

Perspectives of the Reform-Minded on the Political Party Reform Legislation

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Introduction

This paper aims to put together the thinking, discussions and debates of the reform-minded societal groups on the proposed Political Party Reform Bill based on the activities initiated by the Ateneo School of Government (ASoG) with support from the Friedrich-Ebert-Stiftung in the Philippines. It is a way of summarizing the discussion and debates that the said proposed legislation had ensued among circles of reform-oriented groups and formations. In particular, this paper presents the following:

- The main arguments of civil society reform groups on the proposed political party reform bill;

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- The points of disagreements and consensus of reform groups;
- Some initiatives that partner with the legislative efforts on political party reform; and
- Recommendations to move the party reform initiatives forward.

This synthesis paper will try to integrate data obtained from a roundtable discussion (RTD) held last April 15, 2008 and the subsequent monitoring activity.¹⁷

The Proposed Political Party Reform Bill

The notion of party reform was accepted and recognized by the National Conference of Political Parties when it incorporated the idea in its own reform agenda in 2002. In July of the same year, a workshop was held in Clark convening major parties, party list groups, civil society advocates as well as members of the COMELEC. The decision was to draft a new bill based on the proposals of then Speaker Jose de Venecia and Senator Edgardo Angara who had already filed a bill on party development to strengthen the party system and on campaign financing, respectively. During this conference major features of the party reform bill were ironed out.

Based on the agreements, a bill consolidating the features of the bill on party development and the bill on campaign financing was drafted in a series of joint Senate-House technical working groups hosted by the Consortium on Electoral Reforms (CER). The initiative also led to the filing of consolidated bills by the principal authors in the 12th Congress.

However, due to some political preoccupations at that time, the bills were unable to complete the legislative process. The bills were re-filed in the 13th Congress with few changes and were able to pass on the third reading in the House, but the Senate failed to submit it to the plenary for second reading. Once more, in the current 14th Congress, the bills were re-filed in both Houses with almost identical contents and wordings.

17 An RTD entitled "How Far is It? A Roundtable Discussion on Philippine Political Party Law" was hosted by the Ateneo School of Government and Friedrich-Ebert-Stiftung last April 15, 2008 featuring input presentations from Atty. Chito Gascon of the Liberal Party and Mr. Ramon Casiple of the Institute for Political and Electoral Reforms (IPER). The discussion was facilitated by Dean Antonio La Viña of ASOG and Dr. Joel Rocamora of Akbayan! Citizens Action Party. The activity gathered leaders and representatives from reform-minded political groups, institutes, civil society and academics to look at the current status of political party legislation and identified action steps to push forward a party law gleaned from lessons of the past attempts. Representatives of key legislators who are championing the passage of a Philippine political party law were also present.

This time, in the House, Speaker Prospero Nograles assured reform advocates that the bill would eventually pass as there is an existing agreement that all bills that were able to pass 3rd reading in the 13th Congress will be put on fast track. Given the urgency to address the requirements of fair and free elections in 2010, the possibility of passing the bill was highly anticipated such that no major obstacles that might interfere with the process were foreseen, until recent unfolding of events led the House leadership to move the bill for recall.

After being passed in the 3rd reading on August 30, the bill was sent back to second reading for further plenary deliberations to accommodate the complaints of some legislators, after voting was already over, that they were not able to register their positions. In the Senate, meanwhile, the bill is still at the Committee level.

The bills on party development and key contents

In the 14th Congress, several bills¹⁸ on political party development have been filed in the House of Representatives and were later integrated into House Bill No. 3655 or the Political Party Development Act of 2007 which was submitted to the Speaker of the House through Committee Report No. 308 on February 26, 2008. The Substitute House Bill has the same title and substantially has the same content and format with Senate Bill No. 67 filed by Sen. Edgardo Angara. Other bills filed in the Senate, namely SB No. 227 (introduced by Sen. Loren Legarda), SB No. 147 (introduced by Sen. Richard Gordon) and SB No. 587 (introduced by Sen. Jinggoy Ejercito Estrada) follow or are within the same general parameters as the first two bills.

Having identical outline and content, the bills contain five chapters, which are then subdivided into 40 sections. The only difference between the versions filed in the Senate and the House of Representatives (HoR) is that for the Senate versions, an appropriation amounting to Php 350 Million is specified; while the House version does not specify an amount but instead mandate the COMELEC to include in its program funding the implementation of the Act.

On registration and accreditation

All the bills, if approved, would apply to “National Political Parties” duly registered with and accredited by the COMELEC. National Political Party, as

18 These bills are House Bill No. 124 (introduced by Cong. Juan Edgardo Angara), HB No. 1677 (introduced by Cong. Jose de Venecia, Jr.), HB No. 2054 (introduced by Cong. Del de Guzman), HB No. 2128 (introduced by Cong Rufus Rodriguez), and HB No. 2268 (introduced by Cong. Teodoro Locsin, Jr.).

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defined under the bills, is “a political party or an organized group of persons duly registered with the Commission on Elections whose constituency is effectively spread across the geographical territory of all or a majority of the administrative regions of the Philippines, pursuing or advocating platform, principles and policies for the general conduct of government and which, as the most immediate means of securing their adoption and implementation, regularly nominates and supports its members as candidates for public office.” An Accredited National Party, on the other hand, refers to “a National Political Party qualified to receive subsidy for party development and campaign purposes, accredited for this purpose by the Commission based on a set of criteria provided under this Act.”

Simplified, the Commission on Election is the authorized government agency to accredit National Political Parties eligible to receive subsidy from the government using political representation, organizational strength and mobilization capability, performance and track record as general criteria. The state subsidy fund shall be used to augment the operating funds of accredited National Political Parties. Distribution is based on the number of seats obtained in the House of Representatives (50 percent) and the Senate (45 percent). The remaining five percent will be given to COMELEC for monitoring purposes, information dissemination and voter education.

The funds released during non-election year shall be used exclusively for party development activities, while funds released during an election year shall be divided as follows: 75% for campaign expenditures; and 25% for party development activities. To account for the funds, the COMELEC will require every accredited National Political Party to submit a detailed program of activities as well as the breakdown of expenditures drawn from the Fund by the end of December of every fiscal year.

On reforming electoral campaign financing

The bills promote accountability and transparency by institutionalizing reforms in the financing of electoral campaigns. The state subsidy for instance, is intended to provide minimum resources for party-building, and act as leverage for auditing in the sourcing and expenditures of party and campaign funds. Also, the bills limit the amount of voluntary contributions to be given to any National Political Party to up to Php100,000.00 from natural persons and Php1 million from juridical persons. Said contributions are to be deposited by a contributor to any bank accredited by the COMELEC, and the banks are mandated to issue a corresponding receipt to the contributor

and shall submit to the COMELEC a statement of account of every political party with contributions. The COMELEC shall then publish the account of all political parties in any newspaper of general circulation within a reasonable time to be determined by the Commission.

Misuse of funds received by National Political Parties both from the state subsidy fund and from voluntary contributions is punishable under the provisions of the bills. Violation of any of the provisions shall be punished with imprisonment, fine, and disqualification from holding public office. In addition, voluntary contributions of higher amounts than allowed by the bill; the inability to account for all incoming contributions from whatever source; failure to submit pre-election as well as post-election disclosure statements to COMELEC; and false reporting or any misrepresentation in the financial statement reports, are deemed punishable.

On addressing political turncoatism

One of the features of the bills that try to address the common problems encountered with political parties in the Philippines is the restriction on political turncoatism. All the bills agree that, “any member of a National Political Party who changes party affiliation after being nominated by the party shall be deemed to have committed Political Turncoatism.” Political turncoatism shall be penalized through the following: 1) forfeiture of office if an elected official changes his/her political party affiliation during his/her term of office; 2) disqualification from running for any elective position in the next succeeding election immediately following the act of changing political party affiliation; 3) prohibition from being appointed or from holding any position in any public or government office for three (3) years after the expiration of his/her current term; 4) prohibition from assuming any executive or administrative position in his/her new political party; and 5) refund of any and all amounts he/she received from his/her political party, plus surcharge of 25%.

With the penalties to be imposed to those who will change parties, the bills try to promote party loyalty and discipline among party members, as the rules of behavior of political parties and politicians are being laid down. The bills also seek to enhance integrity within the party as they require every National Political Party to formulate a merit system on nomination and selection of candidates who must be members of the party.

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Points of Agreement

Reform-oriented societal groups tend to agree on the following:

- That the proposed political party reform legislation is a key initiative;
- That the proposed political party reform bill is a necessary component of a comprehensive political reform agenda;
- That there is a dilemma to push for the said legislation because of the groups that it will benefit in the immediate terms;
- That the existing bills on political party reform are imperfect, but a move forward nonetheless; and
- That there are a few amendments that must be introduced to ensure that the proposed legislation is not retrogressive.

Party Reform Bill as a Key Initiative

It has been recognized that the problematic functioning of political parties is a phenomenon that is happening at a global level. In his research, Thomas Carothers describes parties as the “weakest link” because they always characterize what he calls as a “standard lament” – parties are corrupt, self-interested organizations, dominated by power hungry elites, who only pursue their own interests or those of their rich financial backers and not those of ordinary citizens. Parties multiply behaviors of corrupt financing as they increasingly work hard to win votes, which fuel their need for money to finance their campaigns.

Not surprisingly, the characterizations apply in the Philippines where the political landscape is dominated by political turncoats and where political parties do not represent ideologies. A party reform bill is therefore seen by electoral reform advocates to address the problem inherent among political parties and strengthen them.

The Political Party Development Act drafted in 2002, which aims to strengthen the operation of political parties in the country, has gone through a lot of negotiations over the last three Congresses. Taking into account some of its principles, most specifically in terms of the standards of behavior of parties, the bill addresses what is rampant in the political culture of the country. The bill promises a comprehensive legal framework that will reform and govern the political party system.

The bill is therefore a key initiative in reforming the party system as it creates an enabling environment to establish the system. The need for a party law is basically simple – if the legal framework is missing, the system will not evolve as such. The bill has the rules on how political parties should behave. Given what the bill promises, it is more acceptable than the present situation where there are absolutely no rules.

The Party Reform Bill as a Component of a Comprehensive Political Reform Agenda

In totality, the bill does not encompass everything that needs to be addressed to effect political reforms. With this reality, the said piece of legislation should not be viewed in isolation of the existing laws, especially the electoral law, the campaign finance law and the political finance law. There has to be an intervention from all of those areas in order to achieve a comprehensive reform in the political system to happen.

The electoral system strongly influences how the vote is conducted, how the parties behave and, to a certain extent, how the parties are created. Given this nexus, individual provision of the bill, for instance on turncoatism, may only address a symptom of a deeper problem in the political system.

Dilemmas on Solidly Pushing for the Bill

Providing state subsidy to political parties is intended to level the playing field for those who would want to run for public post and to deal with the present situation where parties that thrive are those in power, being supported by wealthy backers; while smaller parties tend to fall by the wayside. With the subsidy, the initiative would somehow address parties' dependence on support from the elite and vested interests.

The state subsidy is the most tricky part of the bill. Although state subsidy to parties is a standard practice in more advanced democracies like Germany, Canada and the United States, which contributes to a system that can groom leaders who need not be members of the elite, it will be difficult to convince the public about the idea of giving money to political parties. This is particularly true with regards to the major ones, whose actions have always been perceived as motivated by personal interests.

To this effect, Congressman Juan Edgardo Angara, one of the authors of the bill in the House, highlights other provisions that may be more appealing to

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the public: providing penalties for turncoatism; requiring parties to set forth their ideology and method in selecting candidates; limiting donations by persons to parties; and requiring full disclosure of how parties spend funds.

The attitude of the public, particularly the taxpayers, about giving government resources to political parties in the form of state subsidy is going to be one of the major challenges that need to be confronted by the advocates of the bill. It is going to be hard for the ordinary people to understand that political party development is worth their taxes. It would be difficult for the people to believe that state subsidy is intended to precisely regulate excessive campaign expenditure. On the contrary, it would likely be perceived as a reinforcement of patronage politics and corruption. The question that would most likely be raised is basic and indeed valid: if political parties cannot make themselves accountable, why reward them through subsidy?

This in particular is a serious dilemma for the reform-minded. Should they take their chances on this bill? Is it worth it? What do they do with their constituencies who would not be able to understand or accept it? How do they convince them of the importance of the bill? Should they convince them at all? If it is hard to convince the reform constituencies, it is even harder to convince the *masa* who are either suffering because of the confusion created by the elitist democratic system and patronage-based politics or who have already found a way of getting by the system to survive and hence have become a functional and benefitting part of it.;

The Proposed Party Reform Legislation: Imperfect but a Move Forward

Electoral reform advocates, as put forward in a forum sponsored by the Institute for Political and Electoral Reform (IPER) in 2008, are certain that the bill addresses a lot of the perceived ills of the political and electoral system, as it is a key measure that sets the behavior of political players. Ramon Casiple, Executive Director of IPER, affirms that on the whole, even though the bill has been subjected (and will be subjected) to various compromises and pressures leading to the weakening of its original provisions, the bill is a real electoral reform measure and is the best shot in institutionalizing electoral reforms. However, there are imperfections.

The state subsidy, for instance, aside from being a real source of campaign funds for party development, may give parties the clout to exert control or influence over their party members. The parties could pressure or put party discipline on those who are running. This should pave the way to parties

performing their accountability functions. The tendency to turncoat and to take unilateral decisions may therefore be reduced. Although there are provisions on the bill that will account for the spending of the state subsidy, it could become a new source of corruption because of the very minimal funds to be allocated. With a 350 Million Pesos fund, even the biggest party will probably not get a hundred Million pesos a year – a very measly amount compared to the 8-10 Billion pesos needed in running for the presidency.

Given the imperfections, the bill is arguably a move forward with the prohibition on turncoatism and by providing minimum standards for party operations. With the serious penalties it applies to those who turncoat or switch parties, it will have a positive impact on the practice of politics in the country and be of disadvantage to traditional politicians. Not surprisingly, according to Congressman Angara, it faces silent oppositions among politicians.

The bill provides for minimum standards for political parties, and thus contributes to the emergence of a stronger party system. Such a law in place may also contribute to monitor and thus better understand the parties' activities, which at present is a complete mystery. With this piece of legislation, at least there is a list of what a party should be doing in order to develop.

Meanwhile, Section 20 on the criteria for eligibility that determines who can avail of the subsidy is one of the weaknesses of the bill. This provision states that only national parties, as defined, are entitled to receive funds. The problem begins with the premise that in order to receive state subsidy, political parties need to be accredited. To be accredited, parties are required to meet certain criteria based on political representation, organizational strength, organizational capability, performance and track record. Reviewing the criteria, if the bill is passed now and implemented today, it may seem that only one political party would fit, as it is the only party capable of filling a complete slate.

Critical Amendments

“What is the ‘sunset provision’ on the proposed legislation?” seems a critical question among the reform-minded. It is apparent that an amendment of Sec. 20 on the criteria for eligibility is a must to ensure that the law is not retrogressive. In relation, there is a need to clarify the meaning of “national political parties” to avoid excluding legitimate parties such as local political parties and those from the party-list. Strengthening of penalty for campaign

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finance violation is another aspect of the law that can be explored. Finally, all the reform-minded agree that there is a need to tackle the issue of governance—who will prepare the Implementing Rules and Regulation (IRR) and who will ensure the proper implementation of the law. This will exhaustively be discussed in the last chapter.

Points of Divergence

The reform-minded groups and individuals tend to disagree on the following:

- The possible unintended consequences of the bill;
- How to approach the legislative process; and
- On whether a party law should contain provisions on the internal functioning of political parties.

The Unintended Consequences

The legislation works on the premise that if parties are weak, non-existent and non-performing, the various ills of a dysfunctional democracy such as patronage politics, personality-oriented politics and political corruption will continue to perpetuate. While the bill seeks to strengthen political parties as institutions to strengthen democracy, it is heavily criticized for its facet of disbursing money to political parties.

The Philippine Daily Inquirer released an editorial dated September 7, 2008 criticizing the provision on the state subsidy fund. The editorial labeled the bill as “long on rhetoric but short on transparency” and hurled accusations against the bill of perpetuating the features of traditional politics by channeling state funds to traditional politicians. According to the editorial, the political party development fund is just a euphemism of the pork barrel given to congressmen and senators as it wishes to subsidize parties who are not even transparent about their campaign financing and spending.

There are also reactions from civil society organizations on whether the bill will be able to address the patronage system in the country. It may fail, for instance, to address chronic corruption in the country as it may open up new sources of corruption among parties because the state subsidy fund is very minimal to adequately finance parties. The prevalence of “under-the-table” contributions might still continue.

The consequences of trying to strengthen parties are exemplified by such public reactions, and also the ambivalence among civil society groups as to whether the proposed measures can address the problems hounding the political party system. Various efforts have been made in response to the editorial. The objective of an IPER-organized public forum on the political party bill was primarily to invite organizations, more importantly the members of the media to discuss in detail the merits of the key provisions of the bill. The forum reiterated that the bill does not perpetuate traditional politics and stressed the distinction between an individual politician and a political party – the bill seeks to strengthen the institution of the political party vis-à-vis the clout of an individual traditional politician. In the present system, the candidates rather than the political parties have the money, which is why the latter is weak. The forum also explained the principles behind the state subsidy, as a means to provide an alternative to contributions by private vested interests and illegal source of funds; and as a means to monitor and audit party expenditures.

Approaching the Legislative Process

Aside from the reactions from different groups, the real issue that needs to be confronted in approaching the legislative process is the contextual factors – how can a genuine, democratic, progressive and platform-oriented political party be promoted in a setting where patronage politics is a very dominant factor? The passage of the bill might be a difficult process in a situation where the main authors or the majority of those who are going to pass it are against its very principles. It is therefore necessary to advocate a lobby team to push for the passage of the bill with the minimum provisions that the reform advocates want to be there.

If certain amendments are to be pushed, reform advocates must decide which amendments are to be incorporated in the bill and then lobby both in the House and in the Senate. If amendments are to be pursued, the options available in the Senate should be explored as there is more space for intervention there. Since the bill is still in the Committee, the proposal of certain amendments can still be negotiated. In the event that rejection will come along the way and authors do not accept the amendments, looking for other sponsors (who are not current authors) is another possibility.

However, problems might arise if serious amendments are to be instituted. An intervention might open up to too many interventions that will slow down the process. Serious amendments might bring problems, and it might take

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a longer time before the bill could pass. If this becomes the concern, the possibility of allowing the bill to pass and then work on the amendments on one end should also be considered.

This legislation must also be related to legislation on the party-list. At the moment, these two party reform legislations are divergent, hence only a few party-list groups express their support for the bill. Given this reality, there should be a conscious effort to market the bill hand-in-hand with the party-list law amendments to make it more popular to party-list groups. This will entail revising the bill so as to accommodate the inclusion of party list to be entitled to receive the subsidy.

The more crucial question raised on the issue of bridging the political party bill and the party-list amendment bill is whether it is much better to make the reforms of the party-list system as a starting point of the advocacy for party system development. For example, if the percentage of seats in Congress fielded through the party-list system is expanded to more than 20%, say 30% or even 50% (although such would require Constitutional amendment), or that the system is opened to real political parties with a formula that will ensure that all the allocated seats would be filled-up, maybe such major reforms in the party-list system has a greater chances of creating a favorable legal environment for a party-based politics.

There are two things that make this approach worth considering. First, if the take-off point of party system development is the reform of the party-list system, the party-lists will advocate for such reforms. Second, the system being created will not automatically favor the major traditional parties. With the engagement of small transformational party-list groups in this arena for about a decade now, they should have an advantage in a contest under proportional representation. Will the small party-list groups be overtaken by guns, goons and golds of the traditional political parties? The challenge for the party-lists is how to strengthen their organization to surpass the possible attacks from the traditional political parties. It could be a key measure to build a popular support for a platform-based party-list system to ensure that the public will demand a more transparent and accountable accreditation by the COMELEC of political parties to join the party-list elections.

Should the Party Law include internal functioning of parties?

With the state subsidy fund in place, political parties become public institutions, as they will be receiving money from the government. As such,