



# Institutional Reform Paper Series

ATENEO SCHOOL OF GOVERNMENT WITH SUPPORT OF  
KONRAD-ADENAUER-STIFTUNG

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## IS THERE A PARTY IN THE HOUSE?

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 Edna Estifania A. Co

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## EXECUTIVE SUMMARY

The Party List system, engendered by Republic Act 7941 (Party List Act) in 1995, offers a form of non-traditional representation in the Philippine House of Representatives. First implemented in 1998, the Party List has its roots in the 1987 Constitution, which saw a bright horizon for the underprivileged and marginalized to have a chance at representation in the legislature. The Party List system is part of the social justice provision of the Constitution, whose vision was for the Party List to eventually graduate from a mechanism of representation by those who did not have economic and political power to one that would enable them to compete in mainstream politics after a series of elections.

Over the past three congressional sessions, the Party List showed a respectable performance in the House, particularly in the legislation of pro-poor bills and the oversight function that would check on the executive and its instrumentalities. The record of the Party List was impressive as it brought pluralism in the House and a substantial discourse on various issues. However, it has yet to strengthen its understanding of fiscal governance and the ability for macro governance, so as not to remain at the margins of sectoral advocacy.

With the gains that the Party List earned over the years, however, it is now shrouded with challenges, including its own existence as a mechanism for proportional representation. The Party List is beleaguered by the following: some provisions of the enabling law, interpretations by the Supreme Court, implementation by the Comelec, and the debate even among party list groups and candidates on what representation means. This paper posits that proportional representation and the nature of the party list as a political party are essential to the discourse.

## INTRODUCTION

The recurring problems that besiege the Party List Law should be reason enough for policy-makers to take a second look at it and the way it is implemented.

Representation of the underprivileged and the marginalized in Congress via the party list is defined by Republic Act 7941, otherwise known as the Party List System Act. Since its inception in the 1987 Philippine Constitution to the passage of an enabling law by Congress in 1995 and its implementation in 1998, the party list system has morphed from a promising venue of social justice into a complex web of political representation. Now, the party list poses an interesting challenge to Philippine electoral and political reform. Nearly twelve years after the passage of the law and after four successive elections (1998, 2001, 2004, and 2007), a review of Republic Act 7941 is due. The recurring problems that besiege the law should be reason enough for policy-makers to take a second look at it and the way it is implemented.

This paper brings together two dimensions of the party list – as law and as electoral practice. An appreciation of the party list concept and the controversy that now surrounds it requires going back to its foundation, namely, the 1987 Constitution. This is necessary because the current discourse is obfuscated by the invocation of different sources of authority, resulting in convoluted interpretations.

Republic Act 7941 stems from the Constitution’s intent to provide social justice and to reduce social inequities by “diffusing wealth and political power for the common good” (1987 Constitution, Article XIII Section 1). In other words, the party list system’s intent is to “diffuse political power (Christian Monsod, 16 July 2007).

This paper focuses on the following:

- 1) Impact of the party list based on the congressional functions of :
  - o legislation,
  - o oversight,
  - o budget allocation and support for development;
- 2) Effectiveness of representation by the party list;
- 3) Preparedness and competency of the party list organizations as political parties; and
- 4) The nagging issues that plague the party list and a possible way out of these questions.

## ***The Party List Law: Moving Forward and Looking Back***

An appreciation of the history and formation of the party list as early as the 1986 Constitutional Commission debates is essential. The debate on representation was an arduous one. The gist of the debate was whether the party list was going to be a system of representation of the marginalized, or whether it would open itself to other groups such as the major political parties. Upon final voting, the Commission decided that the party list, at the beginning, should consist of sectoral representatives from underrepresented and marginalized sectors; however, after three terms, the system should allow other contenders to compete. The underlying assumption was that, after a sufficient period, the party list groups would have been empowered, gained experience in political contests, and coalesced even with other groups sharing similar political ideas.

Although some constitutional commissioners were not against an eventual open field, they were concerned that three terms was too short a time for marginalized groups to gain more than a foothold. “The party list system has for its objective the equalization of political power. In other words, in order that political power will not be concentrated in two parties, we are attempting to introduce a party list system in order to distribute political power among various parties. But the distribution of political power is very much dependent, we might say essentially dependent, on the distribution of economic power, and the effective distribution of economic power would take quite a while...” (Fr. Joaquin Bernas, Constitutional Commissioner, transcript of the Constitutional Commission, 11 August 1986).

Allowing open competition in the party list after three terms was not meant to erode sectoral representation but rather to challenge party list groups to become strong enough to become part of the political mainstream. The party list was never meant to be a permanent system of reserved seats for certain social sectors; rather it was to be an instrument to allow party list groups to grow as regular political parties.

Secondly, the Commission envisioned a Congress with proportional representation. Proportional representation was founded on the argument that, to democratize representation and to further social justice as envisioned by the Constitution, those who had traditionally no voice in Congress should be given the opportunity and the space to step up. Inclusion is the soul of proportional representation, that is, inclusion of those groups and sectors traditionally overshadowed and excluded by the politically and economically powerful. The effective enforcement of proportional representation is therefore vital to the party list system.

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Republic Act 7941, Section 3. (Definition of Terms) clarifies what or who may qualify to compete as party list candidates. A party refers to political party, sectoral party, or coalition of parties. Political party is one which is organized to advocate for an ideology, principles and platforms of government. The law defines sectoral party as a group of organized citizens advocating for the special interest or concerns of their sector. A coalition of parties refers to an assembly of duly registered national, regional, or sectoral parties or organizations for political or election purpose.

The law assumes that engagement in the party list system means acquiring an identity as a party – either as political, sectoral, or coalition. Without such an affiliation, one cannot compete under the system, and this distinguishes the party list from the current system of nomination and electoral competition fundamentally characterized by individual and personality orientation.

### ***Passage of Republic Act 7941***

The Constitutional Commission defined the spirit of the party list but left it to lawmakers to craft the details of an enabling law. It took nearly a decade, and only under strong pressure from then President Fidel V. Ramos, for Congress to legislate the party list into existence. Advocates of the party list system were wary of the limitations of the law, but former Comelec Commissioner Haydee Yorac convinced them that they were better off with a flawed law than without one (interview with Etta Rosales, 19 July 2007). In 1995, Republic Act 7941 was passed by Congress and signed into law by the president.

### ***Implementation of the Party List Law***

Thirteen party list organizations won seats in Congress in the first party list elections of 1998 despite the initial election jitters. Since then, party list representatives have incrementally won additional seats. (See Table 1 for party list seats won across election periods.) The low voter turn out was attributed by party list organizations and analysts to the weak information dissemination campaign of the Comelec. Much of the campaigning by party list organizations was spent explaining the system. However, voter performance improved over subsequent election periods.

<b>Table 1. Party List Seats and Representatives from 1998 to 2007</b>			
1998	2001	2004	2007
13 PL groups (14 representatives)	12 PL groups (20 representatives)	16 PL groups (24 representatives)	14 PL groups (19 representatives)



## IMPACT OF PARTY LIST IN CONGRESS

Benchmarks are set by this paper to define the impact of the party list. These indicators are based on the three main legislative functions, namely:

- a) legislation through bills and resolutions;
- b) oversight function; and,
- c) budget allocation and the usage of the countrywide development funds.

Impact is measured by party list groups' performance on these three functions.

### ***Performance in Legislation***

The party list groups authored or co-authored a total of 1,572 bills and resolutions during the 11<sup>th</sup> Congress, 422 in the 12<sup>th</sup> Congress, and 774 in the 13<sup>th</sup> Congress. Eager to put their agenda into law, the party list representatives pushed a good number of bills as soon as they entered Congress. However, the bills count declined when they realized how slowly the legislative process worked. Many of these bills, including the bill to amend the party list law itself, got stuck at the committee level.

The bills introduced by party list representatives tend to revolve around the issues of raising wages, rationalizing the power sector, electrification of different rural *barangays*, exemption from tax payment by electric cooperatives, defining domestic violence, mitigating the trafficking of women, amending the Family Code, upgrading rural hospitals and schools in urban areas, representation by marginalized sectors in government bodies, establishing veterans' memorial parks in every municipality, amending the election code, adopting a national land use plan, amending the fisheries code, and putting in place policies related to natural resource utilization, strengthening cooperative movement and cooperative management, establishing an option to military training in colleges, and similar other social and political advocacy issues.

Party list representatives filed resolutions urging investigation and inquiry in aid of legislation on urban housing demolitions, on human rights violations, on enforcing the logging ban, on civil and political as well as human rights conditions in post-conflict societies and emergent democracies, on the salaries of employees of sequestered corporations, and others of a like nature.

Bills and resolutions authored/coauthored by party list groups:  
 11<sup>th</sup> Congress: 1, 572  
 12<sup>th</sup> Congress: 422  
 13<sup>th</sup> Congress: 774

Other bills filed pertain to government reorganization, the professions, appropriations, local government, people's participation, Mindanao affairs, drug control, graft and corruption, tobacco regulation, culture and language, public order and safety, and public utilities. These bills and resolutions were a radical departure from the traditional measures that Congress used to consider prior to party list involvement. The party list system has brought substantive changes to the issues brought before the House of Representatives, changes that reflect a bias for the sectors that in the past were hardly represented.

Although each bill and resolution is either sponsored or co-sponsored by individual representatives, those who come from the same party list organization tend to support a colleague's bill or resolution. Colleagues show support as co-authors. This demonstrates party list representatives standing up for a party platform or agenda.

During the 12<sup>th</sup> Congress, party list representatives seemed frustrated by the turtle pace of the legislative process that was often hampered by overdrawn and verbose debates and by things arising from outside Congress and which required the attention of the House. Party list performance was ultimately constrained by the overall performance of the House of Representatives, as they represented a minority of the House membership. Moreover, party list representatives did not possess the economic and political leverage to horse trade with other lawmakers. As a result, the party list groups had scored poorly in transforming bills into laws.

### ***Performance in Oversight Function***

The party list groups contributed to the legislative oversight function in putting a check on the Executive branch and its various agencies and instrumentalities, mostly in the form of resolutions calling for inquiries into suspect Executive branch activities.

Resolutions urged inquiries of issues such as the suspected connivance between police and military officers and night club operators, government corporate handling of sequestered ill-gotten wealth, and other such matters. Some of the more notable ones are the following:

- 1) the expose by Akbayan and Sanlakas on the attempt to bribe legislators on the power privatization issue;
- 2) the involvement of the party list in the minority's attempt to impeach the president in 2005, 2006, and again in 2007; and
- 3) inquiry into allegations of graft and corruption including suspected scams involving executive branch agencies.



The attempts at impeachment during the 12<sup>th</sup>, the 13<sup>th</sup>, and the 14<sup>th</sup> Congresses saw most party list representatives allied with the minority. The call to impeach Pres. Arroyo, for example, arose out of charges of fraud committed during the 2004 elections and other instances of abuse of authority and procedures.

Party list representatives have done well in articulating their advocacy on issues, showing their mettle as speakers during congressional plenary sessions. They generally spoke in a down-to-earth fashion, and were factual and direct in their arguments.

### ***Performance in Budget Allocation Function and the use of development funds***

The performance of party listers in budget hearings has been less than stellar. This is probably because scrutinizing budgets requires technical knowledge and skills that seem to be in somewhat short supply. However, they do participate actively in the deliberations on the General Appropriations at the plenary sessions.

During the 11<sup>th</sup> Congress, a few party list groups were involved in the sponsorship of bills for infrastructure to benefit their constituency areas. Over time, party listers have gained confidence in balancing legislative, oversight, and budget responsibilities. Allocations for infrastructure by party list representatives covered the familiar items of farm-to-market roads, multi-purpose buildings, day care centers, health centers, water system, flood control system, and road rehabilitation. In the same vein as traditional politicians, a number of them were less than transparent in providing details on how funds were actually utilized. The party list organizations should be required to account for the use of these “pork barrel funds”.

The barrel ran out of pork for those party list representatives who aligned themselves with the minority seeking to oust Pres. Arroyo. During the last two years of the 13<sup>th</sup> Congress, members of the minority in Congress were left out of the pork barrel allocations, and this shows that discretion absolutely lies in the hands of the Executive.

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## **WHERE'S THE IMPACT THEN?**

- ✓ Pluralizing the discourse in the House
- ✓ A mechanism of representation
- ✓ Taking on the issues of the marginalized

## *Pluralizing the Discourse in the House*

Most party list representatives during the 11<sup>th</sup> Congress (1998-2001) came with backgrounds in social development and social movement work. Except perhaps for two party list representatives, these “outsiders” were neophyte legislators who found value in working for policy reforms inside the legislature rather than as lobbyists outside of it. Most party list representatives viewed their legislative work as a continuation of their former advocacy work from the outside.

Issues that were alien to the traditional members of the House, such as domestic violence, marital rape, the Party List Act itself, agrarian reform, agriculture and trade, the Millennium Development Goals, and more were enunciated by the party list members. Taking on the role of educating the House membership, the party list representatives gained the respect of their colleagues. The hard work, commitment, and regular attendance in hearings and meetings shown by these members as well as their ability to articulate diverse issues established party list representatives as reliable members of the legislature, a fact recognized by colleagues and legislative staff. Most party list groups invested in research and staff and in crafting legislative measures based on their party agenda and the result of sectoral consultations.

The party list presence altered the texture of the discussion and put substance to what seemed like an empty shell of an august hall.

The party list presence altered the texture of the discussion and put substance to what seemed like an empty shell of an august hall. Going through the transcripts of the sessions and of selected committee hearings, one gets the impression that party list representatives have made a mark in the House.

Although it cannot be said that their presence democratized Congress, it can at least be argued that they pluralized the House by the tenor of their discourse and the texture of the resulting deliberations. The party list presence brought to Congress many issues that were previously ignored by the legislature.

Several brilliant speeches by party list representatives and their effective communication style matched with substantive discourse are refreshing to a legislature traditionally characterized by long, verbose, and boring speeches.

### ***Party list as a mechanism of representation (of the underprivileged and the marginalized)***

Representation by party list groups come from a cross section of sectors such as farmers (ABA, Butil), urban poor (Alagad), trade unions (Sanlakas, Partido ng Manggagawa, Anak Pawis,), women (Abanse Pinay, Gabriela), cooperatives (Coop Natcco), veterans (VFP), energy cooperatives (Apec), and multi-sectoral political groups (Akbayan, Bayan Muna, Cibac). For the first time, sectoral issues of agriculture, trade union, human rights including civil and political rights, women's rights, and economic issues articulated by cooperatives and energy sectors are brought to the center stage of congressional deliberation and legislation, issues never tackled as much nor given as much attention as before. Issues are articulated and presented from the perspective of the underrepresented and marginalized, even as the representatives themselves did not originate from such background. Most representatives identify with the marginalized through their long years of experience in organizing and advocacy as well as their autonomy from the politicians. These representatives are not the traditional politicians, so to speak.

Succeeding elections saw other sectoral groups winning representation, such as indigenous communities (Alif) and region-based organizations (An Waray, Anak ti Mindanao or Amin). These new participants have added color and variety to representation, either by sectoral and special concerns, or through geography-specific or ideology-rich perspectives. By 2007, the party list had become a political bandwagon – every special interest group seems to have put up its own organization for a political bid under the party list system. In 2007, there were 93 organizations registered with and accredited by the Comelec, some of which were accused by rivals to have obscure identities, roots, and motives.

### ***Taking on Issues of the Marginalized***

Most party list proposals are anchored on their sectoral or party agenda. For example, APEC has introduced bills and resolutions related to energy and labor cooperatives, Gabriela women and gender-related bills and resolutions, and Akbayan bills that reflect the multi-sectoral concerns of the organization regarding agriculture, fisheries, labor, and human rights. (See Annex A for the list of bills and resolutions authored or co-authored by party list representatives.)

The House bills put forward by party list groups are those that push for policy reforms such as a redefinition of domestic violence, putting compliance rules and guidelines regarding trafficking, promoting support for urban poor and workers' housing, veterans' issues, protection of local farmers, food regulation, natural resource classification and regulation such as those affecting land and water, rural electrification, human rights protection, and electoral reforms including amendments to the Party List law. Through the sponsorship by the party list groups, new types of bills were posted for the marginalized and the underrepresented.

Through resolutions, the party list representatives also urged good governance and inquiry into specific cases of abuse and non-enforcement of policies and laws.

Other party list representatives, however, were more interested in appropriating funds for infrastructure as pointed out above.

The bases of most bills introduced by party listers embody the sectoral and political agenda of their organizations as well as the results of consultations and hearings with various sectors and those purported to be party list constituents. The organic links between the party list and the sectoral and other organized groups are key to a representation of the marginalized.

### ***A Continuing Challenge for the Party List in its Legislative Performance***

In performing their legislative functions, some party list organizations rely on a sectoral approach utilizing allied non-government organizations (NGOs) to generate information. Sectoral constituents and allied NGOs provide the information and agenda or conduct the research for introducing legislative measures (roundtable discussion among parties, 2006). Thus, the legislative agenda are mostly a sectoral advocacy. A comprehensive platform of governance is yet to take shape and a think tank that rationalizes policy from governance rather than a sectoral or movement perspective may be helpful in this direction. The governance agenda include institutional bureaucratic reforms, fiscal reforms including revenue management, links between levels of government, and international policy agenda. The challenge that faces the party list on the legislative functions is the graduation from sectoral advocacy to governance.

A comprehensive platform of governance is yet to take shape and a think tank that rationalizes policy from governance rather than a sectoral or movement perspective may be helpful in this direction.

## THE PARTY LIST AS A POLITICAL PARTY

Organizational capacity, constituency building, and financial capacity

The roundtable discussion among parties and party list groups showed that, compared to the mainstream political parties, party list groups have the better capacity as organizations.

### Why party list groups are organizationally better....

- 1) They show a popular base and constituency,
- 2) They possess an agenda for legislative reform, although the advocacy does not necessarily equate to a broader program of governance,
- 3) They have the ability to hold conventions and meetings among members, which demonstrates practical democracy within the parties,
- 4) They possess constitutions and by-laws that do not exist merely on paper but are reviewed and debated upon as necessary,
- 5) They are made up of functional chapters and committees in which members participate, and
- 6) They have mechanisms for decision and policy making within the organization.

The organizational capacities of party list groups vary; nevertheless they demonstrate hope for an organized engagement in the legislature. Party list organizations also vary in their operations. There are party list groups that define their agenda based on constituency interests and party programs, while others bring along only their nominees' individual agenda. There are groups that have no clear party structure and platform and which simply follow the dictates of political leaders and patrons, while other groups follow the agenda of their party leadership.

Party agenda and decision making remain challenges to some party list organizations. Not all of them pose an alternative to the traditional

patron-oriented leadership of Philippine political parties. Some behave just like the political parties whose dominance they want to end. Nevertheless, what may be considered best practices in organizing political parties are evident among some party list groups.

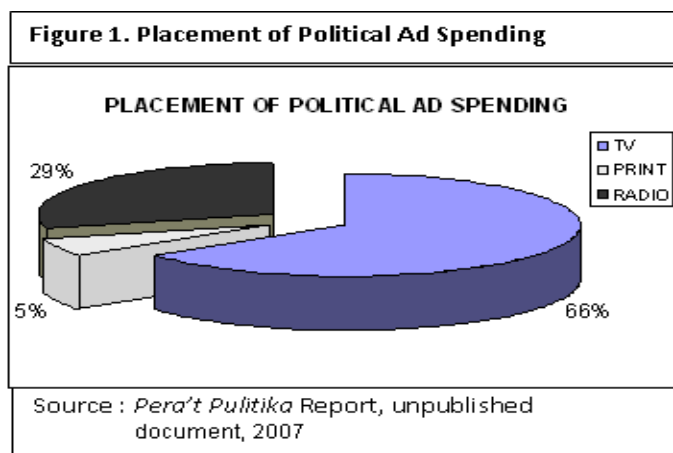
The strength of the organized party list groups lies in the following: their disciplined and enthusiastic recruitment of members, their practice of educating members even around steep ideology, their organization of party conventions and functional committees, and their system of selecting nominees for Congress. Those that have strong organizations are usually groups with strong social development or political movement backgrounds, as they tend to emphasize organizational strengthening as a matter of principle and approach.

A common problem of the party list groups is the lack of financial resources to run campaigns and for party development. Membership dues are a limited source of funds as they tend to be rather small in amount. While most of them are quick at articulating ideology, issues, and discourses, they lag behind in mustering and mobilizing financial and material resources from within and without the organization.

Sources of finance for such groups are diverse, ranging from membership fees to donations by allies to special fundraising events. It should be interesting to know how new party list groups expect to generate financial resources, a possible subject of another inquiry.

The newly formed *Pera't Pulitika* (Money and Politics), an election monitoring group, put together a report on the campaign expenditures of party list organizations, particularly on their political advertisements. The highlights are shown in the *Table 2*.

From the national candidates, the party list candidates have learned the craft of campaigning which is to invest in political ads in all available media. Ads on TV accounted for the largest share with 66% of total





**Table 2: TOP 20 PARTY LIST SPENDER on Political Advertisements, 2007**

	<b>Groups</b>	<b>Amount (Php)</b>	<b>Percent of Total Party List Spending</b>
1.	BANAT	35,266,000	28.74
2.	KAKUSA	22,329,000	18.20
3.	CIBAC	9,595,000	7.82
4.	ALAGAD	6,890,000	5.61
5.	BUHAY	6,884,000	5.61
6.	AHON PINOY	6,081,000	4.96
7.	AVE	5,098,000	4.15
8.	KASANGGA	4,005,000	3.26
9.	TUCP	2,660,000	2.17
10.	COOP-NATCCO	2,251,000	1.83
11.	GABRIELA	2,024,000	1.65
12.	KABATAAN	1,839,000	1.50
13.	APEC	1,329,000	1.08
14.	AKAPIN	1,209,000	0.99
15.	PM	1,056,000	0.86
16.	ANC	1,032,000	0.84
17.	BUTIL	1,011,000	0.82
18.	ABS	956,000	0.78
19.	ASAP	936,000	0.76
20.	AGAP	914,000	0.74
Total Top 20 Spending		113,365,000	92.38
Total Spending of Other Party-list Groups		9,352,000	7.62
Total Party-list Group Spending		122,717,000	100

*Source of Data : AC Nielsen, 2007; data put together by Pera't Pulitika (PAP), Philippines 2007.*

expenditures. Spending for radio placements made up 29% of expenditures, while print ads were a mere 5% of total spending.

Of the ninety-three groups that campaigned during the 2007 elections, only sixteen placed political ads on TV. BANAT spent almost 78% of its campaign ad funds in TV placements, while KAKUSA spent almost all of its funds in that medium. CIBAC, ALAGAD, BUHAY, TUCP, AVE, and GABRIELA also spent significantly more for TV ads than for other media. BUTIL and KASANGGA, on the other hand, chose to rely entirely on radio. BANAT and AHON PINOY separately spent over a million pesos on print ads, while ANAK and SMILE spent half that amount on print ads. AHON BAYAN, KAKUSA, COOP-NATCCO, DIWA, BT and ABANSE separately spent less than a hundred thousand pesos for media ad placements.

Other party-list groups, particularly those that had already won in the previous election, chose to spend moderately and probably wisely. BAYAN MUNA, which is second in number of votes, spent Php606,000

**Table 3. TOP 20 PARTY-LIST GROUPS BASED ON COMELEC RANKING, 2007**

	<b>COMELEC OFFICIAL COUNT (as of 06-29-07)</b>		<b>AMOUNT OF SPENDING (Php)</b>	<b>COST PER VOTE (Php)</b>
BUHAY	1,151,226	Top 20 Spender	6,884,000	5.98
BAYAN MUNA	954,922	Low Spender	606,000	0.63
CIBAC	749,410	Top 20 Spender	9,595,000	12.80
GABRIELA	594,958	Top 20 Spender	2,024,000	3.40
APEC	510,870	Top 20 Spender	1,329,000	2.60
A TEACHER	465,494	Low Spender	51,000	0.11
AKBAYAN	445,346	Low Spender	113,000	0.25
ALAGAD	422,052	Top 20 Spender	6,555,000	15.53
BUTIL	404,940	Top 20 Spender	1,011,000	2.50
BATAS	382,975	Low Spender	-	0
ANAKPAWIS	362,482	Top 20 Spender	2,251,000	6.21
COOP- NATCCO	360,155	Low Spender	363,000	1.01
ABONO	334,299	Low Spender	326,000	0.98
AGAP	321,998	Top 20 Spender	914,000	2.84
ARC	315,873	Low Spender	14,000	0.04
AN WARAY	293,680	Low Spender	58,000	0.20
AMIN	283,172	Low Spender	351,000	1.27
FPJPM	272,477	Low Spender	-	0
YACAP	245,977	Low Spender	397,000	1.61
KABATAAN	223,142	Top 20 Spender	1,839,000	8.35

*Source: AC Nielsen, 2007; data analyzed and put together by Pera't Pulitika, Unpublished document 2007.*

In the 2007 elections, Bayan Muna joined with the Liberal Party to monitor the canvassing of votes to ensure proper counting, as the law does not entitle party list groups to poll watchers (interview with Louie Corral of Apec, 8 August 2007). There is a convenient coalition between parties in this case.

Based on the volume and trend in campaign expenditures, do the party list organizations follow the path of traditional campaigning and election spending despite their claims that finances are tight? Where then does the money come from to spend on campaigns?

## THE PARTY LIST CONUNDRUM

The party list system is faced with numerous questions and potential controversies. Among them is the issue of proportional representation including the various formulae and rulings that try to interpret the true meaning of proportional representation. Another is the identity of the party list groups as representatives of the underrepresented and the marginalized. A related question is whether or not the party list should remain the exclusive avenue of the underrepresented and the marginalized. Another that remains unasked is whether or not groups in the party list should become mainstream political parties or remain sectoral parties.

*Review of current arguments and positions on the party list system*

### The Constitution

1. The Constitution sees the Party List as a corrective mechanism of representation through a non-traditional system of election. As a social justice mechanism, the party list should correct the aberration of representation; thus, the Constitution allocates 20% of the total seats in the House of Representatives to the Party List.
2. The rationale behind the Party List is that the underrepresented and the marginalized should be allocated seats by an adjustment in the starting position, but that eventually party list organizations should gain in strength and should be able to compete in the regular electoral contest. The Party List system is a challenge to the underrepresented to prepare for participation in mainstream politics.

### The Congress

1. Through Republic Act 7941, Congress specifies the details of the party list system. The law defines parties as sectoral, political, and coalition. It also defines an amorphous formula for translating votes received to

corresponding number of seats in the House in the following manner: a particular party list group that wins 2% of all votes cast earns one seat in the House; more than that, and a proportionate number of additional seats, may be gained but only up to a maximum of three seats per party. The provisions seems contradictory because one says that more votes mean more seats, but that votes that take a party over the three-seat limit are useless.

2. A worse feature of the law is that it does not ensure the fulfillment of the 20% allocation for Party List groups in the House. Indeed, in the 4 Congresses in which the party list system has been operational, it has never reached the 20% allocation, thereby violating the constitutional provision for proportional representation.

### The Supreme Court

1. The Supreme Court recognizes the logic of the 2% threshold and the three-seat cap. On the one hand, it says that behind this is the principle of democracy, that those who gained enough votes (2%) should be heard; on the other hand, it upholds the threshold provision to avoid “the proliferation of small groups which are incapable of contributing significant legislation and which might even pose a threat to the stability of Congress.” In short, the Supreme Court believes that a proliferation of small groups would be bad for the work of legislating laws.
2. The three-seat cap ensures that no single group dominates the party list section of the House. It upholds the so-called “anti-hegemony principle”.
3. However, the Supreme Court is saying that it is not necessary to fill the 20% allocation for sectoral representatives.
4. Based on the Panganiban formula, the party list groups are allowed seats in proportion to the votes of the highest ranking party.

### Commission on Elections

1. The Comelec follows the Supreme Court ruling.
2. The Commission applies a lax or open policy with regard to party list accreditation for as long as applicants comply with the rules and regulations and there is insufficiency of evidence presented by those who question or oppose the accreditation. Compliance with the required submission of necessary papers is considered key to accreditation. The Comelec is not inclined to probe into applicant parties’ capacity and would rather that the parties be weeded out by the election process.

As a result of these decisions, we have one mess on top of another.

The 3-seat cap is an effective obstacle to the 20% allocation of House seats provided for by the Constitution.

When the Supreme Court ruled that the party list system was basically for the underrepresented and the marginalized, it ventured into the question as to who or which groups represent the underrepresented and the marginalized. Rather than view the party list system as one that is couched within the principle of building political parties, such a ruling is seen as reinforcing the view that the party list is a system of perennially reserved seats for the underrepresented and marginalized. Reserving slots for these sectors do not augur well for the development of a strong system of democratic representation based on popular elections.

Recalling the past, even the late President Marcos picked sectoral representatives to be part of parliament, and these representatives became instruments of patronage politics. The 1987 Constitution envisioned a system in which, although there is an opportunity for representation by adjusting starting positions, the party listers should eventually prove themselves capable of competing in the regular electoral arena, and coalescing with groups of similar political mind if need be. Former Comelec Chair Christian Monsod considered the party list to be a window to parliamentarism (transcript of Constitutional Commission, 11 August 1986).

The 2% threshold is already meant to prevent proliferation.

The three-seat cap is another issue. The ceiling itself creates a disproportionality and subverts proportional representation in relation to the total seats in the House. The disproportion created by the current policy and practice goes against the “more votes, more seats” principle, which is the essence of the electoral exercise and which is upheld by the Constitution.

In the meantime, the lax attitude of the Comelec with regard to accreditation does nothing to scrutinize the capabilities of party list candidates, and to prove their parties to be more than paper organizations, that is, for them to have a constituency, a functional party system, and a governance agenda.

The Comelec needs commissioners who understand profoundly the vision and rationale of a party list system. The Comelec should implement a law aimed at social transformation and “equitably diffusing wealth and political power,” rather than merely comply with the formal requirements of the law.

Those who wish to see changes in the Party List Law and its implementation should examine and revisit: a) the intent of the 1987 Constitution and b) the idea of proportional representation.

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## ***Attempts To Amend the Law and To Correct the Aberration***

There are attempts to correct the weakness of the law and its implementation by amending RA 7941. Lawmakers and party list groups themselves have different versions of the changes needed. During the 11<sup>th</sup> Congress, Reps. Marcos, Rosales, Jacob, and Montemayor filed bills and resolutions either seeking amendments or initiating inquiries into how the law was being implemented. During the 12<sup>th</sup> Congress, Reps. Angara-Castillo, Marcos, Rosales, and Villanueva insisted on changes being made, reiterating their proposals to further define “marginalized” and “underrepresented,” to urge those seeking accreditation as party list groups to show proof of constituency spread over geographical territory of a majority of the regions, and others. During the 13<sup>th</sup> Congress, other legislators indicated interest in the discourse, among whom were Reps. Ocampo, Cua, Valdez, and Barinaga.

Finally, party list representatives along with some district representatives agreed to a joint sponsorship to amend RA 7941 under a single version of the various bills filed. One remarkable proposal came from Rep. Roseller Barinaga, who recommended doing away with the three-seat cap. Unfortunately, the bills remain pending with the Committee on Suffrage and Electoral Reforms. The caucus of party list groups in the House should insist on reforming the law, and that should be a major agenda of the caucus in the 14<sup>th</sup> Congress.

## **CHALLENGES TO THE PARTY LIST**

Two concerns for party list law and implementation:

- 1) proportional representation (PR); and
- 2) the identity of party list groups as political parties

For countries that face social divisions, and these include the Philippines, proportional representation (PR) is the conversion of the votes a party receives into some proportion of the total seats in the legislature. The party list is a form of such proportional representation. The intention is to produce a representative legislature that includes all significant social groups. Inclusion is an instrument for democratic consolidation and is crucial to stabilizing divided or fragile societies such as the Philippines.



In a proportional representation system, the faithful and effective translation of votes into seats earned is vital. The plurality and majority electoral system, such as what we have in the presidential set-up, produces some destabilizing and unfair results. The PR allows small parties to obtain access to the legislature by pooling votes.

Proportional representation requires and encourages the formation of political parties or groups of like-minded members and candidates who come together to put forward a shared agenda. The party list assembles policy, ideology, or agenda and gives small groups a better chance at representation in the legislature. It is important to clarify at this point that the goal is to consolidate similar policy, agenda, and ideology rather than to move towards fragmentation or amoeba-like multiplication to gain more seats.

An effective PR system that encourages representation of minority parties in the legislature also tends to restrict the growth of “kingdoms,” and may well be a solution, albeit not the ultimate one, to the long-standing cry against the dominance of political clans or political dynasties.

Where there are extreme swings from one party or group to another after elections, it is going to be difficult for groups to keep on working together over the long-term. Proportional representation should make true power-sharing feasible between a majority that has the power of numbers and a minority that holds the power of wealth. By making visible an inclusive cross-section of society and the process of decision-making of diverse parties and groups, PR makes power-sharing possible. Having said this, it is impossible to now disregard PR and revert to the two-party system, as some political minds would suggest.

However, while there are rewards to the PR system, there are caveats as well. In countries where PR is widely practiced, such as in Latin America, Africa, and Europe, the drawback may be a fragmentation of the party system. It makes it possible for extremist parties – whether of the left or the right – to sabotage decision-making in the legislature. While the system pins its hopes on coalition governance, a minority party or group can force coalition negotiations into gridlock.

Unlike in other countries where the practice of proportional representation has gained maturity and where its purpose is mainly to equalize representation beyond the single districting and first pass the post system, proportional representation in the Philippines thus far, is seen as a mechanism of social justice through sectoral representation.

Proportional representation offers an opportunity for the Philippine political and electoral system to achieve an effective level of political inclusion and genuine negotiations, and to come to terms with differences

Proportional representation offers an opportunity for the Philippine political and electoral system to achieve an effective level of political inclusion and genuine negotiations, and to come to terms with differences in a divided society. It should be seen as a long-term undertaking toward political tolerance, dialogue, and commitment to coalition building beyond a coalition of convenience.

The party list group should enable the voters and particularly its members to identify their representatives. If the members do not have the opportunity to determine who should represent them in office, the links between legislators and constituents will be weak.

in a divided society. It should be seen as a long-term undertaking toward political tolerance, dialogue, and commitment to coalition building beyond a coalition of convenience.

Moreover, the electorate and the public as a whole should be made aware of the advantages and the downsides of a PR system.

A vital issue for PR is how the system will work. This includes the definition of thresholds for representation. Basically, a high threshold tends to exclude small parties, and a low threshold may promote their participation. Setting the appropriate threshold that considers the viability of small party representation constitutes the so-called nuts and bolts of the PR system.

The current discourse on thresholds banks on what mathematical formula to adopt, and various options are being considered. Decision-makers and advocates should be alert to the essence of the threshold, namely, a reasonable inclusion of parties; otherwise the discourse could revolve around mathematical absurdities. Is 2% a viable threshold? Or is it 1.8%? Or is it 1.6%? This is something that the legislature, and the Party List caucus should rationalize and agree on. Again, the spirit is to be inclusive of small, functional parties. My personal view, however, is that, while the spirit of the law tends toward greater inclusion, it is reasonable to keep the 2% because a lower threshold may put into question the sufficiency and validity of the constituency a party list group represents.

### ***Party List Couched as Party***

The other concern expressed in this paper is the nature of the party list organization as a party.

Fundamental to this concern is the principle that the party list group should enable the voters and particularly its members to identify their representatives. If the members do not have the opportunity to determine who should represent them in office, the links between legislators and constituents will be weak. This principle does not mean that the individual candidates take higher importance over the group or party, but it emphasizes the accountability placed on the representatives' or candidates' performance. Exacting such accountability is largely a function of the party and how it builds into its system some accountability measures. The purpose behind accountability and the ties between the nominated representatives and their constituents is to discourage personalities from simply riding roughshod over the party.

Entrenching the power of decision-making within the top level of the party defies the spirit of party democracy. In some cases, especially where the party organization is loose, the decision on who should be the candidates might be determined by patronage and personal loyalty, or by an agenda set by the senior party leadership.

The last concern with regard to the party is about the existence of a recognized political grouping that counts on the ability of the party to consolidate its membership, headquarters, finances, and capacity to participate in an electoral or political exercise. For some, these are considered the signs of a party's organizational viability, which is important to pursue beyond successful participation in an electoral event.

The three-seat cap as it is practiced violates the spirit of PR in light of the 1987 Constitution. An essential component of the setting of limits must be that the 20% proportionality is achieved in the House. The threshold is another matter. Whichever is the better mathematical proposition depends on which formula can ensure the inclusion of small parties and groups to a reasonable level of participation. The Party List caucus is crucial for defining such a level, and the caucus should be guided by the spirit of inclusion rather than sectional interest. While this is easier said than done, especially when the Party List caucus needs some confidence-building measures, a discourse on the rationalization of the propositions should take place. However, the discourse should come to a fruitful conclusion, and hopefully not wind up as a senseless, unending debate that is typical of many exercises in the House.

This paper suggests an open system of inclusion of small parties rather than to limit the discourse around the matter of what "underrepresented" and "marginalized" mean. This suggests an inclination toward a low threshold rather than a higher one, or at least the maintenance of the present 2% threshold. The existence of a functional party should also help resolve whether a party is qualified or not. Let the genuine, functional parties that have platforms of representation for the minority groups and a national agenda of governance tell the tale.

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## SUMMARY AND CONCLUSION

The party list system is burdened with the problems of translating the terms “underrepresented” and “marginalized,” “party”, and proportional representation into concrete reality. Despite these difficulties, there is no turning back on PR and the party list given the fragility of representation and democracy in the Philippines.

The Party List caucus should continue to convene itself and to shed light on the problem in order to seek resolution of conflicting interpretations.

The Philippine party list system and the law (RA 7941) that enables it are fraught with challenges. The party list system is burdened with the problems of translating the terms “underrepresented” and “marginalized,” “party”, and proportional representation into concrete reality. Despite these difficulties, there should be no turning back on PR and the party list given the fragility of representation and democracy in the Philippines. Certainly, the vision of the 1987 Constitution still holds, namely, that there should be a diffusion of power in the legislature. Thus far, the performance of the party list groups in the legislature is encouraging particularly along legislative and oversight functions, and in strengthening democracy. Much still needs to be learned about budget-related functions and governance for party list groups to participate more effectively in those fronts. Another challenge for the party list is an adoption of a framework for general governance rather than a sectional advocacy.

Other factors contribute to the mess in the party list system, namely, the Supreme Court rulings, the law’s provision on a seat limit per party, and the lackadaisical attitude of the Comelec with regard to accreditation requirements. Reexamination of the proviso and the intent of the Constitution is, therefore, in order. The reform is toward a harmonization of interpretations, with the Constitution providing the ultimate benchmark.

Party list groups are currently assessing the law, as legislators seek amendments to it. Such an exercise should be welcomed. In addition, the Party List caucus should continue to convene itself and to shed light on the problem in order to seek resolution of conflicting interpretations.

Both the Comelec and the party list groups should take to heart the essence of proportional representation in light of the principle that the party list is embedded as PARTY. Toward this end, resources ought to be dedicated for information dissemination and education on the party list and PR systems with participation and assistance by non-governmental individuals and organizations.

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Dr. Co has either authored or co-authored books and articles here and abroad on a range of topics from democracy, corruption, citizenship and policy.

In between work, she enjoys scuba diving in the islands.



### Ateneo School of Government

In 1996, the Ateneo de Manila University formed the School of Government (ASoG) to provide an institutional vehicle for the development of public servants and as a forum for dialogue and partnership among the government, the private, the non-government organization and people's organization sectors.

As a professional school for public service, the ASoG creates an environment that fosters the development of new ideas, concepts and methods. Focusing on results, it facilitates a learning process where theory and practice are joined, and where wisdom of the classroom interacts with the world of policy decision and action.

The School draws from the intellectual resources of the various academic units of the University as well as from its many years of social apostolate and interaction with the country's decision-makers and basic sectors of society.



### Konrad-Adenauer-Stiftung

The KAS, more popularly known in the Philippines as the Konrad Adenauer Foundation, is an independent, non-profit German political foundation guided by the principles of the Christian Democratic Movement.

KAS activities include political education, grants for research and scholarships for gifted students. The main aims of the international work are: training political and social leaders; introducing democratic institutions and processes; encouraging political and social elites to focus on development in their actions; promoting international political dialogue; and the worldwide exchange of information and experience.

KAS has been active in the Philippines since the 1960s. The main activities of KAS in the Philippines have focused on Social Market Economy, institutional and political reforms and peace and development in Mindanao.