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PROCEEDINGS

Policy Dialogue Series 2004: Academe Meets the Party-List Representatives

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TERESA S. ENCARNACION TADEM (DIRECTOR, THIRD WORLD STUDIES CENTER, UNIVERSITY OF THE PHILIPPINES-DILIMAN): The Declaration of Policy of Republic Act (RA) 7941 or the Party-List System Act states that: "The State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations, or coalitions thereof, which will enable Filipino citizens belonging to the 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." After this law took effect nine years ago in March 1995, and after three elections that saw the participation of party-list groups, there is now a need to take stock among party-list representatives and members of the academe whether the law's intents are being fulfilled or not and how. On a much fundamental aspect, how effective is the Party-List System in realizing its potential for democratization? This second installment of the Third World Studies Center (TWSC) Policy Dialogue Series 2004, "Academe Meets the Party-List Representatives," aims to answer the following questions: How instrumental is Party-List System Act in furthering the cause of the marginalized and underrepresented sector

which the parties represent? How did the Act facilitate or constrain the objectives set out by the parties? How is RA 7941 perceived by the parties? Do they want to amend the Act? If yes, what amendments do they want to make? These amendments aside, what are the prospects of the party-list groups under this law as it stands now? On behalf of the TWSC, I welcome you all to this form and look forward to a very fruitful and enlightening discussion.

LORETTA ANN ROSALES (PARTY-LIST REPRESENTATIVE , *Akbayan!* CITIZENS ' ACTION PARTY [AKBAYAN]): The party-list system under Republic Act 7941 has played a big, but not exclusive, part in the history and current conduct of Akbayan Citizens' Action Party as a multisectoral national political party representing the marginalized and underrepresented in Philippine society. Even before the founding of the party in 1998, personalities of the progressive movement in the mid-nineties were already involved in lobbying for the passage of the Party-List System Bill. At the forefront of lobbying was a broad coalition of civil society groups, including nongovenrment organizations (NGOs) and the Church, and individuals advocating for electoral reform, for the passage of the bill.

The party-list system, as mandated by Article VI, Section 5 (1) and (2) of the 1987 Philippine Constitution, was one of several progressive electoral and political innovations and reforms that needed implementing legislation for them to be realized and enjoyed by the people. Other progressive provisions in the 1987 Constitution mandating the passage of laws include the granting of absentee voting rights to Filipino citizens abroad, as prescribed by Article V, Section 2; the election of local sectoral representatives under Article X, Section 9; and the prohibition political dynasties under Article II, Section 26. These were all part of the Constitution that carried "the spirit of EDSA l" and promised a process of democratization of Philippine society following the overthrow of the Marcos dictatorship in 1986. It took eight years after the approval of the 1987 Constitution for the Party-List System Act (RA 7941 of 1995) to be enacted while the Overseas Absentee Voting Act (RA 9189) was passed only in 2003. Up to this day, however, there is still no law for the election of local sectoral representatives despite provisions in the Local Government Code mandating local sectoral representation. Neither is there any decree banning political dynasties. Both are continuing advocacies of Akbayan. There are pending bills seeking to amend both RA 7941 and RA 9l89

that electoral reform advocates within and outside Congress are hoping to be enacted into law before the 2007 elections to further enhance the democratization process.

RA 7941 was not the ideal party-list system legislation that electoral reform advocates wanted at that time. But they had to accept the law in its enacted form because it was the "best" that could be achieved—the law would enable small, progressive parties to participate in party-list elections to contest seats in the House of Representatives; amendments to improve the law could be introduced later on, once entry has been gained into the House.

This was also basically the attitude of Akbayan at that time, proceeding from both pragmatic and principled considerations. Pragmatic because the law, imperfect as it is, has allowed Akbayan to gain entry into the House of Representatives—one seat in 1998, two in 2001, and three in 2004. Principled because the law enables marginalized and underrepresented sectors to be represented in the House of Representatives. It also provided them access to policy-making and resources that have previously been beyond their reach, which opened a range of possible ways to alleviate their condition of being at the periphery of Philippine society. The law has allowed Akbayan to work for reforms within the House of Representatives and the political system, even as it continues to struggle for a level playing field in the electoral arena.

Akbayan has used its presence in the House of Representatives to introduce and advocate for more reform measures that would further expand the so-called "democratic space" won in EDSA I, and oppose moves that would seek to curtail it. These measures are in the field of human rights, electoral reform, good governance, asset reform, foreign policy, and the promotion and protection of the rights of women, workers, peasants, overseas Filipinos, etc. The "new politics" carried and espoused by Akbayan in the House of Representatives is best exemplified by the exposé made during the Eleventh Congress of the payola scandal surrounding the approval of the Electric Power Industry Reform Act (EPIRA), as well as the refusal of the P 500,000.00 payola, which the legislators received as grease money.

One of the first bills filed by Akbayan during its first term was the bill amending the Party-List System Act. Unfortunately, it is still pending in the Thirteenth Congress. But the Absentee Voting Bill, of which Akbayan was the principal author and sponsor in the Eleventh and Twelfth Congresses, was finally enacted into law in 2003 as RA

9189. The Akbayan representation in the House of Representatives is also the main proponent of the Local Sectoral Representation (LSR) Bill. In fact, through the efforts of the party during the Twelfth Congress, the LSR Bill was approved by the House of Representatives on third reading. Unfortunately, it was not passed into law because of Senate inaction. The Akbayan representatives have re-filed the bill in the Thirteenth Congress as House Bill (HB) 2209.

Since the Eleventh Congress, Akbayan has also been the main author of the Human Rights Compensation Bill. The bill would grant compensation to the victims of human rights violations during the Marcos regime as a matter of legal and moral obligation of the state. This was first filed and approved by the House on third reading during the Twelfth Congress. Akbayan has been re-filed in a consolidated version (HB 3315) that has been approved by the Committee on Human Rights. We are still waiting for the schedule for the period of interpellation.

Another major legislation filed by Akbayan in the area of human rights is the bill abolishing the death penalty (HB 1320). This is the same as Substitute Bill 5114 contained in Committee Report (CR) 700 approved by the Committee on Human Rights and the Committee on Revision on Laws in the Twelfth Congress. It was in the period of interpellation on second reading when the Twelfth Congress adjourned. Accompanying the bill is House Resolution (HR) 49 calling on the President to declare a moratorium on the implementation of the death penalty pending congressional deliberation and action on bills seeking its abolition.

HB 634, prohibiting discrimination on the basis of sexual orientation and gender identity, is another re-filed version of a bill approved on third reading by the House of Representatives in the Twelfth Congress but not acted upon by the Senate. HB 637 and HB 3175 are also re-filed legislations providing for mandatory human rights education and training in schools and law enforcement agencies, including the military and civilian bureaucracy. Also re-filed in the Thirteenth Congress is HB 3176 strengthening the functional and structural organization of the Commission on Human Rights. A new bill, HB 2854, provides for the establishment of Human Rights Resource Centers throughout the country in order to integrate the promotion and protection of human rights in the implementation of the criminal injustice system, in the conduct of local governance and in local law enforcement.

In the field of criminal justice, HB 3583 seeks to establish a juvenile justice system which would protect juvenile offenders by segregating them from their adult counterparts. This is just one of several similar bills being consolidated by the Committee on Justice. HB 2419, on the other hand, seeks to amend the Revised Penal Code provisions on prostitution by shifting the accountability for the crime from the persons exploited in prostitution to those who really gain from the system of prostitution, i.e. the business establishment and the customers. Other bills seek to protect the rights of suspects in criminal investigation by prohibiting public display of suspects (HB 3582) and those of the accused in criminal prosecutions (HB 3581) by strengthening the existing law. These are the bills that represent the main plank of Akbayan's electoral reform agenda.

RA 7941, while it opened up representation for sectors that have otherwise been left at the periphery in the past, remains to be limited and still needs a lot of amendments. At present, Akbayan sees four limitations in the law that could eventually affect not only party-list behavior, but the fundamental issue of representation in the House of Representatives as well:

1. Threshold provision at two percent
2. Ceiling on the number of seats per party-list at six
3. Formula for the computation of seats based on number of votes
4. Ban on traditional political parties

Thus, Akbayan is proposing the following amendments to the Party-List System Act:

1. *On the threshold.* RA 7941 stipulates that if a party gets two percent of the votes, they get one seat. This is a little high for smaller party-list groups such as persons with disabilities. Akbayan's proposal is to decrease the threshold from two percent to 1.8 percent. In this manner, it will give smaller parties bigger chances to be elected to the House of Representatives.
2. *On the ceiling provision.* The ceiling of three seats distorts the room for proportionality. From a ceiling of three seats, we are proposing to increase this to six. But increasing the ceiling also brings the possibility of having vacant seats for

the party-list. This has been the case in 1998. The Supreme Court ruled that the law does not make it mandatory to fill the 52 seats—20 percent of the total representatives in Congress—allotted for party-lists. In effect, we are recommending an increase in the ceiling, a decreased threshold, and a specific formula for the computation of additional, including the remaining, seats.

3. *On the formula for the computation of additional seats for winning party-list organizations.* There is no existing clear-cut formula on how to compute the additional seats that winning party-list organizations obtain. This provision is subject either to the Commision on Election's (COMELEC) or the Supreme Court's interpretation. In the absence of a formula, this provision becomes arbitrary. Even party-list organizations may have different interpretations on how to ascertain the number of seats allocated to the winning party-list organizations.
4. *On the ban on traditional political parties.* The participation of traditional political parties as party-list organizations puts into question the principles of the Party-List System Act. According to the Supreme Court, traditional political parties cannot be disqualified on the basis of their being traditional or mainstream. Instead, they should prove themselves as true representatives of the marginalized and underrepresented. What Akbayan is proposing is to make the ban permanent. But Congressman Edcel Lagman sponsored a bill putting a timeframe on the ban for three years, which will be enough for small parties to develop and enter the race. This was, however, railroaded when Congressman Lagman was absent during the session because of an official visit to Malacañang. The other lawmakers took this opportunity to pass the provision of banning traditional political parties for one only one year, instead of three.
5. *Amending provision on disqualification of organizations supporting and advocating violence and unlawful means.* Under the existing law, organizations advocating violence and unlawful means in achieving their obejctives are disqualifued from seeking registration or accreditation as a party-list organization. For currently registered party-list organizations, this can be a ground for cancellation of

> registration. Akbayan filed a bill adding the phrase, "support and advocate of violence and unlawful means to achieve their objectives." But this was not passed during the Twelfth Congress because it was widely opposed, so Akbayan had to drop it.

To summarize, with an increased ceiling, a reduced threshold and a ban on major traditional political parties, the party-list system will be strengthened. As shown by the performance of party-list representatives in the past three Congresses, they have proven that the party-list system is positive in terms of bringing core issues to floor deliberations, sponsoring bills and measures in the interest of the marginalized, advocating inside and outside the House, and intervening on behalf of their constituencies among others. Akbayan is also active in the international front it has brought issues on Burma and Iraq in the halls of Congress and continues to advocate for the ratification of the treaty creating an International Criminal Court (ICC).

Another advocacy of Akbayan is to transform the form of government from bicameral-presidential to unicameral-parliamentary and introduce proportional representation in Philippine Congress or Philippine Parliament as it might be renamed. But if that does not take place, Akbayan promotes the expansion of the 20 percent representation in the Congress through Charter Change. In this way, the marginalized and underrepresented sectors can have a voice in Congress and truly influence policy-making. The only way to promote a strong party system is through a parliament and a proportional system of representation where the electorate votes for parties instead of personalities. This is also one way to discourage "turncoatism" in Philippine politics.

The party-list system under the present set-up, despite all its limitations, is still viewed by progressive organizations and parties as a major vehicle for engaging in parliamentary politics. For Akbayan, the party-list system enabled social movements to put forward platforms and advocacies.

In terms of the prospects under the existing law, we think that it will be difficult for party-list organizations to maximize its potentials if the law remains unamended. We hope that by 2007, the rules governing the party-list system have been changed. The unamended law and unchanged jurisprudence will eventually influence the behavior of party-list organizations where they will think of creative strategies to

take advantage, and not waste, the votes that they can command. These types of adjustments discourage political participation and empowerment. But Akbayan does not look at reforms in the Party-List System Act as an isolated advocacy. Instead, we look at it as part of a larger struggle in strengthening political parties in the promotion of party system, not patronage politics.

NERI COLMENARES (GENERAL COUNSEL, *Bayan Muna* [PEOPLE FIRST]): I will focus my presentation on how RA 7941 or the Party-List System Act facilitates or obstructs the development of the party-list system into a meaningful tool towards enhancing the participation of the marginalized and underrepresented in the Philippine Congress. I will then put forward a summary of critical reforms in the law with the view of helping ensure that party-list representatives are given genuine opportunity to represent their constituencies in the legislature.

There are four main electoral systems generally used by various countries namely (Farrell 2001):

1. Plurality—this system, also called First Past the Post (FPTP), declares as winner the candidate who gets the most number of votes. Now used by only a few countries, such as the United States, Thailand, United Kingdom and the Philippines (mixed with proportional representation), this is the most unrepresentative electoral system as it allows candidates who get less than a majority of the votes to win in an election.
2. Majoritarian—this system is similar to the FPTP except that the winners are only declared if they garner majority of the votes of all qualified voters in a particular election either through a run-off or a preferential system. Used by fewer countries, such as France, Indonesia and Australia, this system, although more representative than FPTP, is still considered "non-representative" as it forces voters to choose or elect candidates who are not their real choice.
3. Proportional Representation—this system gives seats to parties and candidates in proportion to the number of actual votes they receive in an election with the aim of reflecting the will of the electorate in the distribution of seats. This is the most popular electoral system today and is largely used in Europe, Latin America and Africa.

4. Mixed System—The mixed electoral systems, used in Russia, Germany, Italy, Japan and Mexico, usually employs both the proportional and majoritarian systems. Farrell (2001) listed the Philippines under this category, although he failed to give an authoritative analysis of its nature due to "its quirky provision of putting a three-seat cap," which made it impossible to classify. The Philippine electoral system, particularly its proportional system, remains unclassified or unclassifiable.

The difficulty in comprehending the Philippine electoral system is not so much in its mixture of electoral systems, but in the specific characteristics of its brand of proportional representation. Our electoral system specifically consists of a mixture of the following:

1. The Single Member Plurality system or FPTP is used in the election for all executive positions including those of the president and vice-president.
2. Elections for all legislative positions, except those in the House of Representatives, also use the plurality system for multiseat constituencies or multimember positions.
3. Eighty percent of the seats in the House of Representatives are filled up through the single member plurality system. Twenty percent of the members are elected under the party-list system using proportional representation.

The party-list system, which is limited to elections in the Lower House, is generally referred to as a proportional system of representation where parties or organizations are given seats based on the number of votes garnered by that party or organization in proportion to the number of votes cast in the party-list election. The Party-List System Act vaguely defined the party-list system as a "mechanism of proportional representation in the election of representatives to the House of Representatives from national, regional and sectoral parties or organizations or coalitions thereof registered with the Commission on Election."

The Philippine party-list system is, however, not ordinary as it is one of the few electoral systems in the world that reserves the system exclusively for the marginalized and underrepresented parties, sectors and nominees. This affirmative-action approach to the party-list

election was officially promulgated by the Supreme Court, when it granted Bayan Muna's petition for the disqualification of major political parties and other organizations that are not marginalized or underrepresented in *Bayan Muna vs. COMELEC,* GR 147589, June 26, 2001. There are a few other electoral systems (see Zimmerman 1994), such as those in Taiwan and Argentina, that also "reserve legislative seats" mainly for women and minorities.

The main problem of the party-list system is the framework itself. Limiting the party-list representation to a mere 20 percent of the seats in the House is a declaration that the district representatives remain as the main channel of representation of the people's voice in the legislature. Considering that many district representatives have long failed to effectively represent their constituencies in their legislative work, the importance given to them is highly misplaced.

This assertion actually comes from Congress itself when it declared in Section 2 of RA 7941 that the State shall promote a proportional system of representation through a party-list system "which will enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations or parties....who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole." As defined in Section 5 of the party-list law, the underrepresented sectors or those that many district representatives failed to fully represent, practically covers more than 90 percent of the population namely—labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.

Many were probably pleasantly surprised when Congress itself, by calling these sectors "underrepresented," frankly admitted its failure to effectively represent majority of the people in governance. It was therefore a major disappointment for many when the Constitution persisted in reserving 80 percent of the seats in the House for those who did not fully represent their constituencies, while limiting to only 20 percent for those who will.

This anomaly is compounded by the three-seat cap under the law which, for no apparent logical reason, limits to three the number of seats that representatives of the underrepresented can have in Congress. This is additional proof of the law's and Congress's discriminatory perspective since, after all, there is no similar limitation under general election laws on the number of seats allotted to major political parties running for district representation. The law's skewed framework of the

party-list system virtually renders winning party-list groups perpetual minorities in the House of Representatives.

These discriminatory provisions against the party-list system becomes more unjust and unjustifiable in light of the fact that many of the district representatives may not even have the support and votes of majority of its district electorates. Under a plurality system, a candidate can win in the congressional election of a legislative district with just 30 or 45 percent of the district votes or even less.

The party-list system therefore, in recognition of its role as the representation for the underrepresented, should constitute at least half of the seats in the House of Representatives. Thailand, which started their own party-list system just recently, allotted 50 percent of the seats in Parliament to party-list representatives. According to studies, Thailand, unlike the Philippines, has successfully implemented their party-list system (Go 2002). Only through this fundamental shift could the Philippine party-list system be given the opportunity to advance the legislative agenda of its poor and marginalized constituencies.

The obstacles to an effective voice of the party-list representatives in Congress stems not only from the electoral fraud and violence that further disenfranchise the marginalized sectors, but also from the defective and unconstitutional provisions of the party-list law itself, namely, the three-seat cap, the two percent threshold, and the failure to include provisions on recall of representatives.

On the three-seat cap, the provision in RA 7941 that limits winning party-list candidates to a maximum of three seats virtually reduces party-list groups to a small minority in Congress and stunts the development of the party-list system into becoming an effective representative of the marginalized and underrepresented in governance. While the high two percent threshold encourages party-list groups to coalesce, the three-seat cap encourages the very same coalitions to break up, sending a confused signal on the actual policy intent of the Party-List System Act.

The three-seat cap is in fact unconstitutional because it puts a restriction not found in and actually a contravention of the 1987 Constitution. It runs counter to the constitutional guarantee allowing party-list groups to bid for a seat in the Commission on Appointments (CA) and House of Representatives Electoral Tribunal (HRET) which provides in Article VI, Section 18:

> "There shall be a Commission on Appointments consisting of the President of the Senate as ex officio Chairman, twelve Senators and twelve

> members of the House of Representatives, elected by each House on the basis of proportional representation from political parties and parties or organizations registered under the party-list system represented therein."

The argument of the legal department of the House of Representatives that party-list representatives cannot avail of a CA or HRET seat since the basis for getting a seat in the same rests on the large number of Congressional seats won by a party, actually puts into question the constitutionality of the three-seat cap. Based on this argument, the cap effectively disenfranchises the whole party-list system from ever getting a seat in the CA or HRET since no party-list organization can get enough seats to vie for representation in the said bodies. Surely, the Constitution did not contemplate that a large chunk of Congress—20 percent to be exact—be forever barred from seeking a CA or HRET seat. This not only results in the further marginalization of the marginalized, but also gives the 80 percent congressional district representatives an unfair edge in getting these very important seats.

Out of the 235 members of the House, only 24 belong to the party-list organizations. According to the Secretary General of the House the remaining 211 members consist of: *Lakas ng EDSA* (Power of EDSA)-National Union of Christian Democrats-United Muslim Democratic Party (*Lakas*-NUCD-UMDP), 93 members or 40 percent; Nationalist People's Coalition (NPC), 53 members or 23 percent; Liberal Party (LP), 32 members or 14 percent; *Laban ng Demokratikong Pilipino* (Struggle for Democratic Filipinos [LDP]), 11 members or five percent; *Nacionalista* (Nationalist) Party (NP), five members or two percent; *Kabalikat ng Malayang Pilipino* (Ally of the Free Filipino [KAMPI]), three members or one percent; *Koalisyon ng Nagkakaisang Pilipino* (Coalition of United Filipinos [KNP]), two members or one percent; *Partido ng Demokratikong Pilipino* (Philippine Democratic Party [PDP]), two members one percent; *Partido ng Masang Pilipino* (Party of the Filipino Masses [PMP]), one member; *Aksyon Demokratiko* (Democratic Aksyon [*Aksyon*]), one member; *Partido para sa Demokratikong Reporma* (Democratic Reform Party [PDR or *Reporma*]), one member; *Partido Demokratiko Sosyalista ng Pilipinas* (Philippine Democratic Socialist Party [PDSP]), one member; and, Independent, one member. However, there seems to be an error on the House data since there are only 206 members in the list.

Since the House has 235 members and the CA has 12 seats, a party or coalition needs about 20 (or 19.58 exactly) members to entitle it to

one CA seat, according to the Constitution's and the Supreme Court's requirement that the distribution of seats be allocated proportionately based on the number of members of each party or coalition, as shown for instance in *Coseteng vs. Mitra* and *Daza vs. COMELEC*. The 211 seats of district representatives therefore could only fill up about ten of the 12 CA seats. According to the records of the Thirteenth Congress, however, the 12 CA seats were all filled up by the district representatives, certainly a violation of the Supreme Court decision on proportionality.

Worse, the House leadership did not consider the newly-formed coalition of party-list groups as basis for a CA seat even if that coalition is composed of 20 members. Party-list groups asserted their right to a seat in the CA when 20 party-list representatives—Bayan Muna, Association of Philippine Electric Cooperatives (APEC), *Anakpawis* (Toiling Masses), GABRIELA Women's Party, *Buhay Hayaan Yumabong* (Let Life Grow [BUHAY]), Citizen's Battle Against Corruption (CIBAC), *Partido ng Manggagawa* (Workers' Party [PM]), An Waray (The Warays), Cooperative National Confederation of Cooperatives Network Party (COOP-NATCCO), *Ang Laban ng Indiginong Filipino* (Struggle of Filipino Indigenous Peoples [ALIF]), *Anak Mindanao* (Child of Mindanao [AMIN], Alliance of Volunteer Educators (AVE), *Alagad* (Disciple) and *Butil* (Grain) Farmers' Party—representing 15 of the 16 party-list groups in the Thirteenth Congress, wrote to House Speaker Jose de Venecia and House Secretary General Robert Nazareno on July 19, 2004 and August 16, 2004 nominating APEC and Bayan Muna to the CA and BUHAY to the HRET. Bayan Muna has subsequently given way to BUHAY and APEC hoping it would help pave the way for a nomination of a party-list representative to the CA.

Furthermore, the three-seat cap also effectively makes it difficult for the party-list system to fill up all the seats constitutionally allocated. The COMELEC doctrine requiring two percent of the total party-list votes for a party-list group to get one seat only compounds this anomaly since the moment a party-list organization gets more than six percent of the votes, for example, it becomes virtually impossible to fill up the 20 percent seats in the House. The cap, in conjunction with the static two percent threshold, not only distorts the Constitution's provision on the proportionality of representation, but also defeats its provision reserving 20 percent of the seats in the House to the party-list system.

It is imperative that the three-seat cap be removed from RA 7941 to allow full play for the Constitution's intention of setting up a truly proportional system of representation in the party-list system, where a party may get as many number of seats, depending on the number of votes it garners in proportion to the number of votes cast for the party-list system. If majority of the marginalized sectors vote for a single party-list group, in the hope that said group will be in a better position to represent them in Congress with a large number of seats, Congress cannot limit that group to three seats in violation not only of the Constitution but also the will of the electorate as well.

On the two percent threshold, RA 7941 requires that a party-list group should get two percent of the votes cast in the party-list election to gain one seat in Congress. This is interpreted by the Supreme Court as the same rule in the allocation of additional seats. The problem of interpreting this provision in relation to the formula in allocating additional seats was a controversial issue in the 1998 party-list election. Parties, which garnered fractional votes, including those that did not get the two percent quota, claim that they are entitled to a seat. The Supreme Court in deciding the case of *Veterans Federation Party vs. COMELEC*, did not allocate seats based on fractional votes but stuck to the two percent per seat formula and the first party rule. There are currently 53 seats allocated for the party-list system in the House of Representatives and it is virtually impossible to fill this up under the two percent threshold, since mathematically, the most that can be filled up by one hundred of the votes are 50 seats. Furthermore, the number of seats allotted for the party-list increases as the number of electoral districts increase. A threshold therefore, to be feasible, should be a moving threshold which is adjusted by the COMELEC every election depending on the number of seats actually allotted for the party-list system in that particular election.

Finally, RA 7941 does not clearly set the rules on recall of representatives. Theoretically, it is the party or organization that gets elected into Congress, not the nominee. There is therefore a presumption that a party-list organization may withdraw its support for a nominee, paving the way for the recall of its representatives. However, there is no defined set of rules on a recall procedure and this may lead to a complication where the nominee remains in Congress even without the support of his or her party.

A clear procedure for the recall of nominees who are corrupt or no longer representative of their constituency or organization is necessary,

not only to avoid messy intra-party disputes, but also in order to fulfill the spirit and intent of the party-list system—i.e., to ensure that the marginalized continues to have a voice and representation in the halls of Congress and that party-list nominees remain accountable to the sector and organization it represents.

Various bills filed by Bayan Muna (HB 2734), *Anakpawis*, APEC (HB 2451), GABRIELA, Akbayan (HB 3302), COOP-NATTCO (HB 3474), Representative Roseller Barinaga (HB 409) and Representative Imee Marcos (HB 341) proposing amendments to RA 7941 are currently pending before the House Committee on Suffrage. The main features of these bills are:

1. Providing for the determination of the total number of seats available to the party-list by multiplying twenty percent of the total number of district representatives divided by eighty percent. RA 7941 does not provide for a formula in calculating the number of seats that compose the reserved twenty percent.
2. A provision expressly considering as resigned any government official who accepts nomination as party-list nominee.
3. Providing for the amendment of the three-seat-cap to a six-seat-cap.
4. Providing for the qualifying threshold of one point eight percent instead of the current two percent.
5. Providing for the use of a specific formula including fractions in determining the allocation of additional seats in order to fill up all the seats allotted for the party-list system.

Actually, Bayan Muna's bill provided for the setting up of a recall mechanism wherein parties may replace representatives who engage in corruption or fail to represent their constituencies. It is also proposing that after giving the first seat to those who passed the threshold, additional seats be given also to those who failed to make that threshold provided it has a higher percentage left over. There are objections, however, to this formula and the opinion of some party-list groups is that the additional seats should only be allocated to those that made it past the threshold.

Representative Imee Marcos, on the other hand, is proposing that each voter will have 12 votes—one vote for each sector listed in the law. It is not clear however how this bill will affect the provisions on three-seat cap, two percent threshold and reserving 20 percent of the House seats to the party-list. Meanwhile, on the matter of determining the allocation of seats, APEC and Akbayan have a similar formula:

> The parties, organizations, and coalitions garnering more than the winning minimum percentage (those that were able to hurdle the threshold) shall be ranked as they are entitled to additional seats in proportion to the total number of votes of the winning minimum percenters. The number of additional seats to which a winning minimum percenter is entitled shall be determined by multiplying the number of seats remaining by the total number of votes obtained by that party and dividing the product by the total number of votes garnered by all the winning minimum percenter. The winning minimum percenters are each entitled to the additional seats equivalent to the integer portion of the resulting product.

It is also to the interest of the party-list groups, that the whole electoral process be automated, provided that safeguards are in place to ensure that the COMELEC will not or cannot use this technology to favor selected candidates. Under the current system, there is no way that any party-list group can thwart *dagdag-bawas* (vote padding/ shaving) committed against it.

The impact of electoral fraud, for example, particularly in the form of *dagdag-bawas*, is magnified in the party-list system since party-list groups, even the top vote getters like Bayan Muna and APEC, cannot afford to field watchers and lawyers in the various levels of electoral canvass. Bayan Muna, which topped the 2001 elections and consistently garnered a substantial number of votes in all regions barely got any votes in the ARMM region in 2001—a surprising 5,000 votes in the whole region. Only a few parties got substantial votes in the ARMM notably *Kabataan ng Masang Pilipino* (Youth of the Filipino Masses [KAMPIL]) (43,918 votes), Philippine Coconut Producers Federation, Inc. or COCOFED (20,026 votes) and Akbayan (26,622 votes) (Rodriguez 2002, 57).

In the 2004 elections, Bayan Muna which again topped the party-list election and whose votes number in the thousands in almost all provincial canvass, suffered a massive "defeat" in the provinces of Sulu (112 votes), Tawi-tawi (70 votes) and Lanao del Sur (193 votes), according to Bayan Muna Quick Count Results as of June 1, 2004.

Worse, Bayan Muna garnered a total of 35 votes in the whole province of Maguindanao even if a municipal certificate of canvass showed that it already had 60 votes in the municipality of Pagagawan, Maguindanao.

This inability of the party-list groups to guard against *dagdag-bawas* is the reason why Bayan Muna openly supported the automation program, in the hope that it could help stem electoral fraud in general. It is therefore imperative that a viable automation program, equipped with safety mechanisms, be in place before the 2007 elections to avoid charges of electoral fraud that detracts from the credibility of the elections and the mandate of the winning candidates.

Parallel to efforts towards full automation, criminal prosecution of those involved in *dagdag-bawas* must be relentlessly pursued by victims of this insidious electoral fraud. The Omnibus Election Code must also be amended to expressly define the crime and provide for harsher penalties. This multi-pronged approach, without pretending to eliminate electoral fraud, is important in curbing electoral anomalies in general thereby providing poor but deserving party-list groups better chances in elections.

Lastly, the party-list system will not survive if government involvement in electioneering for and against certain party-list groups cannot be checked. Military officials, using glossy propaganda materials and power point technology, held public forms against Bayan Muna and its organizers from rural areas during the 2004 election campaign. There were reports that government officials were not only asking the people not to vote for Bayan Muna and five other party-list groups but also directly asking voters to vote for other favored party-list groups. Various electoral laws and the Supreme Court expressly prohibited the use of government funds and resources to intervene in the party-list election. The immediate suspension (pending investigation) of military officers and government officials charged with engaging in partisan political activity in the party-list elections is crucial to the credibility and stability of the party-list system.

The defects mentioned above act as constraints that make it very difficult for party-list representatives to push for the passage of important laws that advance the interest and welfare of their marginalized constituencies. During the Eleventh Congress, party-list representatives principally authored a total of 485 bills, only 20 of which reached the second reading. None of the 485 bills became a law (Adriano 2001). The situation was almost the same under the Twelfth Congress. GABRIELA is the only party-list group that managed to principally

sponsor a significant bill that became a law, when its bill criminalizing the trafficking of women and children was passed by both houses of Congress. Even Bayan Muna's proposal for a mere change of the name of Commonwealth Avenue to Lorenzo Tañada Avenue did not get the support it needed from the House.

It is, however, erroneous to think that the party-list system does not play an important role in the House. Although, party-list organizations cannot be expected to pass significant bills being a "minority" in the House, it can however, fulfill its fiscalizing role to the hilt. The participation of party-list groups in the battle against the VAT and other tax measures in the current Congress shows the crucial role of party-list groups in making it difficult for government to pass "anti-people" laws. Some party-list groups' persistence in exposing corrupt practices in government, conducting investigation of human rights abuses and its continuing advocacy for justice and peace in the plenary and committee hearings have already created substantial difference and impact on the way the House conducts itself.

Bayan Muna, for example, managed to organize legislators from non-party-list political parties to band together to launch legislative actions, in the form of bills and resolutions that will put a stop to continuous debt payments and servicing of onerous and immoral loans while imposing heavy taxes on the public. A bill currently pending in the House seeks to cancel payment for the illegal Bataan Nuclear Power Plant loan which the Philippine government continues to pay, courtesy of the impoverished Filipino people, in the amount of US$ 157,000.00 per day. Relying on outside support from peoples' organizations, some party-list groups have made important contribution in advancing the legislative agenda of its constituencies, despite the constraints in the party-list system.

Amending the party-list law will not pave the way for representative democracy considering that the law will still function within biased framework and the same unresponsive electoral system. If the law is not amended however, it will mean that the next batch of party-list representatives will remain a weak and marginalized minority inside Congress. There are two major tasks for party-list groups in Congress: to critique bills and resolutions in Congress and policies and actions of government detrimental to the interest of the marginalized sectors, and to file bills that will advance the interest of their constituencies and have it passed into law. In the last three Congresses, only some party-list groups managed to fulfill the role of fiscalizer. No party-list group

has substantially fulfilled the second major task due to the restraints, among others, found in the law.

The strength of the party-list system however, cannot be found in the law, but rather, in the constituency they represent. The effectiveness of party-list representatives is only as good as the amount of support they get from the people's movement outside Congress. Despite defects in the party-list law, party-list groups will be able to advance their legislative agenda if it is anchored on the issues and support of their constituencies. In the absence of substantial social and electoral changes, peoples' participation in governance will continue to be expressed in the streets, outside the institutions that remain inhospitable to the peoples' representatives.

LUIS CORRAL (SECRETARY GENERAL, ASSOCIATION OF PHILIPPINE ELECTRIC COOPERATIVES [APEC]): It is said that some groups achieve power, that some groups inherit power, and that some groups simply stumble upon power by accident. The latter could very well describe the political antecedents of APEC. When this small, literally off-the-beaten track party topped the first party-list elections of 1998, the political world was shocked. Many analysts said that it was a political fluke; that it was a case of a single-issue private interest group seizing an election mandate by mere chance; and that it was because of the simple expedient of the 1998 name recall of its acronym (APEC), which echoed the Subic Leader's Conference of 18 Heads of State hosted by then President Ramos just a few months before. But the current Congress is the third successive Congress to which APEC has been elected, winning without the kind of sophisticated support of advocacy nongovernment organizations (NGOs) and foreign grant-funded think-tanks of the University of the Philippines (UP)-Ateneo de Manila University mafia that other party-list groups enjoyed in 1998 and, indeed, until today. APEC again prevailed against the major political parties and Richard Gomez in 2001. It finished second in 2004 in the context of an ascendant Left which fielded a plethora of satellite parties and in regional battles with various political combinations of *jueteng* (an illegal numbers game) groups.

That APEC has survived and prevailed at all, notwithstanding having obtained just a total all-time high of 3,000 or so votes in the entire National Capital Region, is a tribute, in hindsight, to political imagination. But as it was, when APEC was organized in 1997, in all candor, we selected nominees by the drawing of lots, not as an

indication of our belief in destiny, but precisely because we did not think that we even had a prayer of a chance against the likes of the Trade Union Congress of the Philippines (TUCP), *Abanse Pinay* (Advance Filipina), Federation of Free Workers (FFW), *Alyansang Bayanihan ng mga Magsasaka, Mangagawang-Bukid at Mangingisda* (Voluntary Alliance of Farmers, Farm Workers and Fisherfolks [ABA]), and the other proxies of the Caucus of Development NGO Networks (CODE-NGO) and the National Peace Conference.

So three Congresses hence, what has been done through party-list representation by a small provincial party frequently mistaken for the Asia Pacific Economic Cooperation? Just last year, we were able to have the Government condone P18 billion in electrification loans to 119 electric cooperatives. These loans were made through materials extended to cooperatives–wires, wood poles, transformers and diesel generators. They also included flops such as Imelda Marcos' attempts to grow forests for dendrothermal fuel, 49 mini-hydro plants which lie rusting somewhere in a Fairview, Quezon City warehouse, and other failed ventures of the former Ministry of Human Settlements. The condonation effectively lowered electricity rates for some P 6 million member consumer households in the rural areas where electric cooperatives operate, translating to a rate reduction of 22 centavos per kilowatt hour in Luzon and Mindanao and 15 centavos in the Visayas.

The condonation originated as a trade-off proposed by APEC during the give-and-take negotiations surrounding the crafting of the Electricity Power Industry Restructuring Act (EPIRA). The Departments of Finance and Energy had long been tired of the opposition by APEC to the debt absorption measures built into the EPIRA which would have ensured that some P 550 billion in stranded costs of the National Power Corporation (NAPOCOR) be absorbed by the taxpayers or consumers. Of course, these stranded costs are better known to you and me as the Power Purchased Adjustment (PPA) cost of some 8,000 megawatts in overcapacity that government through the NAPOCOR contracted with some 35 Independent Power Producers (IPPs). APEC pointed out that absorbing these stranded costs was actually a case of the taxpayer or consumer paying for something and getting back nothing in return.

APEC said, "Why not condone the P18 billion in loans of the electric cooperatives instead, lowering the power rates in the process, ensuring the coops a fresh start with more chances of viability in the new world of deregulation and liberalization. The cooperatives after all

had carried out missionary electrification to areas that the Manila Electric Railroad and Light Company (MERALCO) and Aboitizes felt were just too uneconomic and unviable, bringing about greater management accountability; freeing the cooperatives from being treated as milking cows by various government agencies; and bringing about genuine and complete consumer ownership over these electric cooperatives?" APEC strongly felt that this measure was necessary to democratize ownership in the electricity industry and to fight off the cherry-picking of the electric cooperatives. APEC warned that the IPPs and the power oligarchs would soon be undertaking hostile takeovers of the electric cooperatives and once taken over these now converted distribution corporations would subsequently be entering into sweetheart deals with the very same IPPs and oligarchs to purchase very expensive power from them.

APEC lined up support from Senate re-electionists, who were no doubt more convinced of the size of our command votes rather than the merit of some of our arguments to get our condonation language through. APEC sold the idea through staff conversations and congressional visits that we hoped would lead to a dialogue that eventually got many legislators to come around to our position. We sometimes hounded Congressmen at length.

But even this happy little tale has a cautionary note. The oppositions to the coop debt condonation led by then Finance Secretary Camacho and now president of Power Sector Assets and Liabilities Management (PSALM) Corporation, Rafael Perpetuo "Popo" Lotilla, were able to insert a proviso that in effect said that while all debts of the electric cooperatives as of June 26, 2001 would be condoned, such would be "subject to a program to be approved by the President." This watering down of our language in the EPIRA would have huge consequences given the reluctance of the Department of Finance to our initiative rife as it was with what they saw as moral hazard.

As fate would have it, APEC was disqualified after the May 2001 elections, and we would have to fight a seven-month battle in the Supreme Court before our first nominee was allowed to sit. It would take an even longer one-and-a-half-year struggle in the COMELEC before our second and third nominees would be proclaimed. Our seven-month absence from Congress encouraged the administration to attempt to amend the EPIRA by targeting the deletion of the section on coop debt condonation. You would have thought that the administration in the face of the protests against the PPA would have

tried to introduce some palliatives such as providing for consumer representation on the Board of the Energy Regulatory Commission. But no, the Administration wanted debt condonation out as it wanted consumer ownership out.

Although APEC was with the majority, it took the stand of opposing the budget of the Department of Energy. We also took the bill proposing the privatization of the Transmission Corporation to the mat. APEC delivered a privilege speech questioning the failure of the Executive Branch to implement the law on debt condonation. More telling, APEC stonewalled against the passage of administration-certified House Bill 5504 which would provide for immediate open access in the electricity industry which would allow industrial and commercial customers to avail of cheaper tariffs by buying from other sources as we argued that our poorest member consumers would be hit by a price spike because of cost shifting and the jobs of some 20,000 cooperative employees would be placed at risk.

The year 2003 dawned and there remained no sight of any presidential program to condone the debts. But nonetheless we tried to stay one step ahead in terms of what could be done. If you write the provision, get it enacted and help interpret it; theoretically you will always be ahead of the curve. But in this case, we were about two years late. However if you work harder, you get luckier. Providence again came to our rescue with one of those convergences of interest that you can only attain if your party is represented in Congress. APEC stumbled upon the little domestic drama of the Northern Alliance of legislators which is sometimes referred to—but always out of their hearing—as the Northern Allowance. This grouping had been organized around RA 7171, the tobacco levy. But at this juncture of history when a certain Luis "Chavit" Singson was administering the levy, the Congressmen apparently were not getting any. To make a long story short, they wanted to stage a walkout in the House to create a failure of quorum, thereby dramatizing their unhappiness with Chavit. APEC chanced upon this happy gang and proposed that they make the debt condonation and consumer ownership the second item in their order of battle. The Northern Alliance gladly obliged. Whether they did so out of genuine altruism or to provide political deodorization to their adventure remains undetermined. When the walkout took place, the issues were elevated to Malacañang with the President exclaiming, "What is the connection of this electricity issue to tobacco?" One week later, the executive order implementing debt condonation was finally

brought out. It is of note that all throughout this series of skirmishes, not one rally or demonstration was organized by APEC.

While full consumer ownership still remains the great unfinished agenda of APEC, the case above dramatizes the gains our sector of consumers obtained because of the party-list system. The first lesson here is that the best lobbying technique for sectoral groups will always be that of having your very own representative. We learned this the hard way through the Ninth and Tenth Congress. Then Congressman John Osmeña, who was then with the opposition, helped us defeat the original Omnibus Power Bill of Fidel Ramos, which was then sponsored by now Supreme Court Justice Dante Tinga. Osmeña would tirelessly question the quorum. But when he became senator, and part of the administration, he became a substitute to Dante Tinga arguing the exact points he had argued against while still a representative. To us, the party-list offered the vehicle to have an authentic voice in the House.

The second lesson is that good legislators will never pass a perfect law thereby ensuring that they always have the job of closing the loopholes and correcting the wrongs. But levity aside, the task perhaps of sectoral groups is to get their issue right. APEC is admittedly a one-issue party, but energy and electricity remain a one-issue hit. In 1998, we campaigned against the Power Law because of the danger of lay-offs, volatility of tariff rates and the cartelization of the electricity industry. In 2001, we campaigned against the PPA and for condonation. In 2004, we campaigned on the basis of the condonations accomplished and the goal of consumer ownership. Our wisdom was shaped both by the high politics of ideals and the low politics of being part of Congress and being present at the table.

While there are many groups advocating for changes to the Party-list System Act, I am admittedly ambivalent on the matter. We were present at the creation of the law in 1995, and always understood that it would only be in 1998 that the major parties would be banned from running. The Supreme Court in 2001 of course said that these major parties would be banned forever. This was for us an act of judicial legislation and we would be victimized in 2001 with a disqualification. I am afraid that amending the law now will open Pandora's box as the major political parties will not pass it unless the major parties are allowed to participate in it. I end with recollections of a conversation between then NPC party-list nominee Rudito Albano and then *Lakas* party-list nominee Silvestre "Bebot" Bello III commiserating with each

other on their Supreme Court disqualification. Albano said, *"Hayaan mo na, hindi naman ako mamamatay kung hindi ako maging Congressman* (Don't mind it; not being a congressman will not kill me). " And Bello replied, *"Oo nga, di ka mamamatay. Mamamatay ka lang sa inggit* (Yeah, you're right, it will not kill you. You'll just die of envy). "

OLIVIA CAOILI (PROFESSOR, DEPARTMENT OF POLITICAL SCIENCE , COLLEGE OF SOCIAL SCIENCES AND PHILOSOPHY, UNIVERSITY OF THE PHILIPPINES-DILIMAN): I would like to start my reaction with a historical background. Although we would like to forget Ferdinand Marcos and we criticize his regime so much, the idea of sectoral representation was actually introduced during his administration in the *Batasang Pambansa* (National Assembly). However, the sectoral representation that he introduced is not quite the same as we know it today. He issued the presidential decree which allowed for the representation of industry, agriculture, the youth, and some other groups; but the election of the representative of these groups to the *Batasang Pambansa* was done within their organizations, and Marcos was left with the task of appointing the elected representatives as members of the *Batasan.*

Having said that, we have to go back to the idea of corporatism which provides the basis for sectoral representation. In the present party-list system, I am heartened to know that there has been a lot of fight for the representation of the marginalized because this is supposed to be the spirit of party-list representation. The Congress has been dominated for so long by the elite and the interests of the sectors have been neglected. With the party-list system, we now have the means to ensure that the welfare of the marginalized is considered in legislation. But more than that, as I have said several times in my classes on the Philippine legislative system, the party-list is one avenue by which we can make our political parties program-oriented rather than personality-based. Even though the party-list groups have personalities who move the party forward, the party itself, and not the individual, is the basis for positions, decisions and legislation on a range of issues. However, party-list representatives do not have enough clout since there are only a handful of them. But if we are to recall what our APEC representative has said, provided the party-list representatives are vigilant of opportunities, they can make a large dent on the enactment of bills.

Now, given this penchant for resurrecting the move towards a shift from presidential to parliamentary system, we can see that the party-list system is one avenue by which we can really push for program-oriented

political parties, that will really go to the electorate and discuss issues and programs rather than personalities. With the party-list system, we can be educated in a sense on how to organize parliamentary parties. The decision on whether the parliamentary system will have a unicameral or bicameral chamber is left to the Constitutional Convention, if there will be one. The bills authored by party-list representatives may not all be enacted into law. But they can educate and input into the proposed bills of the regular representatives of Congress. Besides, at present, not all members of Congress originated from the traditional elite. Many of them now come from the professions. Of course, they are elites as far as income level is concerned, but their frame of mind is different from the traditional landed elite who have had command votes and relied heavily on personality-oriented and *utang na loob* (debt of gratitude) issues.

MARIA ELISSA J. LAO (PROFESSOR, DEPARTMENT OF POLITICAL SCIENCE , ATENEO DE MANILA UNIVERSITY): My comments involve three points, some of which have already been echoed or aired by the speakers. One is the system within which the party-list operates as noted by Joel Rocamora among others. The party-list members in the House of Representatives can constitute 20 percent of the total number of representatives. Roughly, this is about a maximum of 50 persons out of 250 or as Neri Colmenares has said, 52 or one-fourth of the total number of representatives. Not bad you might say, for something which the members of the Constitutional Commission considered to be experimental and can be expanded or abolished at some point in the future. The critiques of this set-up contend that such practice is actually not considered proportional representation, despite what the Party-List System Act says, especially after taking into account the number of people who vote for party-list. There is a cap in the party-list law which prevents proportional representation: a maximum of three seats per party. The Constitution further limits their party-list representatives' numbers by stating a 20 percent ceiling. This is something that both Charter Change and an amendment to the existing Act should address.

My second comment is on the groups which the party-list formations must contend with. This includes how party-list representatives deal with the mainstream political parties and the legislative system in general. In a discussion I had with Fr. Joaquin Bernas, he said that there are two Supreme Court decisions which have further clarified what a

party-list system should be. These cases were the *Veterans Federation Party vs. COMELEC*, October 6, 2000; and *Ang Bagong Bayani* (The New Hero) *vs. COMELEC*, June 26, 2001. In the latter case's decision, the Supreme Court enumerated eight points and guidelines in the screening of sectors or organizations. Let me just run through the guidelines detailed by *Ang Bagong Bayani vs. COMELEC*.

1. The political party, sector, organization or coalition must represent the marginalized and underrepresented groups identified in Section 5 of RA 7941.
2. While major political parties are not disqualified merely on the ground that they are political parties, they must show, however, that they represent the interests of the marginalized and underrepresented.
3. The religious sector may not be represented in the party-list system.
4. A party or an organization must not be disqualified under Section 6 of RA 7941
5. The party or organization must not be an adjunct of, or a project organized or an entity funded or assisted by, the government.
6. The party must not only comply with the requirements of the law; its nominees must likewise do so.
7. Not only the candidate party or organization must represent marginalized and underrepresented sectors; so also must its nominees.
8. While lacking a well-defined political constituency, the nominee must likewise be able to contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole.

I know that some groups have actively petitioned for the exclusion of some groups seeking recognition as party-list candidates. I would like to know what the party-list representatives here today think of the current roster of party-list groups. Furthermore, has there been a clarification of the very nature of the party-list system in the last election? Are there any gray areas which should be considered as points of reform?

Finally, my last point centers on dynamics. I would like to know how the party-list groups weave in the party politics and sometimes

exclusionary structure of the House of Representatives. For example, how the party-list representatives situate themselves in the minority-majority divide. One of you mentioned the importance of knowing how to play the game—the significance of carrying principal positions and the importance of personalities as well. But to what extent should this game be played? Could we expect the use of springboard or coalition parties which can be a good thing and possibly, in another light, increase the members of party-lists in Congress and unite support for issues? In relation to this, how do party-list representatives make their mark despite the shortfall in numbers? Are the efforts of party-lists, such as the current push for membership in the Commission on Appointments and the HRET to make their concerns move out of the margins as far as policy-making is concerned or to strengthen their role in Congress? The reason why I pushed these questions is that I have had a glimpse of the vitality of party life in this area and I think that the struggle for party-list groups to find themselves within the law-making process and the larger Philippine society is the type of introspective, self-initiated reform we would like to see among the bigger or more established political players.

J. PROSPERO DE VERA III (ASSOCIATE PROFESSOR, NATIONAL COLLEGE OF PUBLIC ADMINISTRATION AND GOVERNANCE, UNIVERSITY OF THE PHILIPPINES-DILIMAN): Having worked in and with the House of Representatives and the Senate since 1988, I have somehow been afforded an opportunity to see firsthand the travails of sectoral representation in Congress. The good news is it is getting better in many aspects. In the last elections, I was directly involved as campaign spokesman for Senator Aquilino Pimentel Jr. We were particularly happy with the negotiations with and support from the party-list organizations. We acquired the most endorsements from left to right of the political spectrum—from *Bayan Muna* to the Philippine Guardians Brotherhood, Incorporated. Strategically speaking, it was probably one of our best tactics to link up with party-lists in the last elections, which allowed us to place third, even if we spent the least among all those who won in the senatorial race.

Having said that, I would like to add a couple of thoughts and raise four questions. I think the core issue that we want to look at is, why party-list groups are important in a democratic system. There are probably three or four other reasons that I would like to complement those that have been mentioned. First, the concept of sectoral

representation provides a mechanism to democratize recruitment into the political elite, especially in Philippine Congress. Although elite recruitment in the Philippines has changed to a large extent since the sixties, Jose Abueva's supposition that a person's entry into Congress can be facilitated by first assuming an executive post through appointment and then eventually using government resources to run in the congressional district still holds. In many respects, this is still the norm. Of course, what has taken place recently in the electoral arena could debunk this assumption. We see showbiz and media personalities. But in any case, it remains largely traditional. The party-list system therefore creates an avenue for a new kind of elite recruitment.

Second, the party-list groups are the only band you can count on to represent sectoral interests in Congress. The legislators speak for the interests of their constituency. But constituency is a very slippery term. One's constituents in a particular congressional district comprise a whole range of socioeconomic grouping from businessmen to farmers. In the case of party-list groups, their constituency is well-defined, avoiding the risk of misrepresentation of interests. They are at least consistent in what they articulate.

Third, and I think this is very important, the mechanism for party-list strengthens and provides incentives for local organizing by marginalized groups. Organizing may be directed towards participation in the party-list elections, but certainly, it is much more different than the traditional type of organizing at the local or community level—to rally support for the elite running for office. In the last election particularly, the party-list has changed the dynamics of national and local elections. In Bicol, for example, I heard that about 80 percent of the candidates wanted the endorsement of Bayan Muna. This change cannot be discounted. Because there is now recognition that party-list groups like Bayan Muna can amass a huge number of votes, local politicians have opened their doors to negotiations and attempted to work with party-list groups in order to bolster their chances for victory. I think this is also the case at the national, especially in the senatorial elections. A lot of the candidates who were trailing tried to move heaven and hell together and took a shot at every trick to get the endorsement of the big party-list groups. And, in one way or another, this makes the election a little more issue-oriented and allows for collaboration of elected officials and parties post-elections.

Finally, the party-list groups also introduced and developed novel campaign techniques. For example, in 2004, it was quite surprising to

find out how cheap the party-list groups can run campaigns at the local level. GABRIELA spends only P 12.00 a day for each person posting their campaign materials. Compare this with Manuel "Mar" Roxas III, who was splurging P 400.00 a day for the same operation. It was pleasantly shocking. And yet, you see GABRIELA's posters everywhere in Luzon, Visayas and Mindanao from the urban areas to the most remote rural communities. In reaching out to the slum district along the rails of the train in Manila, the party-list groups used trolleys going around the tracks. Quite dangerous, but low-cost and unpretentious. These innovative ideas allow one to rethink campaign strategies as a whole.

Now, I have four questions that I would like to raise. First, how can party-list groups not only serve as spokespersons or mouthpiece for sectoral interests, but actually make policies in the context of the continuing struggle to reinforce the relevance of Congress as an institution? All over the world, the legislature is under attack for its worthlessness. A lot of scholars have been saying that you can abolish Congress and life can go on. Criticisms have been leveled against the legislature—it legitimizes authoritarian regimes; it is under the control of the executive; it represents only elite interests; it does not figure out in the national debate, etc. How can the party-list system therefore revitalize an institution that is perceived negatively by the public? But then this also begs the question: Is the legislative the right venue for sectoral representation if it is institutionally flawed in the first place?

My second question is very basic and and rather clich é. What exactly defines a sector and a party-list organization? I think that even if there was a Supreme Court decision, a lot of us still do not understand why CIBAC and BUHAY are in Congress. CIBAC runs a platform of graft and corruption. Who exactly do they represent, aside from their biggest member, Jesus Is Lord Movement? The same with BUHAY and its member, *El Shaddai*. The problem is, when the idea of sectoral representation was first introduced, the representatives appointed by the President were people who simply meet the minimum requirements and who were close to the powers that be. Majority of them had no organization or "sector" to speak of. It just happened that they themselves were women, disabled or former Overseas Filipino Workers (OFW), "marginalized" or "underrepresented," if we are to use these words loosely. The fact that they were merely appointed and did not have a constituency made them second-class citizens at that

time. And now, with the Party-List Act, we are still having trouble characterizing a particular sector and determining eligible organizations.

Third, I would like to ask how party-list groups' gains and activities can be documented in a country where legislative studies are scarce and somehow distorted. Of particular interest in this aspect are the voting patterns of representative, party-lists or not. We have the penchant for assessing legislative performance through attendance and the number of bills filed. This has influenced the media's and various NGOs' judgment of our legislators. But again, these variables are sometimes ill-defined and misleading. How then do you show that party-list representatives are a cut above the ordinary or perform more brilliantly than the others in terms of policy-making? Surely, the party-list system can also contribute to this research need or gap.

Finally, with all these talks on amending the Party-List System Act, I agree with what Louie Corral posed as a challenge. Now that the traditional or mainstream political parties have reckoned that the party-list system could be a viable backdoor for them to enter the Congress and that they are aware and have tested the loopholes in the law, the question now is: Will representatives in Congress, coming from these elite parties, consent to amendments that are adverse to their case? I am sure they will be unfaltering and will maneuver everything so that the amendments introduced will finally work in their favor. I think that has to be seriously considered and debated, given the minority status of party-list representatives in Congress. ❁

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