

# **It's the (Non-) System, Stupid!: Explaining 'Mal-development' of Parties in the Philippines**

**Joy Aceron**

## **Introduction**

Political parties are supposed to perform the important functions of candidate selection, leadership formation, interest aggregation and agenda development. But in the Philippines, parties can be best described as “temporary political alliances.” Some would even go to the extent of saying there are no real parties in the country and what we have are mere “fans club” of politicians.

This is usually blamed on our political leaders and politicians, and their inability to go beyond their political ambitions and vested interests. The people are also sometimes blamed for not participating in partisan politics and for not voting according to party affiliations. Pundits even claim that

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the political parties' lack of ideological orientation are due to the politicians who behave the way they do because people do not vote according to party platforms or programs.

This has become a vicious cycle—a blame game that provides no immediate actionable options for effecting change. Altering the politicians' behavior and making them suddenly party-followers would be wishful thinking, and so is changing the people's view on political parties. But this ideological lacunae stems from a much deeper cause; hence, imposing a directive that would compel parties to adopt an ideology of their choice would not be of much help.

With this in mind, this paper will search for an aspect of political parties that:

1. can explain the mal-development of party politics in the country; and
2. can provide a feasible point of reference for party reform measures.

It studies the current system (or the institutional-legal context within which parties operate), to explain the behaviors that the system elicits given its characteristics and features. Embedded in these laws and institutions are power relations that are then perpetuated by the state of politics and the existing political culture.

Overcoming the system (or non-system) is possible, but its probability is quite low at the moment. The most immediate step, therefore, is to clearly articulate a new system for the operations and functioning of parties, as well as improving the modernizing role that parties have to play in state-building and economic development. To refrain from doing so would consign our parties to being mere agents of patronage- and personality-based politics—in which case, the best option for the county would be to abolish them all together.

### **The Nature and Practice of Parties**

What makes a party a party? It is a party if it seeks to place representatives in government, and not just to persuade political actors. It nominates candidates to stand for elections in its name; and it exercises power on behalf of the general public (Lawson 1989; 252-253). Meyer, on the other hand, has a more

demanding set of requirements: “Parties are usually large organizations with a certain amount of centralization and presence across the country. If they are well organized, they are able to combine the development of political objectives in communities, cities, and villages with a decision-making process on all levels of the political organization that the party members deem fair. At the grassroots level, well-functioning party democracies are established in a broad and active civil society.” (Meyer 2007; 10-11)

Heywood (2002; 251-255), for his part, provides the following list of functions that political parties must perform:

1. Representation – the capacity to respond and to articulate the views of both members and voters.
2. Elite Formation and Recruitment – the ability to mold the political elite tasked to govern the body politic.
3. Goal Formulation – the development of programs of government with a view of attracting popular support.
4. Interest Articulation and Aggregation – the task of combining and harmonizing different demands and expressing them into coherent policy formulation.
5. Socialization and Mobilization – the formation of a national agenda and the creation of public discourse to raise political awareness and build the necessary values and attitudes that would constitute a larger political culture.
6. Organization of Government – the power given to a political party that gains the necessary votes to constitute the governmental elite, filling governmental posts with elements from the party ranks.

The correlation between political parties and the functioning democracy has also been established by various scholars. Meyer best summed up this argument when he said that, “democracy needs political parties in order to be able to function...Political parties are the main organizational forms of modern democracy.” (Meyer 2007a; 8) He further argued that the one crucial function that is important for democracy to work is the “designing of programs and institutions that give political and legislative form to the social interests.” Parties are able to do this through their “ties to the interest-articulating structures of the intermediary system of associations and organizations.” (Meyer with Hinchman 2007; 73)

The other crucial function is candidate selection (Co 2005; 75). Especially in open party systems where an infinite number of candidates can run, parties

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play an important role in screening the candidates and making sure that those who join the electoral race are also the best qualified for public office.

However, political parties in the Philippines, and even in the world in general, are held in low esteem, and are often perceived as “selfish, dishonest, biased and incapable of recruiting quality leaders” (Lawson 1989; 270-71).

In developing nations such as the Philippines, where political structures are weak and with rudimentary forms of civic participation, parties are often unable to perform their task of being the most intermediate link between state and society. Rather, they are often reduced to mere ritualized expressions of prevailing elite coalitions, instead of being the “inclusive, responsive and responsible representation of civic interests.” (Croissant and Merkel 2001; 2). Unable to command party discipline, leaders and government functionaries are therefore induced to gather legislative and local support through the use of patronage, privilege and pork, and other forms of rent-seeking activities.

The situation in the Philippines is not much different, for according to Rocamora (1997; 106), political parties “are not divided on the basis of long-term upper class interests, much less the interests of the lower classes.” Instead, “they are temporary and unstable coalitions of upper class fractions pieced together for elections and post-election battles for patronage. They come together only to put down assertions of lower class interests. The rest of the time they maneuver in particularistic horsetrading and the perennial search for deals.”

This is affirmed by Almonte (2007; 65) who described the country’s existing parties as “catch-all” parties that target to please everyone and anyone from all sectors and social strata, and “paper” parties organized in an instant to support the presidential ambition of a political personality.

Because of the way they are organized, Philippine parties are defined in ways that often contrast to what political parties are supposed to be. They do not fulfill the task of interest aggregation but instead serve as mechanisms for patronage politics to perpetuate vested interests. Parties do not select candidates, but are instead formed by the candidates themselves as vehicles for their own campaigns. In other words, when we talk of parties in the Philippines, there is a wide gap between standard and practice. Consequently, the public often views efforts aimed at party-strengthening as mere attempts to further entrench traditional politics and elite interests. This is perhaps the greatest challenge in changing the country’s party system.

Given the way party politics is practiced in the Philippines, it is no surprise that the impact of political parties has not been favorable to democratization. “Because of its weaknesses, the party system,” according to Almonte, “has failed to offer meaningful policy choices—and so to provide for orderly change” (2007, 66). If we follow Nohlen (1984; 49) who defines the party system as “referring to number of parties, relative strength, ideological dimensions and distances of competing parties”, the Philippine party system can thus be described as multi-party, fluid, non-ideological, non-participatory and not offering programmatic choices.

Personality- and money-based politics greatly undermine the electoral exercise since few real options are made available to the electorate. To many voters, Philippine elections have become a process through which “the least evil” is selected from among a crop of choices that were neither identified for their platforms or leadership credentials, but for the amount of money that they have at their disposal to run an expensive campaign. Unfortunately, an electoral exercise that aims to choose *the least evil* would inevitably result in a bad choice—thus perpetuating the cycle of corruption and bad governance.

To somehow address this situation, the party-list system was devised in the hope that it would produce real political parties that would shun “personalistic politics and the rule of guns, gold, and goods, and would serve as ‘a ‘germ’ for a parliamentary form of government” (Llamas 2001; FES website). This experiment, however, was not successful in giving birth to a real and stable party system. Instead, over the years, the party-list system has been plagued by fragmentation, controversies and now, even the traditional politicians are winning party-list seats. This is further aggravated by the Comelec’s lack of concern for organizational credentials in registering party-list groups.

### **Institutional-Legal Context of Political Parties and its Impact**

A number of scholars suggest that the mal-development of parties can actually be traced to the country’s political culture. American author David Timberman explains this argument quite well:

The exclusiveness of the Filipino family, the importance of patron-client ties, and the strength of regional and linguistic affinities cause Filipino politics to be highly personalistic and particularistic...Most Filipinos believe that the decisions and events that shape their lives

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are determined more by particular individuals than by impersonal systems and institutions. Consequently, the maintenance of good personal relations with those in power is critical. As a result of the personalization of public life there has been relatively little concern with institutions or ideologies on the part of leaders or the public. (1991; 22)

Other scholars, on the other hand, suggest that the country's weak party system is largely brought about by Philippine democracy's institutional deficiencies which can, in turn, be traced back to the American colonial period.

(M)any of the major characteristics of Philippine democracy can be traced to the institutional innovations of the American colonial era: the exclusion of the masses and elite hegemony over democratic institutions; the provincial basis of national politics; the overarching dominance of patronage over ideology as the primary foundation of Philippine political parties; and a powerful presidency. These basic characteristics have endured amid enormous transformations in Philippine politics, including the rise and defeat of armed challenges to elite domination at midcentury, independence in 1946, the creation of a mass electorate, the long nightmare of martial law, the reemergence of armed opposition in the countryside during the Marcos dictatorship, the toppling of Marcos via broad-based 'people power' in 1986, the growth of a vigorous NGO sector, the economic reforms of the 1990s, the populism of Joseph Estrada, and the resurgent People Power uprising that forced Estrada from office in 2001. (Hutchcroft and Rocamora 2003; 284)

This paper focuses on the institutional and legal context within which political parties operate. It can be described as constraining, limiting and even detrimental to the development and strengthening of political parties. I will argue this from two standpoints: first, by looking at the flaws in the institutional arrangement of the political system and the electoral exercise; and two, by identifying the legal gaps in defining and structuring the operations of political parties. Let me begin with the first one.

### ***The Constraining Effect of Presidential System on Parties***

The Philippines has a presidential form of government. As such, the government is divided into three main branches—namely the executive, the

legislative and the judiciary—that are supposed to check and balance each other as they perform their independent and separate functions. The president exercises enormous power over the bureaucracy as head of the government, and has control over the budget as well as government appointments. S/He also exercises authority over the military as the country's Commander-in-Chief. The presidency is filled up every six years with the incumbent restricted to run for re-election. The Vice-President may come from a different party.

The legislature is divided into two houses: the Upper House or Senate whose members are elected at-large and the House of Representatives whose members are elected by district (single member district) and through the party-list system.

The Philippine legislature holds the power to pass laws and the national budget, among others. Half of the senators (12 of the 24 senators) are replaced every six years, while members of the Lower House end their term every three years. Senators could be elected for two consecutive terms; while members of the Lower House could be re-elected for three consecutive terms. The judiciary interprets the laws and administers the justice system. The Supreme Court, the highest court of the land, consists of 12 associated justices and 1 chief justice that are appointed by the president on a seven-year term basis.

The presidential system, with an overly powerful presidency contributes to the mal-development of political parties. The enormous power of the presidency enables it to control the members of Congress. The phenomenon of party-switching can be very well explained by the necessity of aligning with the president to get pork. Parties are supposed to form government, but instead it is the president that forms parties.

The power over the purse of the Presidency explains the phenomenon of party switching (Montinola 1999, 136 in Co, 82). This and the other powers of the presidency enable the presidents since post-EDSA 1 (except for Aquino who refused to be part of a party) to have majority control over the House. A party's platform of government is determined therefore by the president and not by the party, even if there is a majority party. The president may opt to follow the party platform or members of the party may try to influence the president to refer to the party's platform, but no structural mechanism ensures this. The strong presidency therefore undermines the development of parties.



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Parties are also used for other purposes: consolidation of support base, and a medium for patronage and clientelism. Parties are indistinguishable and unstable because they are personality-based and have a weak institutional disposition. Platforms are not developed. Membership is temporary and loyalty to the party is hardly existing.

Theoretically, it is easy to explain this. Parties are developed alongside the development of the legislature. And if a legislature is weak vis-à-vis the presidency, parties tend to be underdeveloped as well, for their development would largely be dependent on the presidency. This is the reason that some scholars are arguing that the parliamentary form of government can support the development of parties more than the presidential system.

In relation to this, more and more empirical studies point to the form of government (presidential and parliamentary) as a factor in the development of political parties. An article of Karvonen and Anckar (2002) entitled *Party Systems and Democratization: A Comparative Study of the Third World* points out that numerous studies recognize the positive impact of parliamentary form of government on party development:

Contemporary scholarship on democratization and consolidation has taken an increasingly critical view of presidentialism as opposed to the parliamentary form of government. Presidentialism is, in the words of Sartori, 'a constitutional machine made for gridlock' which it why it has '[b]y and large ... performed poorly'. Linz and his associates have in several works detailed the shortcomings of presidentialism: dual legitimacy, rigidity, 'winner take all', problems of accountability, 'plebiscitary leadership'. Parliamentary systems, on the other hand, are seen as more prone to negotiation, coalition-building and internal party discipline. Specifically, 'considerable party system fragmentation is more problematic in presidential democracies than in parliamentary democracies'. Presidents tend to view 'parties and legislatures as obstacles to be circumvented',<sup>18</sup> and this is naturally much easier if no party is strong enough to challenge the executive. The absence of incentives for coalition-building in presidential systems adds to this weakness. (Karvonen and Anckar 2002; 16)

The reliability of parliamentary system in producing working parties can be traced back to the stability it creates that is based on cooperation among



parties and through a clear mechanism to make the ruling party accountable based on its performance.

### ***The Flawed Combination of Plurality Elections in a Multi-Party System***

The Philippines has a plurality/ majority or first-past-the-post electoral system. Winners of elections are determined based on who got the highest number of voters among a potentially infinite number of candidates.

If combined with a multi-party system, the plurality electoral system becomes problematic. This combination almost naturally results in a minority leadership. Take for instance Philippine presidential elections, no candidate since post Martial Law was able to garner a majority vote, hence resulting in a population that is mostly opposition to the sitting president. This is therefore counter-intuitive to a “majority rule” principle of a democratic system.

It has been established that a plurality/ majority electoral system works best in a two-party system. This is so since this combination produces a clear majority that is important in governing a pluralist society. Plurality does not sit well with multiple constituencies. Proportional representation, on the other hand, is more able to capture multiple and diverse constituencies.

In fact, in some of the literature, it is expected that a plurality/ majority electoral system will produce a two-party system (Nohlen 1984; 49) under certain concrete social conditions (Ibid; 50). In addition, there are preconditions that govern a successful application of the plurality/ majority formula that arguably does not exist in the Philippines, these are:

- homogenous society;
- fundamental political consensus among population in regards to the majority rule;
- the probability that the minority can become a majority (Nohlen 1984; 55).

With this flawed combination, parties could hardly develop; simply because the leadership of the government resulting from the elections does not reflect the party performance in the elections. If it was a multi-party system in a proportional representation electoral system, the number of votes garnered by the party determines the number of seats it occupies in the government. But in a plurality elections with multi-party system, though an infinite number of political parties is allowed, the result of the elections would only yield two

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kinds of parties: a losing party and a winning party. The link between the result of the elections and the configuration of leadership in government is diluted.

### ***The Supposed Solution that is Party-List***

The Constitution also provides for a party-list system, i.e., a system of proportional representation in the Lower House.

Republic Act No. 7941 or the Party-List Act defines a system of elections by which winners are determined based on the percentage of votes a party gets out of the total number of votes cast for the party-list. 20% of the total number of seats of the lower house is filled up through the Party-List System. Because of the existence of the party-list system, scholars would refer to the Philippine electoral system as mixed electoral system employing both plurality/ majority and proportional representation.

The 1987 Philippine Constitution (Article IX-C, Section 6) provides that

“a free and open party system shall be allowed to evolve according to the free choice of the people, subject to the provisions of this Article.”

According to renowned constitutionalist Joaquin Bernas:

The 1935 Constitution and the Philippine election law up to the 1987 Election Code gave a preferred position to the two major political parties. This was the two-party system. The clear impression, which had emerged from the constitutional scheme prior to the 1987 Constitution was that the electoral system planned and plotted to insure the perpetuation of the party in power. The 1987 Constitution once again makes a try at promoting a multi-party system or open party system...The party-list system, already discussed under Article VI, is meant to be an instrument for fostering the multi-party system. (2007; 200-201)

The Party-List System is based on the principle of proportional representation (PR) wherein parties are represented in parliament “in direct proportion to their overall electoral strength, their percentage of seats equaling their percentage of votes.” (Heywood 2002; 232). *The Party-List System Act* defines

the party-list system as “a mechanism of proportional representation in the election of representatives in the House of Representatives from national, regional and sectoral parties or organizations or coalitions registered with the COMELEC.”

The said piece of legislation primarily seeks to ensure the participation of marginalized and/or underrepresented groups or sectors in the legislative process. As stipulated in its Declaration of Policy, the party-list system “will enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives.”

Under the law, national, regional, and sectoral parties or organizations or coalitions registered with the Comelec can participate in the party-list elections.

Each registered party-list group has five nominees but is only allowed to have three (3) seats maximum. For them to achieve a seat, the law requires them to get two percent (2%) of the total votes cast for the party-list. If it is able to reach the 2% threshold or achieve the required number of votes, the representatives of the party-list group would come from the list of their nominees. It is the name of the party that the voters should indicate on the ballot and not the name of the nominee. The elected party-list representatives have the same powers and functions as district representatives. (IPER 2005; 14)

The Party-List Law, however, has inherent gaps that constrain its capacity to develop a system where full-fledged political parties can eventually thrive. Its first flaw is its definition of party-list groups, which disregards organizational requirements and highlights sectoral and marginalization pre-requisites.

Ideally, the party-list is supposed to provide that breeding ground for parties; but instead of being national political parties with a national development agenda, party-list groups have become very sectoral, thereby losing the prospect of party development through the party-list. And instead of further consolidating so as to become a major political force, party-list groups continuously split in order to gain more seats.

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## ***Legal Gaps in Defining and Structuring Party Operation***

The main election law, the Omnibus Election Code of the Philippines or Batas Pambansa No. 881, enacted in 1985 during the time of former President Ferdinand Marcos, defines political parties as:

organized group of persons pursuing the same ideology, political ideas or platforms of government and includes its branches and divisions. To acquire juridical personality, qualify it for subsequent accreditation, and to entitle it to the rights and privileges herein granted to political parties, a political party shall first be duly registered with the Commission. (Omnibus Election Code, Article VIII, Sec 60)

To be registered, a verified petition must be filed with the Comelec with the following attachments:

- constitution and by-laws;
- platform or program of government; and
- such other relevant information as may be required by the Commission (Section 61)

The Code further provides that:

The Commission shall, after due notice and hearing, resolve the petition within ten days from the date it is submitted for decision. No religious sect shall be registered as a political party and no political party which seeks to achieve its goal through violence shall be entitled to accreditation (Section 61).

The Commission shall require publication of the petition for registration or accreditation in at least three newspapers of general circulation and shall, after due notice and hearing, resolve the petition within fifteen days from the date it is submitted for decision (Section 62).

No further requirement is provided by the Omnibus Election Code, although it does qualify that:

Any registered political party that, singly or in coalition with others, fails to obtain at least ten percent of the votes cast in the constituency in which it nominated and supported a candidate or candidates in the election next following its registration shall, after notice and

hearing be deemed to have forfeited such status as a registered political party in such constituency. (Sec. 60)

The Omnibus Election Code has the following provisions that define political party functions during elections:

- parties must be furnished a copy of Comelec directives and orders in pursuant to the provisions of the Omnibus Election Code (Article VIII)
- parties must be notified by the Comelec in the use of technological and electronic devices (Article VIII)
- parties must be provided guidelines for campaign spending (Article X)
- parties must limit their spending to 1.50 pesos per voter for each candidate (Article X Section 101)
- the two major parties shall have a representative each in the board of election inspector in every precinct (Article XIV) and board of canvassers
- all parties can have a watcher in every polling place (Article XV)
- parties may hold party conventions or meetings to nominate their official candidates 30 days before the campaign period and forty-days for presidential and vice-presidential candidates (Article X)
- parties should be notified by the Comelec before the printing of emergency ballots (Article XVI)
- the two major parties may send representatives to verify the content of ballot boxes and shall be given a copy of the statement of election result (Article XVI)
- parties may raise a pre-proclamation controversy, i.e., any question pertaining to or affecting the proceedings of the board of canvassers (Article XX)

Aside from the Omnibus Election Code, election spending in the Philippines is governed by the following laws and regulations:

- Fair Election Act or Republic Act No. 9006
- the Synchronized Election Law or Republic Act No. 7166
- Comelec Resolution No. 7794

These policy documents provide the limit and prohibitions to campaign financing, but they hardly provide guidelines on campaign contribution.

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As the above passages indicate, there is no law that can clearly provide the exact functions of political parties. For politicians, a party's immediate function is to abide by the registration requirements when running for public office.

It is a major gap that no law in the country, not even the Constitution, specifies the power and functions of political parties. The laws provide how parties are registered and imply the operational roles that the political parties must assume during elections. But no legal document identifies the principles of the State vis-à-vis political parties; the values that parties can have for polity; their roles in achieving the end of the Philippine state; the relationship of the party system to the government and to society; and the power that parties must have for them to perform their role in politics. This gap is primarily due to the lack of a law on political parties

The constitutional provision on party system also creates a gap in structuring party politics. To be on the safe side, the provision provides a caveat: "according to the free choice of the people." This gives the provision a populist stance. It must be "the people" who will determine the kind of party system that must evolve.

Ironically, the "free and open party system," though intended to democratize party politics in the country, actually allows the prevailing power configuration to determine the functions that parties can take. If the predominant power relation is patronage-based, the parties may evolve freely and openly to instruments that perpetuate such political condition. Instead of the political system circumscribing the exercise of power, it is defined by power. Therefore it is logical that in the case of the Philippines where power is concentrated in a few elites with particularistic interests, parties have become an instrument for protecting, defending and perpetuating the interests of those who hold power.

There is also a major gap as to who is ultimately responsible for the development and strengthening of political parties. The Comelec is only mandated to register political parties and up to some extent monitor them (possibly to validate their credentials). But who has the mandate to ensure that political parties perform the functions critical to the operations of the state?

This issue is a bit complicated and sensitive because of the democratic principle of independence of political parties. Parties are intermediary