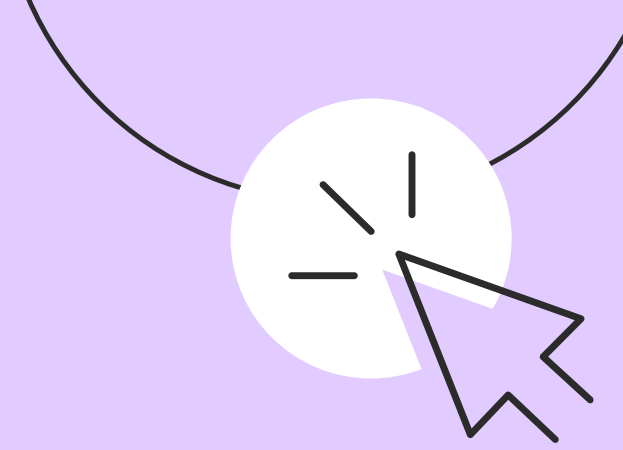
## D. Electoral Campaign Finance

### 1. Contributions

- No limit on Contributions
- Incumbent's Advantage: State Resources



# Presentation Flow



## 2. Expenditures

- Unrealistic Expenditure limit *vis-à-vis* Cost of Allowable Election Paraphernalia
- Legal loophole Resulting to Allowance of Premature Campaigning and Pre-Campaign Expenditures
- Unlawful Campaign Expenditures

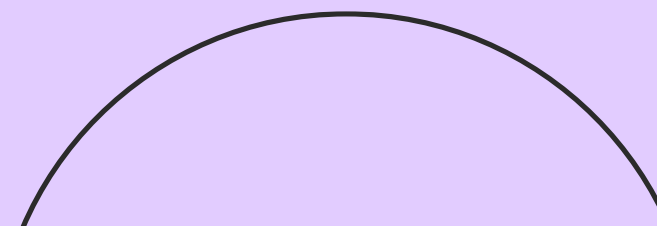
## 3. Reporting and Audit

- Weak Internal Political Party Control
- Post-Election Reporting *versus* Prior to Election Day Reporting
- Weak Audit Capacity

## 4. Enforcement

- Bar Against Elected Party Member from Assuming Office: Not strictly Enforced

## E. Recommendations



# A. Introduction

- By definition, political parties should ideally be **programmatic**. In reality, political parties in the Philippines have not developed as such and may be characterized as **loosely structured electoral parties, with personalistic or clientilistic-charismatic identities**.
- **Political party finance** - focuses on money for party functions outside the elections - **is not regulated**.
- **Political party campaign finance** - focuses on money obtained and used by political parties to win voter support at the campaign stage - **is regulated** in conjunction with **individual candidate's campaign finance** because of the personalistic political context. (**Electoral campaign finance**)

# B. Theory Framework

## 1. Political Context

### ↗ Institutional Design

- A presidential system with plurality system in single-member districts
- A presidential system hinders the development of a **stable, well-institutionalized, programmatic, weakly polarized party system**. Plurality systems in single-member districts or small electoral districts stimulate competition between individuals, not parties. (Croissant and Merkel)

### ↗ Clientilistic-Charismatic Political Parties

- 3 types of political parties: 1) programmatic; 2) charismatic; and 3) clientilistic (Croissant and Merkel)
- Philippines was classified as having **clientilistic-charismatic parties** as the dominant party type.
- In one of the interviews with a major political party in the 2019 Philippine Elections, references were repeatedly made to the **party's charismatic leader as the driving force** behind the party and that the party engages in **transactional dealings with party supporters**.

# B. Theory Framework

## 2. Legal and Regulatory Aspects

A political party is defined as an organized group of persons pursuing the same ideology, political ideas or platform of government.




### Contributions

- The Omnibus Election Code (OEC) defines a contribution as including 1) a gift, donation, subscription, loan, advance or deposit of money or anything of value; 2) a contract, promise or agreement to contribute regardless of legal enforceability; 3) use of facilities voluntarily donated by other persons as long as the same is made for the purpose of influencing the results of elections.



### Expenditures

- The OEC defines an expenditure as including 1) a payment or delivery of money or anything of value; 2) a contract, promise or agreement to make an expenditure; 3) use of facilities personally owned by a candidate.
  - RA 7166
  - RA 9006, as amended by RA 11207



### Reporting

- RA 7166 mandates each candidate and political party treasurer to file with COMELEC a Statement of Contributions and Expenditures (SOCE) within 30 days after election day.



### Enforcement

- RA 7166 provides the penalties for failure to submit the required SOCE such as: 1) Bar from Assuming Office; 2) Administrative Fine; and 3) Perpetual Disqualification to hold public office.

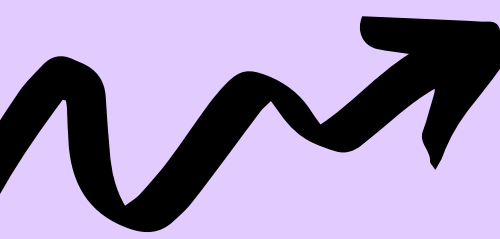


### Developments

- Current pending bills filed related to Political Party Financing and Electoral Campaign Financing
  - HB6095
  - SB0012 and SB0421

# C. Political Party Finance

Political parties depend mostly on membership fees, but the amounts are insignificant.



	Political Party 1	Political Party 2	Political Party 3	Political Party 4
Number of members				
a) non-elected	No specific data given	1000	1000	500
b) elected	No specific data given	400		
Membership fee per member				
a) non-elected	No specific data given	PhP 250/year	PhP 1,500/year	PhP 100/year
b) elected	No specific data given	PhP 10,000 to P20,000/month		
Total amount of money annually	--	*PhP 48,250,000	PhP 1,500,000	PhP 50,000
*Total amount was obtained by using PhP 10,000/month since interviewee response is that elected members who are local elective officials pay the fees at this rate and more elected members hold local elective positions.				

\*The table represents an estimate of how much money each national political party has outside the elections as of the interview dates in August 2020\*



# C. Political Party Finance

The 4 interviewed national political parties perform recruitment activities outside the election season, but 3 representatives stated that it has been difficult for them to recruit members.

These representatives cited different reasons on the recruitment issue as follows:

- decrease in popularity of the party figurehead;
- reluctance to pay membership fees; and
- persons' unwillingness to be recruited when there is no upcoming election.

	Political Party 1	Political Party 2	Political Party 3	Political Party 4
<b>Expenses</b>	<ul style="list-style-type: none"> <li>• salary for skeleton workforce</li> </ul>	<ul style="list-style-type: none"> <li>• salary for workforce</li> <li>• rental for office/headquarters</li> <li>• costs related to maintenance of website and social media accounts</li> </ul>	<ul style="list-style-type: none"> <li>• operational costs (not specified)</li> </ul>	<ul style="list-style-type: none"> <li>• salary of skeleton workforce</li> <li>• meal expenses</li> </ul>
<b>Activities</b>	<ul style="list-style-type: none"> <li>• recruitment of members</li> </ul>	<ul style="list-style-type: none"> <li>• recruitment of members</li> </ul>	<ul style="list-style-type: none"> <li>• recruitment of members</li> <li>• political education</li> </ul>	<ul style="list-style-type: none"> <li>• recruitment of members</li> <li>• advocacy-related (e.g. issuance of party stand on relevant issues)</li> </ul>

## Conclusion:

Political parties in the Philippines do not achieve the goal of effectively representing their respective constituents. As shown above, membership in Philippine political parties is limited in number. Furthermore, party-switching of elected officials and candidates is prevalent because of the lack of firm ideological bases and clear party platforms, and clientelistic tendencies in supporting the party of the incumbent President.

# C. Political Party Finance

Relevant query:

How will political parties in the Philippines be able to effectively represent their respective constituents?

First: As discussed in the Political Context, the institutional design of the Philippine government hinders the development of well-institutionalized programmatic parties. However, Mr. Croissant and Mr. Merkel concluded that a constitutional change of government from presidential to parliamentary is not an apt measure to influence party and party systems formation. Instead, [a reform of the electoral system from a plurality in single-member districts to proportional representation is a suitable measure to create stable and programmatic parties.](#)

Second: A key component of political space is the [formal institutional context](#), which refers to official rules that govern political parties. On the basis of generally accepted principles, political parties are required to register and seek accreditation with COMELEC. Aside from that, political parties are able to conduct its business and activities freely. Although minimal regulation is not necessarily a hindrance to political development, [the Philippine context on political parties shows the need for specific regulation to foster internal party democracy and to provide state subsidies.](#)

# C. Political Party Finance

Internal party democracy – implementation of minimum set of norms within the organization of political parties; internal rules and procedures that give ordinary members greater influence on issues such as candidate selection, leadership selection, and policy platform

1. Bottom-up approach to forming a decision in the party
2. Internal distribution of power at different levels, bodies and individuals

Party ban jurisprudence = cancellation of registration in the Philippines

State Subsidies:

1. Eligibility Criteria
2. Allocation Criteria
3. Matching System

Consideration	Main options	Comment
<i>Allocation criteria (how should the money be distributed among those that have reached the threshold?)</i>	All eligible parties get the same amount	Supports pluralism, but may create party fragmentation; risk of waste of public funds
	By vote or seats won	Connects financial support to electoral popularity (but may lead to largest parties getting the bulk of the money).
	Related to candidates fielded	More active parties get more funding (though fielding candidates may not be a good indicator of level of activity).
	Share of expenses reimbursed	Support private fundraising activities (but may reward parties with good business contacts)

# C. Political Party Finance

Two ways by which a formal institutional context may be established



1. Passage of a statute or law
2. Issuance of an Administrative regulation

It is therefore essential that proposals like SB0012 and SB0421 be considered and deliberated upon at the earliest possible opportunity. In the alternative and without the passage of law, it is suggested that COMELEC preliminarily issue a resolution, requiring political parties to submit documents, which declare a merit system on nomination and selection of candidates and party discipline mechanisms of each party.

In sum, the plurality in single-member districts, lack of specific law or regulation, and insufficient financial resources are contributing factors to weak political parties in the Philippines.

- A reform of electoral system from plurality in single-member districts to proportional representation should be considered. To foster internal party democracy, specific law and/or regulation of political parties is immediately needed. After which, financial resources may be provided to capacitate political parties.

Proposals for the passage of law on political party strengthening however have been pending for several congresses without result. Recent developments show that the decline of political parties in other countries is being observed. Should political parties in the Philippines remain in their current state, the relevant question to be considered is whether the concept of political parties should remain under Philippine laws.

# D. Electoral Campaign Finance

## 1. Contributions

### No limit on Contributions

RA 11232, or the Revised Corporation Code of the Philippines, granted domestic corporations the power to give reasonable donations in aid of any political party or candidate or for purpose of partisan political activity.

in the article *Legislatures, Courts and the SEC: Reflections on Silence and Power in Corporate and Securities Law*, “reasonableness” has been interpreted as: a) reasonableness in purpose and b) reasonableness in amount.

Reasonableness in amount: Federal Income Tax Code on maximum annual allowance for deductibility of corporate contributions as the appropriate standard; RA 8424, or the NIRC, allows a maximum of 5% of a corporation’s taxable income from trade, business or profession as charitable or other contributions.

The legalization of corporate donations will likely cause a significant increase in electoral campaign finance in the 2022 NLE during which a new President will be elected. If assumed to be true, this will compound the present problem that there is no limit on campaign contributions under Philippine laws. Two bills are currently filed in Senate which contain provisions on campaign contribution limits. (SB0012 and SB0421)

B.P. Bilang 68 <i>Corporation Code of the Philippines</i>	R.A. No. 11232 <i>Revised Corporation Code of the Philippines</i>
<b>Section 36. Corporate powers and capacity.</b> – Every corporation incorporated under this Code has the power and capacity:	<b>Section 35. Corporate Powers and Capacity.</b> - Every corporation incorporated under this Code has the power and capacity:
xxx xxx xxx	xxx xxx xxx
9. To make reasonable donations, including those for the public welfare or for hospital, charitable, cultural, scientific, civic, or similar purposes: <u>Provided, That no corporation, domestic or foreign, shall give donations in aid of any political party or candidate or for purposes of partisan political activity;</u>	(i) To make reasonable donations, including those for the public welfare or for hospital, charitable, cultural, scientific, civic, or similar purposes: <u>Provided, That no foreign corporation shall give donations in aid of any political party or candidate or for purposes of partisan political activity;</u>

# D. Electoral Campaign Finance

## 1. Contributions

### Incumbent's Advantage: State Resources

- The OEC criminally penalizes a public official or employee for the release, disbursement, and expenditure of public funds related to public works, social welfare, and housing project 45 days before an election. This is to prevent public officials and employees from utilizing government resources to influence voters in their choice of candidates. Despite said legal prohibition and COMELEC regulations, candidates continue to attempt circumvention thereof.
  - Bill: *An Act Prohibiting Public Officers From Claiming Credit Through Signage Announcing A Public Works Project*
- The slow administration and dispensation of justice in the Philippines also further weakens the provision as seen from the *Velez v. People of the Philippines* case. (21 years)
- Although it can be said that there is an increase in awareness of these issues in major cities of the Philippines, similar practices remain prevalent in the provinces.

# D. Electoral Campaign Finance

## 2. Expenditures

### Unrealistic Expenditure Limit *vis-à-vis* Cost of Allowable Election Paraphernalia

- The disqualification case of Emilio Ramon 'E.R.' Ejercito due to overspending triggered discussions on whether the campaign expenditure limit under RA 7166 is realistic based on the economic condition of the Philippines.

The computations relative to the present expenditure limit and total cost of television advertisements lead to the following conclusions:

1. candidates for the positions of President and Vice-President are able to utilize the number of minutes allowed under R.A. No. 9006 and will be allowed to spend around 70% percent more on other types of election paraphernalia;

2. candidates for the position of Senator are able to utilize the number of minutes allowed under R.A. No. 9006 but will not be allowed to spend much more on other types of election paraphernalia; and

3. candidates for local elective office may be able to utilize the number of minutes allowed under R.A. No. 9006 in local stations but will not be allowed to spend much more on other types of election paraphernalia.

- In the sense that candidates will not be able to spend on other types of election paraphernalia aside from the allowable number of minutes in television advertisements with the provided expenditure limit, it may be concluded that the present limit of P3.00 per registered voter in the constituency where said candidate filed a certificate of candidacy is unrealistic.

# D. Electoral Campaign Finance

## 2. Expenditures

### Unrealistic Expenditure Limit *vis-à-vis* Cost of Allowable Election Paraphernalia

- However, an analysis of the top 10 major political parties in the Philippines for the 2016 and 2019 NLE show that these parties are not able to utilize the full amount of the total expenditure limit. Only the Liberal Party in the 2016 NLE was able to spend a significant amount of expenditure to support its nominated candidates.
- It is then concluded that the main problem which candidates are experiencing with regard to their campaign expenditures is caused by:
  - The fact that the P3.00 per registered voter in the constituency where said candidate filed a COC is unrealistic
  - Political parties are not able to raise campaign funds to support its nominated candidates
- **Public funding:**
  - One solution previously discussed is the provision of public subsidies to political parties.
  - Another possible recommendation is to correct and strengthen the provision on COMELEC's affirmative action under Section 7 of RA 9006. The provisions requires COMELEC to procure print space and airtime for allocation equally among candidates for national office. Allocation should be given to political parties for the purpose of informing the public on party platforms. Frequency may be increased as members are able to campaign as a slate. Social media advertisements can be considered as an alternative to television advertisements.
- **Private funding:**
  - Expenditure limit may be increased within the range of P15-P30 per registered voter.



# D. Electoral Campaign Finance

## 2. Expenditures

### Legal Loophole Resulting to Allowance of Premature Campaigning and Pre-Campaign Expenditure

- Commonly known as a prohibition against premature campaigning, section 80 of the OEC prohibits a person, whether a voter or a candidate, party, or association of persons to engage in an election campaign or partisan political activity except during the campaign period.
- Section 13 of RA 9369 however states that COMELEC will set a deadline for the filing of COC/petition of registration/manifestation to participate in the election. Any person who filed within this period will only be considered as candidate at the start of campaign period. Therefore, unlawful acts or omissions applicable to a candidate will only be effective at the start of the said campaign period. ([Penera v COMELEC](#))
- Filing of COCs in the Philippines is set far ahead of the election and campaign period to give ample time for the printing of official ballots. There is therefore a gap between a person's filing of COC and the campaign period during which said person may, for example, incur expenditures in the exercise of freedom based on Penera.  
*- 2019 NLE: P2.4 Billion for 18 senatorial candidates*
- [SB0777](#) seeks to be the corrective legal action by proposing that persons who filed certificates of candidacy shall be considered as candidates at the time of filing thereof. Said persons can thus be held liable for election offenses committed as such and including premature campaigning under Section 80 of the OEC.

# D. Electoral Campaign Finance

## 2. Expenditures

### Unlawful Campaign Expenditure

- Unlawful expenditure such as vote-buying activities are primarily done in the context of affecting votes in an election, not party nominations. Since it carries a criminal penalty, money utilized for vote-buying activities are not reported.
- An interview conducted reveals the fact that money for vote-buying activities are not formally received by political parties and are distributed to informal sub-campaign groups.
- [RA 6646](#) established a disputable presumption of involvement against a candidate and his/her principal campaign managers when at least one voter in different precincts representing at least 20% of the total precincts of a municipality, city or province gives proof that he/she has been offered, promised or given money by a candidate's relatives, leaders and/or sympathizers for the purpose of promoting the election of such candidate. However, the same proof likewise establishes a [disputable presumption of a vote-selling conspiracy punishable with a criminal penalty](#).
- A possible solution is an amendment of the present law to state that voters who give proof of vote-buying activities shall be qualified as state witnesses and shall not be liable for the offense of vote-selling.

# D. Electoral Campaign Finance

## 3. Reporting and Audit

### Weak Internal Political Party Control

- [Internal mechanisms for political finance control are essential](#) (Challenging the Norms and Standards of Election Administration: Political Finance).
- Among the interviews of national political party representatives conducted, one representative was able to cite an internal political party control mechanism practiced by its party. Said representative explained that in order to avoid patronage politics, the party has a national executive committee to evaluate and decide whether local campaign contributions are in accordance with the party constitution and statutes.
- However, the SOCEs obtained from COMELEC show that [political parties have internal party control mechanism issues](#).
  - For example, various local chapters of national political parties submitted separate SOCEs instead of one consolidated SOCE.
  - Another notable finding pertains to the fact that the dominant majority national political party in the 2019 NLE submitted two different SOCEs.
  - Consolidation of information regarding contributions and expenditures is a matter that requires an effective political party control mechanism.

# D. Electoral Campaign Finance

## 3. Reporting and Audit

### Post-Election Reporting versus Prior to Election Day

- Under [RA 7166](#), each candidate and political party treasurer are required to file with COMELEC a SOCE within 30 days after election day. However, reporting of campaign contributions prior to election day should be considered to enhance transparency in the funding of candidates for elected public office, and where applicable, the funding of political parties.
- For “real time” information, [use of available technology should be considered to aid parties and candidates.](#)

### Weak Audit Capacity

- Under [Resolution No. 9991](#), or the Omnibus Rules on Campaign Finance, COMELEC’s Campaign Finance Office (CFO) has the duty to “[a]udit all reports, statements and contracts and determine compliance by the candidates, parties, contributors, and election contractors, including the inspection of books and records of candidates, parties and mass media entities and issue subpoenas in relation thereto and submit its findings to the Commission En Banc.”
- However, despite efforts to develop campaign finance regulation through the engagement of relevant agencies such as the Bureau of Internal Revenue (BIR) and Securities and Exchange Commission, [CFO has weak auditing capacity because of its manpower.](#) This was then confirmed during the interview of CFO’s director.

# D. Electoral Campaign Finance

## 4. Enforcement

### Bar Against Elected Party Member from Assuming Office: Not Strictly Enforced

- Under [RA 7166](#), candidates nominated by a political party shall not be allowed to enter duties of his/her office should a political party fail to file SOCE within 30 days after election day.
- However, COMELEC extended the deadline as per [Resolution Nos. 9849 and 9873 in 2013 NLE](#) to encourage disclosure by candidates and parties of their campaign contributions and expenditures and to enable COMELEC to initiate the filing of administrative cases based on [RA 7166](#).
- Following the 2016 NLE, COMELEC continued to extend the deadline as per [Resolution No. 10147](#) in response to “letter requests for extension to file SOCE from the Liberal Party and its presidential candidate Manuel A. Roxas, Senator Sergio Osmeña, Rafael Alunan and other local candidates.”
- [Resolution No. 10505](#) in relation to the 2019 NLE provided that an elected official has a period of six months from proclamation to file SOCE after which his office shall be considered as permanently vacant. The foregoing review of COMELEC issuances reflects [a liberal attitude](#) towards the enforcement of the penalty of barring an elected official from assuming office provided under RA 7166.

# E. Recommendations



## Electoral System Reform

**1**

For the organization of a Constitutional Commission or Constitutional Convention to consider the shift from plurality in single-member districts to proportional representation as the manner by which the Philippines elect its House of Representatives' members;



## Political Party Finance

**2**

For Congress of the Philippines to hold deliberations on S.B. Nos. 12 and 421 and pass a law on political party development. Improvements on S.B. Nos. 12 and 421 are recommended as follows:

a) regulation should cover all political parties. state subsidies may be limited to national political parties;

b) members of political parties, as long as they retain their membership, should abide by the party's platforms, principles, policies and general program of government. political parties should enforce party discipline mechanism against erring members. failure to enforce party discipline mechanisms against erring members should affect party's accreditation. a range of penalty may be imposed such as a fine and a warning on the first offense, and cancellation of accreditation in extreme cases;

# E. Recommendations

c) penalties for political parties which accommodate political turncoats should include proceedings against their accreditation. A range similar to the second recommendation may be considered;

d) consider the creation of a new department in COMELEC to handle the monitoring of political parties and enforcement of penalties against these parties; and

e) requirement for equitable representation of women as leaders and official candidates of political parties.

**3** For COMELEC to preliminarily issue specific regulation on internal party structure and mechanisms with a provision on cancellation of registration in extreme and rare case of a party with non-democratic internal structures;

**4** After passage of legislation related to political party development, for the Congress of the Philippines to include a provision on state subsidies utilizing eligibility and allocation criteria. Allocation criteria based on seats won should include the positions of President and Vice-President and be joined with the Senate seats with 30% allocation. The House of Representatives' seats should be given 20% allocation and seats related to local government be given 40% allocation.

# E. Recommendations



## Electoral Campaign Finance

**5**

For COMELEC to engage the assistance of the Securities and Exchange Commission and the Bureau of Internal Revenue in the issuance of regulation on “reasonable” donations in aid of any political party or candidate or for purposes of partisan political activity. It is recommended that “reasonableness in amount” be fixed at five percent of taxable income from trade, business or profession for all charitable or other contributions;

**6**

For Congress of the Philippines to enact a law specifying the amount of contribution limit either at a low range of P1,000,000 per person, or a moderate range of P1,000,000 per individual or P10,000,000 per juridical person, including a group of persons such as a family;

**7**

For Congress of the Philippines to enact a law similar to An Act Prohibiting Public Officers From Claiming Credit Through Signage Announcing A Public Works Project. The prohibition should be expanded to other representations of government projects (e.g. health cards.). A clear penalty should be provided in the event of violation;



# E. Recommendations



## Electoral Campaign Finance

8

For Congress of the Philippines to amend R.A. No. 9006 on the affirmative action of COMELEC by stating that allocation of print space and airtime shall be given to political parties and independent candidates for national office for the purpose of informing the public on respective platforms, social media advertisements as an alternative to television advertisements, and the increase of frequency of affirmative action;

9

For Congress of the Philippines to amend R.A. No. 7166 on expenditure limit by providing for amounts within the range of P15-P30. The expenditure limit of local candidates should be fixed at the low range while the expenditure limit of political parties should be fixed at the high range;

10

For Congress of the Philippines to enact S.B. No. 777, which seeks to further amend Section 15 of R.A. No. 8436 by considering a person who filed his/her COC as a candidate at the time of filing thereof and shall thus be liable for unlawful acts and omissions from such filing, into law;

# E. Recommendations



## Electoral Campaign Finance

**11**

For Congress of the Philippines to amend R.A. No. 6646 to the effect that when voters in different precincts representing at least 20% of the total precincts of a municipality, city or province give proof to establish the disputable presumption of involvement, these voters shall be qualified as state witnesses and shall not be liable for the offense of vote-selling;

**12**

For Congress of the Philippines to enact a law requiring political parties and candidates to submit a report on contributions with a publication requirement on the part of COMELEC at least one week before election day;

**13**

For COMELEC to make use of technological advancements in data gathering for real-time monitoring of electoral campaign finance; and

**14**

For Congress of the Philippines to integrate the function of monitoring and enforcement functions related to electoral campaign finance in the new department handling the monitoring of political parties.

# E. Recommendations



Good Governance

**15**

For civil society organizations to undertake a citizen engagement campaign on good governance standards for public services (e.g. removal of names and photos on public services signs).

# Thank You!

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