

EXECUTIVE SUMMARY

This Resolution denied with finality the Motion for Reconsideration filed by the Commission on Elections (COMELEC) against the Supreme Court's January 21, 2015 Decision. The Court affirmed its previous ruling that the COMELEC's acts of issuing a notice and letter ordering the removal of the "Team Patay/Team Buhay" tarpaulin were unconstitutional. The core issue revolved around the balance between freedom of expression, particularly political speech by private individuals on social issues, and the COMELEC's power to regulate election propaganda. The Court reiterated that the tarpaulin was primarily a social advocacy, not election propaganda, and that the size regulation was content-based, thus infringing on protected speech. This decision significantly reinforces the protection of political speech by non-candidates and limits the COMELEC's regulatory reach over such expressions.

FACTUAL BACKGROUND

- **Petitioner:** The Diocese of Bacolod, represented by the **Most Rev. Bishop Vicente M. Navarra, and Bishop Navarra** in his personal capacity.
- **Respondent:** Commission on Elections (COMELEC) and the Election Officer of Bacolod City, Atty. Mavil V. Majarucon.
- **Nature of Case:** Resolution on a Motion for Reconsideration of a Petition for Certiorari and Prohibition (Rule 65) challenging administrative acts of the COMELEC.
- **Key Events:**
 - The Diocese of Bacolod posted a tarpaulin on the facade of San Sebastian Cathedral, approximately six by ten feet in size.
 - The tarpaulin contained the heading "conscience vote" and two lists of senatorial and party-list candidates for the May 13, 2013 elections: "Team Buhay" (those who voted against the RH Law, marked with a check) and "Team Patay" (those who voted for the RH Law, marked with an X). It also included the message "IBASURA RH Law."
 - On February 22, 2013, Election Officer Atty. Mavil V. Majarucon issued a notice to the Diocese, stating the tarpaulin exceeded the lawful size for election propaganda (2x3 feet) and must be removed.
 - On February 27, 2013, COMELEC Law Department Director Esmeralda Amora-Ladra issued a letter affirming the notice and ordering the removal of the tarpaulin, warning of potential election offense charges.
 - The Diocese directly filed a Petition for Certiorari and Prohibition with the Supreme Court, challenging the COMELEC's acts as unconstitutional.
 - On January 21, 2015, the Supreme Court issued a Decision granting the petition, declaring the COMELEC's notice and letter unconstitutional, and making the previously issued temporary restraining order permanent.
 - Respondents (COMELEC) filed a Motion for Reconsideration of the January 21, 2015 Decision.
- **Lower Court Proceedings:** Not applicable, as the case was a direct petition to the Supreme Court challenging administrative acts of a constitutional body.
- **How Case Reached Supreme Court:** The case reached the Supreme Court via a Petition for Certiorari and Prohibition under Rule 65, directly challenging the administrative acts of the COMELEC. The current document is a Resolution on the Motion for Reconsideration of the Supreme Court's initial decision on that petition.

LEGAL ISSUES PRESENTED

1. **Primary Issue:** Whether the Supreme Court erred in taking cognizance of the petition (prematurity/exhaustion of administrative remedies) and whether the subject tarpaulin constituted election propaganda subject to COMELEC regulation, particularly size limitations, without violating the petitioners' freedom of expression.
2. **Secondary Issues:**
 - Whether the COMELEC's assailed notice and letter were final orders by the COMELEC En Banc in the exercise of its quasi-judicial functions, thus making them reviewable by the Supreme Court.
 - Whether the size limitation on election propaganda, as applied to the tarpaulin, is a valid content-neutral regulation or an unconstitutional content-based restriction on speech.
 - Whether the tarpaulin, which primarily advocated a stand on the Reproductive Health (RH) Law but named candidates, should be classified as election propaganda or social advocacy.
3. **Constitutional Questions:**
 - The scope and protection of freedom of expression, particularly political speech by private individuals (Article III, Section 4 of the 1987 Constitution).
 - The extent of the COMELEC's constitutional powers to enforce and administer election laws and regulate election propaganda (Article IX-C, Section 2(1), 2(3), 2(7) of the 1987 Constitution).
4. **Procedural Issues:**
 - The applicability of the doctrine of exhaustion of administrative remedies and ripeness for judicial review when challenging administrative acts of the COMELEC.
 - The distinction between Rule 64 (review of COMELEC quasi-judicial acts) and Rule 65 (certiorari for grave abuse of discretion) for challenging COMELEC actions.

COURTS RULING

Primary Holding: Motion for Reconsideration DENIED with FINALITY.

The Supreme Court affirmed its January 21, 2015 Decision, which granted the petition, made the temporary restraining order previously issued permanent, and declared the act of the COMELEC in issuing the assailed notice dated February 22, 2013, and letter dated February 27, 2013, unconstitutional.

- **Legal Doctrine Applied:** The Court applied the doctrine of preferred rights, particularly the freedom of expression and political speech. It also invoked the "chilling effect" doctrine to justify direct resort to the Supreme Court and applied the distinction between content-based and content-neutral regulations of speech, finding the regulation in question to be content-based.
- **Constitutional Analysis:** The Court emphasized the paramount importance of political speech, stating, "Political speech is motivated by the desire to be heard and understood, to move people to action. It is concerned with the sovereign right to change the contours of power whether through the election of representatives in a republican government or the revision of the basic text of the Constitution." It found that COMELEC's acts had a "chilling effect" on this constitutional right.
- **Statutory Interpretation:** The Court narrowly interpreted the definition of "election propaganda" under Section 1.4 of COMELEC Resolution No. 9615 and Section 3 of Republic Act No. 9006 (Fair Elections Act). It distinguished the tarpaulin's message as

primarily a social advocacy with political consequences, rather than direct election propaganda.

- **Precedent Analysis:**

- The Court distinguished the five cases cited by respondents (*Ambil v. Commission on Elections*, *Repol v. Commission on Elections*, *Soriano, Jr. v. Commission on Elections*, *Blanco v. Commission on Elections*, and *Cayetano v. Commission on Elections*) as involving election protests or disqualification cases filed by losing candidates, not assertions of freedom of expression by non-candidates.
- While respondents cited *National Press Club v. Commission on Elections* (283 Phil. 795) for COMELEC's supervisory and regulatory functions, the Court's reasoning implied that such functions are limited when they impinge on fundamental rights like free speech.

- **Policy Considerations:** The Court underscored the policy of protecting robust public deliberation and ensuring that citizens' voices are heard on issues during elections, without fear of reprisal or sanction, thereby upholding the quality of deliberation in a democratic society.

Ratio Decidendi (Reasoning)

- **On Prematurity and Exhaustion of Administrative Remedies:** The Court reiterated that Rule 64 is not the exclusive remedy for all COMELEC acts. Rule 65 applies for grave abuse of discretion resulting in ouster of jurisdiction. Given that petitioners were not candidates but were asserting their right to freedom of expression, and the "chilling effect" of COMELEC's actions on this constitutional right, direct resort to the Supreme Court was justified. The urgency of the issue (RH Law debate and upcoming elections) also rendered compliance with the doctrine on exhaustion of administrative remedies unreasonable. The Court stated, "Direct resort to this court is allowed to avoid such proscribed conditions. Rule 65 is also the procedural platform for raising grave abuse of discretion."
- **On the Nature of the Tarpaulin (Election Propaganda vs. Social Advocacy):** The Court maintained that the tarpaulin was not election propaganda. It primarily advocated a stand on a social issue (the RH Law) and only "secondarily—even almost incidentally—will cause the election or non-election of a candidate." The messages were deemed different from the usual declarative messages of candidates, constituting a "satire of political parties." The Court emphasized its wariness of censorship or subsequent punishment that entails evaluating the speaker's viewpoint or the content of one's speech. It recognized that while some speech by private citizens could amount to regulable election paraphernalia, this was not the case here, as the tarpaulins constituted "social advocacy."
- **On the Nature of the Regulation (Content-Based vs. Content-Neutral):** The Court affirmed its finding that the size limitation imposed by COMELEC was a content-based regulation. It reasoned that "the form of expression is just as important as the information conveyed that it forms part of the expression," and that "size does matter." As a content-based regulation, it would be subject to strict scrutiny, requiring a compelling state interest and narrow tailoring, which the regulation failed to meet in this context.

Concurring/Dissenting Opinions

- **Dissenting Opinion (Brion, J.):** Justice Brion dissented, arguing for the granting of the Motion for Reconsideration. He contended that the petition was premature, as the COMELEC en banc should have been given the first opportunity to rule on the matter, and

that the majority's ruling diminished COMELEC's constitutional jurisdiction. He asserted that the tarpaulin clearly fell under the definition of election propaganda due to its content (naming candidates, "Team Buhay"/"Team Patay" with check/X marks) and timing, which was intended to promote or oppose candidates based on their RH Law stance. Furthermore, he argued that the size limitation was a valid content-neutral regulation of speech, passing the intermediate scrutiny test, as it served important governmental interests such as ensuring equal opportunity for public information campaigns, orderly elections, and minimizing election spending, without suppressing the message itself.

- **Concurring Opinions:** Justice Carpio reiterated his Separate Concurring Opinion from the main decision. Justice Peralta joined Justice Carpio's opinion. Justice Caguioa joined/concurred with Justice Bernabe's original separate concurring opinion. (The specific reasoning for these concurring opinions is not detailed in the provided Resolution text).
- **Unanimous or Divided:** The decision to deny the Motion for Reconsideration was divided. Chief Justice Sereno and Justice Mendoza were on official leave, and Justice Jardeleza took no part. Justices Velasco, Jr., Brion, and Bersamin dissented.

JURISPRUDENTIAL IMPACT & SIGNIFICANCE

- **Legal Precedent Established:** This Resolution, affirming the main Decision, firmly establishes that expressions by private individuals or groups on social issues, even if they name or indirectly favor/disfavor political candidates, are not automatically classified as "election propaganda" subject to COMELEC's stringent regulations. It clarifies that such expressions are protected political speech, especially when primarily advocating a social stand.
- **Impact on Philippine Law:** The ruling significantly limits the COMELEC's power to regulate speech by non-candidates during election periods, particularly when such speech relates to social advocacy. It reinforces the "chilling effect" doctrine as a valid ground for direct judicial intervention by the Supreme Court, bypassing traditional administrative remedies.
- **Effects on Future Cases:** Future cases involving private citizens' expressions on political or social issues during elections will likely be scrutinized under a higher standard, favoring freedom of expression unless the speech is clearly and primarily for electoral gain. The burden will be on COMELEC to demonstrate that such expressions are direct election propaganda and that any regulation is narrowly tailored and content-neutral.
- **Practical Implications:** Private individuals, religious organizations, and advocacy groups are afforded greater latitude to express their views on public issues, even if these views have political implications or name candidates, without fear of immediate regulatory action or criminal prosecution by election authorities, provided the primary intent is social advocacy.
- **Doctrinal Significance:** The decision reaffirms the preferred status of freedom of expression, particularly political speech, in Philippine jurisprudence. It also provides a critical application of the content-based versus content-neutral distinction in speech regulation, holding that even seemingly neutral regulations like size limits can be deemed content-based if they significantly impact the message.
- **Legislative Impact:** This ruling may prompt a review of the definition of "election propaganda" in Republic Act No. 9006 (Fair Elections Act) and other election laws to provide clearer distinctions between genuine election campaigning and social advocacy that merely has political consequences, especially for non-candidates.