

The Party-List Path to a Broadened Philippine Democracy

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Introduction

The party-list system of congressional representation mandated by the 1987 Constitution and enabled by Republic Act (RA) 7941 also known as the Party-List Law, was implemented in the 1998 and 2001 elections. These exercises attracted 123 and 163 participating organizations, respectively. However, the 1998 elections only produced 14 party-list representatives from 13 organizations while the 2001 elections produced only seven representatives from five organizations.¹ These results contrast starkly with the 52 seats available in these elections.

Do the meager results mean the failure of the party-list system? What do these imply for the prospects to broaden people's participation in Philippine democracy? What are the possible solutions to make the party-list system a democratic success?

This paper explores the historical context of the Philippine party-list system. It attempts to delineate its weaknesses and strengths from this historical perspective and proposes measures for further developing its potentials for broadening democ-

racy in the Philippines. It proceeds in this analysis from an optimistic appreciation of the democratic space spawned by the events of EDSA 1986 and has since then survived the countless challenges of crisis situations, both economic and political, as well as the continuing pressures from the militarizing Right and the armed Left rebellions.

The concept of a party-list system is usually associated with the establishment and functioning of a parliamentary system of government. This was in fact the prevailing assumption of the 1986 Constitutional Commission when it decided on inclusion of the party-list system in the 1987 Constitution. However, the proposal for a parliamentary system lost and the presidential system prevailed. It is interesting to review how the party-list system was implemented under this circumstance.

However, the more weighty evaluation remains in the area of the democratization of Philippine politics, not only in terms of the rejection of the Marcos dictatorial institutions and structures, but of more contemporary relevance, in terms of dismantling the elite monopoly of political power and bringing into mainstream politics those political actors from the grassroots.

In this sense, this paper will also seek to define the path to reforming the party-list system in the country. It will also try to frame this reform agenda within the broader arena of the political struggle for democracy in the Philippines.

The Philippine Party-List System and the Political Mandate of EDSA 1986

The present party-list system in the Philippine legislature is without precedent in the country's history. The two-party system has traditionally limited elections to members of the dominant and the main opposition parties in a winner-take-all election for national legislative seats (in the case of the Senate) and single-district representative seats (in the case of the House of Representatives).

In time, this winner-take-all approach to legislative elections came to mean the monopoly of legislative power in the hands of entrenched political lords who conveniently changed parties in a situation of similar political ideologies and party programs. The phenomenon of turncoatism thus emerged even prior to Martial Law. The electorate was not schooled in choosing candidates based on the merits of their platforms. Many voters tended to vote for their candidates based on the

latter's perceived popularity, the lure of financial rewards and pressure from ward leaders, clan or local political lords.² Elections thus degenerated into personal popularity contests and meaningless promises.

This contributed to the concentration of power in an elite—which predictably made the electoral contest its own preserve—contested only by members of the opposition from their own ranks. Elections evolved into hotly-contested, expensive exercises with few newcomers from outside the elite circles. The newcomers themselves were frequently coopted into the elite and into playing the same game.

This elitist democracy later evolved into the Marcos dictatorship. Marcos declared Martial Law and stripped the elitist electoral contest of two essentially similar parties of its pretensions by instituting a one-man, one-party rule and crushing not only the mass-based opposition but also the other elite groups. For thirteen years, the Marcos dictatorship ruled almost unchallenged and brought the country to near ruin.

Ironically, the Marcos faction enabled grassroots-based groups to contend for power through the broad anti-dictatorship struggle. It did so by suppressing other factions of the elite and negating their political advantages in areas such as finance, education, old-boy networks and client-patron relationships. These groups were active both in the underground resistance and in the open legal struggle. They formed the democratic base of the post-Marcos regime.

It was not a surprise then that the 1986 Constitutional Commission addressed the question of democracy no longer from the point of view of simply bringing back the old elitist pre-Martial Law electoral setup. It chose to recognize the broad democratic anti-dictatorship movement which encompassed not only the anti-Marcos elite groups but also the grassroots-based anti-dictatorship forces.³

In the 1987 Constitution, major provisions were introduced to broaden the base of democracy and governance, including the strengthening of the human rights provisions, recognition of the role of non-governmental organizations (NGOs) in governance, the principle of recall, local government autonomy, local sectoral representation, and of course, the introduction of the party-list system.

This policy of encouraging direct people's participation in governance remains the one progressive achievement of the 1987 Constitution. However, it did not

complete the process of democratization in the country. The above changes remain subordinated to and limited by the same elitist politics of the pre-Martial Law period. The institutions of that period were revived, including the presidential system, the two-tier congress and the old electoral rules.

What exists now is essentially an uneasy marriage of new and old institutions of governance with clashing premises and intentions. It has resulted in tensions throughout the governance institutions, with the old elite divided between the urge to go back to the old ways and the recognition of the new reality of popular participation in governance.

Secondarily, the post-Marcos democratic space has also sparked a debate within the national democratic forces between those who frantically hold on to the doctrinaire vision of a unified state, and hence the imperative for maintaining the protracted armed class war, and those who stress the widening democratic space which already extends inside existing state institutions. The latter, based on their various appreciation and interpretation of this post-martial law reality, prepared for parliamentary engagement and even participation in the electoral and parliamentary arenas. Social democrats were likewise divided between participating in government and maintaining their mass-based organizations. Various theories on the role of civil society in governance emerged and became new fodder for debate within the grassroots-based movements. The process by which the party-list law came into being reflected these ambiguities and conflicts.

Clearly, the party-list provision of the 1987 Constitution is in recognition of the need to bring in the grassroots-based political forces into the legislature. Constitutional Commissioner Wilfredo Villacorta termed it a “new chapter in our national history by giving genuine power to our people in the legislature.”⁴ Commissioner Jaime Tadeo viewed it as “giving power to the marginalized sectors.”⁵ On a more practical level, Commissioner Christian Monsod cited the objective to “give room for those who have a national constituency who may never be able to win a seat on a legislative district level.”⁶

Though united in the objective of opening up the legislature to non-traditional political forces, these views were interpreted in diverging ways. Some delegates insist that the party-list system should guarantee representation of marginalized

sectors such as peasants, workers and the urban poor. Others, like Monsod, prefer to view the system as only opening up the legislature to those who will not ordinarily win in normal district elections and not necessarily coming from the marginalized sectors. In fact, it led to the unresolved debate on the question of sectoral representation in the party-list system. The Monsod position of “non-sectoral” proportional representation won in the voting.

The final provisions on the party-list system limited the number of seats to only twenty percent—hardly sufficient to have a decisive voice in Congress. In a compromise, the Constitutional Commission accepted the appointment or election of sectoral representatives for three terms prior to the implementation of the party-list system but rejected the notion of “reserved seats” for marginalized sectors. Lastly, it rejected the proposal for party-list representation in the Senate.

In effect, the current party-list system represents an elite accommodation of the reality of grassroots-based politics that came out of the long anti-dictatorship struggle. It is an accommodation forced upon it by the circumstances of the downfall of the dictatorship through people power.

At the same time, the establishment of the party-list system measures the extent of the political strength born out of grassroots-based politics. It is a system that provides the marginalized sectors a genuine doorway into the halls of power, albeit a small one.

The EDSA mandate of a broadened, pluralist democracy remains at the heart of the proposals for reforming the party-list system. However, as a product of a political compromise, it suffers from the limitations that such a compromise brings with it.

RA 7941 and the Elite Reluctance to Recognize New Politics from the Grassroots

The constitutional compromise regarding the Philippine party-list system failed to prevent another round of acrimonious debate and struggle. This time, the arena was the passage of the enabling law, R.A. 7941 or the Party-List System Act.

The Constitution provides that 20 percent of the seats in the House of Representatives are to be given to party-list representatives. It also stipulates that an en-

abling law has to be passed to implement this provision. In the interim, before the elections for party-list representatives, the president was authorized to appoint sectoral representatives in lieu of the elected party-list representatives.

In effect, the Constitution follows the German federal parliamentary form wherein members of parliament are either single-district representatives or party-list representatives. However, it departs from the German model, first, in that the form of government here is presidential; and second, by broadening the participation in the party-list elections to include sectoral organizations.⁷

RA 7941, the party-list law, and its implementing regulations try to achieve a balance between the conflicting interests perceived by the framers of the constitution. It liberalized the definition of sectors to include multisectoral groups and even political parties—clearly a move that favors entrenched groups. However, RA 7941 also disqualified the five political parties with the largest votes in the May 1998 elections (i.e., Lakas-NUCD, the Liberal Party, Lakas ng Demokratikong Pilipino, the National People’s Coalition and the Kilusang Bagong Lipunan, Unfortunately, this provision was easily circumvented by establishing thinly-disguised satellite parties or organizations.

The party-list law sets two percent of the total votes cast for party list as the minimum threshold for a party-list group or organization to have a seat in Congress, with three seats as the maximum limit. This was supposed to permit the widest popular representation while at the same time to make sure that there is a credible constituency for each representative.

Within these limits, an apportionment system is supposed to be followed that is based on a two-step formula. First, by giving seats to party-list groups corresponding to their garnering of votes equivalent to two percent or its multiple. Second, by ranking the percentage fraction left over and giving the remaining seats to party-list groups based on this ranking.

RA 7941 and its implementing regulations again reflect the compromise attendant to the party-list system. By allowing the big political parties or their surrogates to participate, the law buttresses the monopoly of power of the traditional elite. However, by opening up the process to other groups, particularly non-party and grassroots-based organizations, it allows the entry of grassroots representatives into the national legislature.

The Ugly Reality of the 1998 and 2001 Party-List Elections

On 8 February 1998, the campaign for the party-list elections began. Actually, the electoral campaign may be said to have started a long way back. This is because of an election law loophole that allows candidates to campaign before the start of the campaign period as long as they do not yet register as official candidates.

The huge problem with the party-list campaign process was the failure of the Commission on Elections (COMELEC) to provide an adequate educational campaign on the new law that is RA 7941. This led to massive confusion, not only among the voters, but also among the COMELEC staff and teacher-volunteers. NGO intervention in this regard, while somewhat adequate in those areas where they operate, did not really fill up the void. Media education helped but the time proved too short to make a widespread impact.

Party list organizations had to do double-duty work —conducting the necessary education on the party-list system while conducting their own campaigns. This alleviated the problem to a certain extent but the organizations were effective only in their highly-influenced bases where they were able to have extended discussions with voters on the new system.

Only about nine million voters (or around 32 percent) voted in the party-list elections, out of the more than 28 million voters who cast their votes. This translated into about 26 percent of the total registered voters. Considering the 80 percent total voter turn-out, this was a low voting percentage for the party-list system, even considering its newness. Initial estimates by participating party-list groups had approximated at least 50 percent of total voters.

During the elections, charges of meddling by the five banned parties, particularly by the ruling *Lakas* party, were rife, including the “discovery” of a purported memorandum authorizing the establishment of 52 satellite parties by *Lakas*. What is true is that many party-list groups negotiated with established parties and local politicians in order to access their vote bases.

The sheer number of participating parties and organizations reflected the vibrancy and openness of the whole exercise. Most of the 123 organizations that participated were new to the electoral arena, representing sectoral or minority interests not normally seen in Congress.

In fact, the problem of some blocks was their over-enthusiastic assessment of probable votes. This led them to split up their vote bases in support of several party-list groups, leading to the failure of some to reach the two-percent cut-off. In the end, only 13 parties and organizations⁸ managed to receive more than the two-percent minimum threshold (about 180,000 votes) and only one party, the Association of the Philippine Electric Cooperatives (APEC), had more than four percent.

These party-list organizations got their seats by virtue of a COMELEC proclamation recognizing their votes as passing the two-percent threshold. The latter then determined the additional seats as multiples of two percent. Fractions were disregarded. These 13 parties and organizations, and their respective classifications, are the following:

1. Association of the Philippine Electric Cooperatives (APEC) – a multisectoral organization
2. Alyansang Bayanihan ng mga Magsasaka, Manggagawang-Bukid at Mangingisda (ABA) – for peasants;
3. National Federation of Small Coconut Farmers Organizations (SCFO) – also for peasants;
4. Sectoral Party of the Veterans Federation of the Philippines (VFP) – for the veterans groups;
5. Cooperative NATCCO Network Party (COOP-NATTCO) – a multisectoral organization;
6. Adhikain at Kilusan ng Ordinaryong Tao para sa Lupa, Pabahay, Hanapbuhay at Kaunlaran (AKO) – for the urban poor;
7. Progressive Movement for Devolution of Initiatives (PROMDI) – a political party;
8. Partido ng Maralitang Lunsod (Alagad) – also for the urban poor;
9. Abanse! Pinay – for women;
10. Aksyon ng Bayan-Citizen's Action Party (Akbayan) – a political party;
11. SANLAKAS – a multisectoral organization;
12. Luzon Farmers Party (BUTIL) – for the peasant sector; and
13. Philippine Coconut Producers Federation (COCOFED) – also for the peasant.

Of these, four are peasant organizations, two are urban poor organizations, one is a veteran's organization, one is a women's organization, three are multisectoral organizations and two are political parties. At face value, this result tended to show the weight of both a solid and widespread vote base and the usefulness of support from established parties. It also demonstrated the strength of the peasant vote, which not only carried the four sectoral groups but also underwrote the voting strength of many other winning organizations. A surprising result was the failure of the labor front to secure any seat at all, except in the case of labor-based SANLAKAS.

However, 14 seats are a far cry from the 52 seats allocated to party-list representatives more or less reflecting the evenness of spread among the competing 123 parties. This was an embarrassing result—and reflected the failure of the COMELEC to trim down the number of participating party-list groups to a manageable level.

The COMELEC compounded the problem by not filling up the vacant seats in failing to implement the percentage fraction rule. It instead disregarded the two-percent minimum threshold and distributed the remaining slots to the next 38 parties with less than two percent votes.

Understandably, the elected party-list groups protested this change in the rules. Calling it illegal, they appealed to the Supreme Court (SC) to prevent the proclamation of the 38 party-list groups. The SC issued a restraining order on the COMELEC regarding the proclamation of the 38 groups. Later, it would decide on all the controversies through a landmark SC decision that revoked their proclamation.⁹

However, the SC added to the confusion by issuing its own formula. The SC formula essentially determines the seats of the second- and lower-ranked party-list groups based on the votes obtained by the first-ranked. The SC decision thus virtually ensured that only the first-ranked group can have the three maximum seats available. It also relegated the rest of the winning groups to lesser seats than the first-ranked.

The 1998 party-list election was a comedy of errors, a gallery of self-interpretations and a riot of wild imaginations. Lost in the confusion was the original intention to open the door to marginalized and underrepresented sectors.

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The 2001 party-list elections reflected the problems of the 1998 elections. The COMELEC betrayed its sense of confusion right from the start when it approved a huge number of participants. It issued Omnibus Resolution No. 3785 *en banc* on 26 March 2001 approving the final list of party-list organizations for the 14 May 2001 elections. It also issued the Certified List of Political Parties/Sectoral Parties/Organizations/Coalitions Participating in the Party-List System for the 14 May 2001 Elections on 28 March 2001. On 5 April 2001, it issued the List of Political Parties/Sectoral Organizations/Coalitions, Participating In the 14 May 2001 Elections With Their Respective Nominees.

The Resolution approved a total of 163 party-list organizations while the Certified List had a total of 161. Only 154 organizations had their nominees listed by the COMELEC. Since it embodies the formal decision of the COMELEC, it is the Resolution that is observed with the 163 organizations distributed as follows:

<i>Sectoral Party-List Organizations:</i>	
1. Labor	7
2. Peasant	6
3. Fisherfolk	2
4. Urban Poor	8
5. Indigenous Cultural Communities	4
6. Elderly	2
7. Handicapped	2
8. Women	2
9. Youth	5
10. Veterans	3
11. Overseas Workers	5
12. Professionals	13
13. Organizations/Coalitions:	78
14. Political Parties:	26
TOTAL	163

Of the 163 approved organizations, 104 belong to just two categories: sectoral organizations/coalitions and political parties. Fifty-nine belong to the twelve sectors listed by the Constitution. If the 13 organizations listed in the professional sectors are not counted, only 46 organizations officially belong to the 11 marginalized and underrepresented sectors or an average of 4.1 organizations per sector.

Since these 11 sectors are considered “underrepresented and marginalized,” one would have thought that they would be the big majority in the party-list accreditation list. However, collectively, they constitute only a little over 28 percent of the total list.

The professional sector made up 8 percent of the total list, larger than the 2.6 percent average for the other sectors. But, even with its inclusion, all the twelve sectors only constituted 36 percent of the total list.

The sectoral organizations and coalitions, by comparison, had 78 in the list or 48 percent of the total number of party-list organizations. Political parties had 26 in the list or 16 percent of the total number.

Of course, there were noteworthy organizations in these two categories that belonged to the underrepresented and marginal sectors listed in the Constitution. However, they were swamped by the overwhelming number of questionable, unworthy or false organizations that sneaked into the list of party-list organizations.

This triggered several petitions to the Supreme Court to overturn the COMELEC approval. In a landmark decision, the former ordered the latter to reevaluate the qualifications of all the party-list organizations in accordance with the Supreme Court’s interpretation of “marginalized and underrepresented sectors.”¹⁰ At the end of the review, only 42 out of the 162¹¹ party-list groups were qualified by the COMELEC while 120 were disqualified.

Included in the 120 were seven party-list groups¹² that won more than two percent of the total votes for party-list—and should have been proclaimed *if* they were not disqualified. On the other hand, included in the 42 who qualified were four party-list groups who would have to be proclaimed *if* the votes for those disqualified were considered stray votes.¹³

Early in 2002, the Supreme Court lifted the disqualification against the Association of Philippine Electric Cooperatives (APEC) and the Citizens Battle Against

Corruption (CIBAC). On the other hand, the SC denied similar petitions by other party-list organizations. This brought the total of qualified party-list organizations to 44.

The 2001 party-list elections brought into Congress five parties and seven representatives.¹⁴ *Bayan Muna* with Saturnino Ocampo, Crispin Beltran and Liza Masa, *Akbayan* with Loretta Ann P. Rosales, *Butil* with Benjamin Cruz, APEC with Ernesto Pablo, and CIBAC with Joel Villanueva were able to get their seats. At the time this paper was written, the petitions for setting aside the votes for disqualified parties as stray ballots are still pending.

The Supreme Court, in its landmark 26 June 2001 decision, defined the qualifications for a party-list organization. In the process, it clarified the meaning of the term “marginalized and underrepresented.”

It is instrumental to list these eight Supreme Court guidelines which the COMELEC used in reviewing the qualifications of the 162 party-list participants in the 2001 election. These are as follows:

1. The political party, sector, organization or coalition must represent the marginalized and underrepresented groups identified in Section 5 of R.A. 7941.¹⁵
2. While major political parties are expressly allowed ... to participate, they must comply with the statutory policy of enabling “Filipino citizens belonging to marginalized and underrepresented sectors ... to be elected to the House of Representatives.”
3. [There] is the expressed constitutional provision that the religious sector may not be represented in the party-list system.
4. A party or an organization must not be disqualified under Section 6 of R.A. 7941.¹⁶
5. The party or organization must not be an adjunct of, or a project organized or an entity funded or assisted by the government.
6. The party must not only comply with the requirements of the law; its nominees must likewise do so.
7. Not only the candidate party or organization must represent marginalized and underrepresented sectors; so also must its nominees.

8. While lacking a well-defined political constituency, the nominee must likewise be able to contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole.

In strictly defining the qualifications of a party-list organization, the Supreme Court plugged a major loophole in the Party-List Law. This loophole in the qualifications was used by both the COMELEC in its previous rulings approving the huge number of petitions and by many politicians in their attempts to use the system to enter the House of Representatives.

The Supreme Court decision on the qualifications of a party-list organization is an act of judicial activism that will be remembered for its crucial role in institutionalizing the party-list system. It sets the system squarely within its proper political framework of opening up the legislature to marginalized and underrepresented sectors of our political body.

The 2001 party-list election is notable for a lot of things. One, it focuses attention on the sheer number of participants. The original number of submitted petitions ran to over 200 where 163 were eventually approved by the COMELEC. Later, this was pruned to 44 by the electoral body after a review of the Supreme Court requalification decision. The huge quantity underlines the enthusiasm that the system has received from the electorate.

Second, the election and its results stressed the urgent necessity to correct the various loopholes and restrictions in the Party-List Law that have severely restricted the filling up of available seats. A review of the two percent threshold and the three-seat limit is in order. There should also be a viable method of determining the number of seats each winning party-list group can have. This should be legislated to correct both the 1998 COMELEC and the 2001 SC methods that have added more obstacles to filling up all the 20 percent allotted seats.

Third, the election showed for the first time the reality of party-list organizations competing with and undermining each other, even to the extent of using the illegal methods of traditional politicians such as use of armed groups, vote-buying and black propaganda. There was also an overt attempt to use popular figures as nominees to win votes for the party, contrary to the whole spirit and rules of the

party-list system. Under the law, it is the party—not the nominee—who is elected and should be campaigned for.

Fourth, proxies for unqualified groups such as the rebel movements, religious groups, crime syndicates, government bureaucracy, military and police and big business proliferated in the 2001 election. It was a major problem that the Supreme Court decision on the qualifications of party-list groups partly solved. However, there is need for more vigilance since these attempts will continue in future party-list elections.

Fifth, the enthusiastic clamor to participate in the party-list elections reflects the success it had had in the 11th Congress, particularly through the performance of *Akbayan*'s representative, Congresswoman Etta Rosales. It was established in the 11th Congress that there is no significant distinction between the district congressmen and that of the party-list. Party-list representation is now an accepted feature of the House of Representatives, albeit with a few restrictions.

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The 2001 election demonstrated the viability of the party-list system. It is now an established and accepted political institution, participated in by various political forces as an electoral arena. At the same time, it showed its possibly fatal weaknesses and crippling limitations. Its birth-pangs were particularly painful. The party-list system is still in the final process of being born and is not yet completely out of the womb.

The Reform Agenda for the Party-List System

Reform of the party-list system can be viewed from two perspectives. One is the perspective of the system itself as it operates within the larger framework of the current elitist democratic political system in the Philippines. The other is the perspective of the marginalized and disempowered people, particularly at the grassroots, as they struggle to liberate themselves from pervasive poverty and social inequities.¹⁷

The first perspective sees the urgent necessity to enable the diffusion and assimilation of social forces from below and which the political extremes harvest

towards a divisive and ultimately, confrontational politics. It tends to support the party-list system as part of efforts to consolidate and broaden the base of post-Marcos democracy. Needless to say, it does not contemplate the wresting of political dominance from the elite. Rather, it implies the popularization of elite rule—trying to make it more palatable and acceptable to the masses.

The second perspective sees the narrow—yet real—opportunity for grassroots empowerment and the political base for mainstreaming into national politics. The party-list system, from this vantage point, is a rehearsal, a vehicle or a waypoint towards the ultimate goal of national political ascendancy. Dr. Martin G. Rodriguez calls it “a door of participation and representation for the progressive elements of Philippine society.”¹⁸ It is not an end in itself, but a means to a more strategic end.

Both these perspectives converge in their agreement on making the party-list system work. However, they diverge insofar as the matter of the realization of its potential is concerned. One sees it only as an accommodation while the other sees it as an entry to bigger things.

The depth of the reforms to the party-list system depends largely on how far the second perspective is recognized and tolerated by the dominant elite. Such reforms have the objective of making practical and achievable the filling up of all party-list seats. In itself, this can go a long way in fulfilling the promise of the system. Another objective is the tightening up of the criteria for participation in the party-list elections to effectively exclude elite-dominated parties and organizations.

Within the purview of the second perspective, the following may be seen as necessary reforms to the present party-list system:

First, the limit of three seats per winning party-list organization should be abolished. As the case of *Bayan Muna* proved, a party-list organization is perfectly capable of winning more than the required percentage for three seats. The limit actually violates the right of suffrage of those whose votes were effectively excluded because these are excess votes. It also effectively subtracts seats from the total number of available seats since the excess votes form part of the calculation for these seats.

Second, the minimum threshold of two percent should be changed to a more practical and proportional one. A minimum threshold is certainly necessary in or-

der to prevent organizations without a credible constituency from gaining seats. However, the two-percent threshold is an arbitrary one, calculated directly from the existing 50 seats at the time of the enactment of RA 7941. The seats available at present are 52, owing to the emergence of new cities and legislative districts. Theoretically, if the two-percent rule is applied, two seats will not be filled up.¹⁹

In reality, only a handful (for example, 13 in 1998 and 10²⁰ in 2001) are expected to hurdle the stiff two percent threshold. The proposal being discussed in the House Committee on Suffrage and Electoral Reforms is one of a “moving” threshold that depends on the number of seats available. The proposal divides 100 percent of the party-list votes by the actual number of seats available. Applied to the 2001 party-list election, the minimum threshold would then be 1.92²¹ This would have enabled two more organizations to qualify for party-list seats.

Third, the base for determining the seats should be changed to *total votes cast for the winning party-list organizations* rather than the *total votes cast for the party-list elections*. This is to ensure the widest distribution of the available seats.

Fourth, the fractional remainder (after multiples of the minimum threshold have been deducted) should be counted. This needs to be reiterated and put in black and white in the law because of the refusal of both the COMELEC and Supreme Court to recognize this particular feature alluded to by RA 7941. Counting the remainder will add more seats and address the question of unfairness in the area where the percentage vote of a party-list organization hovers just below a multiple of the minimum threshold. Applied to the 2001 party-list elections, the preceding amendments would have resulted in 12 party-list groups²² with all 53 seats taken and distributed among them.

Fifth, the top three or five political parties in the preceding election for district representatives should be banned from the party-list election. This is actually an extension of the present provision in RA 7941 banning the major political parties from participating in the 1998 party-list elections. The purpose here is to give more room for weaker parties or organizations to garner seats in the House of Representatives, thereby enhancing the proportionality of representation.

Sixth, stricter criteria for qualifying party-list organizations based on the Supreme Court decision on the matter should be included. This would weed out

frivolous organizations, dummies of major political parties or vested interest groups and mere vehicles for personal interests from the start. It would also cut down the number of contending organizations to a more manageable level.

These reforms are currently being discussed at the committee level in the House of Representatives while the counterpart committee in the Senate still has to tackle them. Hopefully, these will address the objectives set forth above towards making the party-list a productive and credible feature of our legislature.

The obstacles facing a fully-functioning party-list system seem insurmountable. However, as the preceding analysis of the 1998 and 2001 party-list elections showed, the party-list system in the Philippines is viable, has the potential to build the political capabilities of grassroots-based parties and can pave the way to broaden and strengthen democracy in the country. However, to do so, the party-list groups must be able to adjust to the realities and limits of the system, exploit all its potentials and develop politically and organizationally. Reforms in the system are also called for, particularly in the areas of determining the seats and in qualifying participating organizations.

A reformed party-list system can fully realize its potential as a training ground for mainstreaming grassroots-based parties. It is an irony of the Philippine party-list system that its success will have to be measured ultimately in its capability to give birth to and to nurture full-fledged political parties—parties that will no longer need the party-list system but rather can fully engage in all levels of electoral contest, and, by extension, in democratic governance.

The Party-List in a Philippine Parliamentary System?

Party-list systems exist in 59 percent of the “established democracies,”²³ more than any other electoral system. It is normally an inherent part of a parliamentary system wherein proportional representation is seen as a major characteristic of its practice of democracy.

It is also increasingly popular for divided societies and post-conflict societies. As part of a constitutional package, the party-list system is normally favored—either as a principal electoral system or as an important adjunct to another electoral system.

International IDEA describes its advantages thus: “1) it delivers highly proportional election results; 2) is relatively invulnerable to gerrymandering; and 3) is simpler than many alternative systems for both voters and electoral officials and thus will be less open to suspicion.”²⁴

A parliamentary system for the Philippines would have to be argued from different perspectives altogether. However, such a system is almost certain to contain the party-list system if the objectives of the parliamentary system include the representation of all sectors of society.

In fact, the commissioners who framed the 1987 constitution included the party-list system as well as other features based on the premise of a Philippine parliamentary system. It is of historical record that the parliamentary system lost by only one vote.

Reforms in the party-list system cannot but contemplate a possible constitutional revision whereby the system is placed comfortably within the natural framework of a Philippine parliamentary system. On a wider front therefore, the reform could start with the revision of the constitution.

There should be a definitive governance framework for the party-list system and it is not the presidential system. The true flowering of the system depends on its becoming a major, if not the decisive, voice in law-making. This can only flourish in a parliamentary system, where national policies are debated and party positions can be defined by the party and not by individual lawmakers. The parties would tend to negotiate with each other based on their platforms and principles, rather than be preempted by strong personalities. A party-based democracy—with live connections to their constituencies—will gradually take over from the personality-based parties at present.

Notes

- 1 This was increased to nine representatives with two seats for the Association of the Philippine Electric Cooperatives (APEC), one more for Akbayan, and another for the Citizens, Battle Against Corruption (CIBAC), through a controversial COMELEC decision that considered the votes of the disqualified party-list groups stray votes.
- 2 The Institute for Political and Electoral Reform (IPER) came out in 1995 with the psychographic study of the behavior of the Filipino voter. This study revealed that glamour and popularity played a major, if not a decisive, role in their choice of a candidate. The study also came out with the finding that patronage politics still play a major, if secondary, role. The events of the 1998 and 2001 elections reflected these findings where many media personalities and candidates from traditional political families won.
- 3 These grassroots-based forces not only included the various national democratic groups identified with the Communist Party of the Philippines, but also the social democrats, liberal democrats, popular democrats and Moro rebels as well as sector-based groups.
- 4 Records of the Constitutional Commission, August 1, 1986, p.561.
- 5 Ibid, p. 561-562.
- 6 Ibid, July 24, 1986, p. 177.
- 7 This state of affairs stems directly from the Constitutional Commission's failure to synchronize earlier provisions decided on the premise of a multiparty parliamentary system. It later decided, by a majority of one vote, to have a presidential system.
- 8 Philippine Coconut Producers Federation (COCOFED) was proclaimed after the Lanao special elections which catapulted it into the winning circle.
- 9 Genuine Record (G.R.) 136781, authored by SC Justice Artemio Panganiban.
- 10 SC decision of June 26, 2001. This is in connection with the case filed by *Ang Bagong Bayani-OFW Labor Party*. The Supreme Court directed the COMELEC to "immediately conduct evidentiary hearings on the qualifications of the party-list participants." The COMELEC issued Resolution no. 4495 in compliance and conducted hearings. The results were issued in three installments of "partial compliance reports" of July 27, 2001, August 22, 2001 and September 27, 2001.
- 11 This figure was from the actual list of party-list groups reviewed by the COMELEC. The inconsistency of the figures in various COMELEC documents on the 2001 party-list election adds to the over-all confusion.
- 12 These are the *Mamamayan Ayaw sa Droga (MAD)*, *Association of Philippine Cooperatives (APEC)*, *Veterans Federation Party (VFP)*, *Abag Promdi (PROMDI)*, *Nationalist People's Coalition (NPC)*, *Lakas-NUCD-UMDP* and *Citizens's Battle Against Corruption (CIBAC)*.
- 13 These are the *Anak Mindanao (AMIN)*, *Aiyansang Bayaniban ng mga Magsasaka, Manggagawang Bukid at Mangingisda (ABA)*, *Partido ng Manggagawa (PM)* and *Sanlakas*.
- 14 See footnote 1.
- 15 Worker, peasant, urban poor, fisherfolk, women, youth, indigenous cultural communities, elderly, handicapped, veterans, overseas workers and professionals.

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- 16 Section 6 enumerates the ff. grounds for disqualification: (1) A religious sect or denomination, organization or association organized for religious purposes; (2) Advocates violence or unlawful means to seek its goal; (3) Foreign party or organization; (4) Receiving support from any foreign government, foreign political party, foundation, organization; (5) Violates or fails to comply with election laws, rules or regulations; (6) Declares untruthful statements in its petition; (7) Ceased to exist for one year; and (8) Fails to participate in the last 2 preceding elections or fails to obtain at least 2 *per centum* of the votes.
- 17 The author is not talking here of the perspective of the conservative elite whose spokespersons agitate from time to time for the abolition of the party-list system, either as a failed experiment, unnecessary political complication or as a dangerous option undermining the *status quo*. This perspective negates the need for reform and would rather throw out the baby with the bathwater.
- 18 Dr. Martin G. Rodriguez. *Democracy Rising? The Trials and Triumphs of the 1998 Party-List Elections*. 1998, p. 35.
- 19 52 seats multiplied by 2 percent will yield 104 percent—four percent over 100.
- 20 This was the number of those who actually hurdled the 2-percent minimum threshold before some were disqualified by the Supreme Court.
- 21 One hundred percent of total votes cast for party-list divided by 52 seats.
- 22 This assumes that the disqualified winning party-list organizations are still counted. This is to prevent the skewing of the results.
- 23 Defined by the International IDEA Handbook on Electoral System Design as “those states with a population of more than a quarter of a million which have held continuing free elections for over 20 years.”
- 24 Peter Harris and Ben Reilly, eds. *Democracy and Deep-Rooted Conflict: Options for Negotiators*. p. 196.

Bibliography

- Casiple, Ramon C. *2001 Elections: The Continuing Travails of the Party-List System* (May 9, 2002).
- _____. *A Political Assessment of The Party-List System* (December 16, 1998).
- _____. *Initial Analysis of The 163 Party-List Organizations Approved By The Commission On Elections* (April 27, 2001).
- Commission on Election. *Certified List of Political Parties/Sectoral Parties/Organizations/ Coalitions Participating in the Party-List System for the May 14, 2001 Elections* (March 28, 2001).
- _____. *Final Compliance Report*. (September 27, 2001).
- _____. *List of Political Parties/Sectoral Organizations/Coalitions, Participating In the May 14, 2001 Elections With Their Respective Nominees*. (April 5, 2001).
- _____. *Partial Compliance Report*. (July 27, 2001).
- _____. *Omnibus Resolution No. 3785*. (March 26, 2001).
- _____. *Resolution No. 3047-B*. (June 26, 1998).
- _____. *Second Partial Compliance Report*. (August 22, 2001).
- Congress of the Philippines. *Republic Act No. 7941, An Act Providing the Election of Party-List Representatives Through the Party-List System, and Appropriating Funds Therefore*. (March 3, 1995).
- Constitutional Commission of 1986. *Records of the Constitutional Commission, No. 38, July 24, 1986* (Manila: National Printing Office, 1987).
- _____. *Records of the Constitutional Commission, No. 45, August 1, 1986* (Manila: National Printing Office, 1987).
- Harris, Peter and Reilly, Ben, eds. *Democracy and Deep-Rooted Conflict: Options for Negotiators* (Ljubljana, Sweden: Korotan Lyubljana d.o.o., 1998).
- Institute for Political and Electoral Reform. *A Proposal for A Simple Determination of Qualified Party-List Representation* (May 9, 2002).
- Institute for Political and Electoral Reform. *Psychographic Study of the Voting Behavior of the Filipino Electorate* (1995). (unpublished manuscript)

Republic of the Philippines, *The 1987 Constitution of the Philippines*.

Reynolds, Andrew and Reilly, Ben, eds. *The International IDEA Handbook of Electoral System Design* (Varberg, Sweden: Br'derna Carlssons Boktryckeri AB, 1997).

Rodriguez, Agustin Martin G. and Djinora Velasco. *Democracy Rising? The Trials and Triumphs of the 1998 Party-List Elections* (Manila, Philippines: Inka Design Studio, 1998).

Rodriguez, Agustin G. Martin. *The Winding Road to Representation: The 2001 Party-List Fiasco*. (unpublished and undated manuscript)

Supreme Court of the Philippines. *Decision on G.R. No. 136781*

Supreme Court of the Philippines. *Decision on G.R. No. 147589 and G.R. No. 147613*. (June 26, 2001).