

VETERANS FEDERATION PARTY, ALYANSANG BAYANIHAN NG MGA MAGSASAKA, MANGGAGAWANG BUKID AT MANGINGISDA, ADHIKAIN AT KILUSAN NG ORDINARYONG TAO PARA SA LUPA, PABAHAY AT KAUNLARAN, AN...

G.R. No. 136781. October 06, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Prologue

To determine the winners in a Philippine-style party-list election, the Constitution and Republic Act (RA) No. 7941 mandate at least four inviolable parameters. These are:

First, the twenty percent allocation - the combined number of all party-list congressmen shall not exceed twenty percent of the total membership of the House of Representatives, including those elected under the party list.

Second, the two percent threshold - only those parties garnering a minimum of two percent of the total valid votes cast for the party-list system are "qualified" to have a seat in the House of Representatives;

Third, the three-seat limit - each qualified party, regardless of the number of votes it actually obtained, is entitled to a maximum of three seats; that is, one "qualifying" and two additional seats.

Fourth, proportional representation - the additional seats which a qualified party is entitled to shall be computed "in proportion to their total number of votes."

Because the Comelec violated these legal parameters, the assailed Resolutions must be struck down for having been issued in grave abuse of discretion. The poll body is mandated to enforce and administer election-related laws. It has no power to contravene or amend them. Neither does it have authority to decide the wisdom, propriety or rationality of the acts of Congress.

Its bounden duty is to craft rules, regulations, methods and formulas to implement election laws -- not to reject, ignore, defeat, obstruct or circumvent them.

In fine, the constitutional introduction of the party-list system - a normal feature of parliamentary democracies - into our presidential form of government, modified by unique Filipino statutory parameters, presents new paradigms and novel questions, which demand innovative legal solutions convertible into mathematical formulations which are, in turn, anchored on time-tested jurisprudence.

The Case

Before the Court are three consolidated Petitions for Certiorari (with applications for the issuance of a temporary restraining order or writ of preliminary injunction) under Rule 65 of the Rules of Court, assailing (1) the October 15, 1998 Resolution[1] of the Commission on Elections (Comelec), Second Division, in Election Matter

98-065;[2] and (2) the January 7, 1999 Resolution[3] of the Comelec en banc, affirming the said disposition. The assailed Resolutions ordered the proclamation of thirty-eight (38) additional party-list representatives "to complete the full complement of 52 seats in the House of Representatives as provided under Section 5, Article VI of the 1987 Constitution and R.A. 7941."

The Facts and the Antecedents

Our 1987 Constitution introduced a novel feature into our presidential system of government -- the party-list method of representation. Under this system, any national, regional or sectoral party or organization registered with the Commission on Elections may participate in the election of party-list representatives who, upon their election and proclamation, shall sit in the House of Representatives as regular members.[4] In effect, a voter is given two (2) votes for the House -- one for a district congressman and another for a party-list representative.[5]

Specifically, this system of representation is mandated by Section 5, Article VI of the Constitution, which provides:

"Sec. 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected by a party-list system of registered national, regional, and sectoral parties or organizations.

(2) The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party-list. For three consecutive terms after the ratification of this Constitution, one half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector."

Complying with its constitutional duty to provide by law the "selection or election" of party-list representatives, Congress enacted RA 7941 on March 3, 1995. Under this statute's policy declaration, 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 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. Towards this end, the State shall develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible." (italics ours.)

The requirements for entitlement to a party-list seat in the House are prescribed by this law (RA 7941) in this wise:

"Sec. 11. Number of Party-List Representatives. -- The party-list representatives shall constitute twenty per centum (20%) of the total number of the members of the House of Representatives including those under the party-list.

For purposes of the May 1998 elections, the first five (5) major political parties on the basis of party representation in the House of Representatives at the start of the Tenth Congress of the Philippines shall not be entitled to participate in the party-list system.

In determining the allocation of seats for the second vote, the following procedure shall be observed:

(a) The parties, organizations, and coalitions shall be ranked from the highest to the lowest based on the number of votes they garnered during the elections.

(b) The parties, organizations, and coalitions receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to one seat each; Provided, That those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes; Provided, finally, That each party, organization, or coalition shall be entitled to not more than three (3) seats.

Pursuant to Section 18 of RA 7941, the Comelec en banc promulgated Resolution No. 2847, prescribing the rules and regulations governing the election of party-list representatives through the party-list system.

Election of the Fourteen Party-List Representatives

On May 11, 1998, the first election for party-list representation was held simultaneously with the national elections. A total of one hundred twenty-three (123) parties, organizations and coalitions participated. On June 26, 1998, the Comelec en banc proclaimed thirteen (13) party-list representatives from twelve (12) parties and organizations, which had obtained at least two percent of the total number of votes cast for the party-list system. Two of the proclaimed representatives belonged to Petitioner APEC, which obtained 5.5 percent of the votes. The proclaimed winners and the votes cast in their favor were as follows:[6]

Party/Organization/Coalition Number of Votes Obtained Percentage of Total Votes Nominees

1. APEC

503,487 5.5% Rene M. Silos

Melvyn D. Eballe

2. ABA

321,646 3.51% Leonardo Q. Montemayor

3. ALAGAD

312,500 3.41% Diogenes S. Osabel

4. VETERANS FEDERATION

304,802 3.33% Eduardo P. Pilapil

5. PROMDI

255,184 2.79% Joy A.G. Young

6. AKO

239,042 2.61% Ariel A. Zartiga

7. NCSCFO

238,303 2.60% Gorgonio P. Unde

8. ABANSE! PINAY

235,548 2.57% Patricia M. Sarenas

9. AKBAYAN

232,376 2.54% Loreta Ann P. Rosales

10. BUTIL

215,643 2.36% Benjamin A. Cruz

11. SANLAKAS

194,617 2.13% Renato B. Magtubo

12. COOP-NATCCO

189,802 2.07% Cresente C. Paez

After passing upon the results of the special elections held on July 4, 18, and 25, 1998, the Comelec en banc further determined that COCOFED (Philippine Coconut Planters' Federation, Inc.) was entitled to one party-list seat for having garnered 186,388 votes, which were equivalent to 2.04 percent of the total votes cast for the party-list system. Thus, its first nominee, Emerito S. Calderon, was proclaimed on September 8, 1998 as the 14th party-list representative.[7]

On July 6, 1998, PAG-ASA (People's Progressive Alliance for Peace and Good Government Towards Alleviation of Poverty and Social Advancement) filed with the Comelec a "Petition to Proclaim [the] Full Number of Party-List Representatives provided by the Constitution." It alleged that the filling up of the twenty percent membership of party-list representatives in the House of Representatives, as provided under the Constitution, was mandatory. It further claimed that the literal application of the two percent vote requirement and the three-seat limit under RA 7941 would defeat this constitutional provision, for only 25 nominees would be declared winners, short of the 52 party-list representatives who should actually sit in the House.

Thereafter, nine other party-list organizations[8] filed their respective Motions for Intervention, seeking the same relief as that sought by PAG-ASA on substantially the same grounds. Likewise, PAG-ASA's Petition was joined by other party-list organizations in a Manifestation they filed on August 28, 1998. These organizations were COCOFED, Senior Citizens, AKAP, AKSYON, PINATUBO, NUPA, PRP, AMIN, PCCI, AMMA-KATIPUNAN, OCW-UNIFIL, KAMPIL, MAHARLIKA, AFW, Women Power, Inc., Ang Lakas OCW, FEJODAP, CUP, Veterans Care, Bantay Bayan, 4L, AWATU, PMP, ATUCP, ALU and BIGAS.

On October 15, 1998, the Comelec Second Division promulgated the present assailed Resolution granting PAG-ASA's Petition. It also ordered the proclamation of herein 38 respondents who, in addition to the 14 already sitting, would thus total 52 party-list representatives. It held that "at all times, the total number of congressional[9] seats must be filled up by eighty (80%) percent district representatives and twenty (20%) percent party-list representatives." In allocating the 52 seats, it disregarded the two percent-vote requirement prescribed under Section 11 (b) of RA 7941. Instead, it identified three "elements of the party-list system," which should supposedly determine "how the 52 seats should be filled up." First, "the system was conceived to enable the marginalized sectors of the Philippine society to be represented in the House of Representatives." Second, "the system should represent the broadest sectors of the Philippine society." Third, "it should encourage [the] multi-party system." (Boldface in the original.) Considering these elements, but ignoring the two percent threshold requirement of RA 7941, it concluded that "the party-list groups ranked Nos. 1 to 51 x x x should have at least one representative." It thus disposed as follows:

"WHEREFORE, by virtue of the powers vested in it by the Constitution, the Omnibus Election Code (B.P. 881), Republic Act No. 7941 and other election laws, the Commission (Second Division) hereby resolves to GRANT the instant petition and motions for intervention, to include those similarly situated.

ACCORDINGLY, the nominees from the party-list hereinbelow enumerated based on the list of names

submitted by their respective parties, organizations and coalitions are PROCLAIMED as party-list representatives, to wit:

- SENIOR CITIZENS
- AKAP
- AKSYON
- PINATUBO
- NUPA
- PRP
- AMIN
- PAG-ASA
- MAHARLIKA
- OCW-UNIFIL
- FCL
- AMMA-KATIPUNAN
- KAMPIL
- BANTAY BAYAN
- AFW
- ANG LAKAS OCW
- WOMENPOWER, INC.
- FEJODAP
- CUP
- VETERANS CARE
- 4L
- AWATU
- PMP
- ATUCP
- NCWP
- ALU
- BIGAS
- COPRA
- GREEN
- ANAKBAYAN

- ARBA
- MINFA
- AYOS
- ALL COOP
- PDP-LABAN
- KATIPUNAN
- ONEWAY PRINT
- AABANTE KA PILIPINAS

to complete the full complement of 52 seats in the House of Representatives as provided in Section 5, Article VI of the 1987 Constitution and R.A. 7941."

The foregoing disposition sums up a glaring bit of inconsistency and flip-flopping. In its Resolution No. 2847 dated June 25, 1996, the Comelec en banc had unanimously promulgated a set of "Rules and Regulations Governing the Election of x x x Party-List Representatives Through the Party-List System." Under these Rules and Regulations, one additional seat shall be given for every two percent of the vote, a formula the Comelec illustrated in its Annex "A." It apparently relied on this method when it proclaimed the 14 incumbent party-list solons (two for APEC and one each for the 12 other qualified parties). However, for inexplicable reasons, it abandoned said unanimous Resolution and proclaimed, based on its three "elements," the "Group of 38" private respondents.[10]

The twelve (12) parties and organizations, which had earlier been proclaimed winners on the basis of having obtained at least two percent of the votes cast for the party-list system, objected to the proclamation of the 38 parties and filed separate Motions for Reconsideration. They contended that (1) under Section 11 (b) of RA 7941, only parties, organizations or coalitions garnering at least two percent of the votes for the party-list system were entitled to seats in the House of Representatives; and (2) additional seats, not exceeding two for each, should be allocated to those which had garnered the two percent threshold in proportion to the number of votes cast for the winning parties, as provided by said Section 11.

Ruling of the Comelec En Banc

Noting that all the parties -- movants and oppositors alike - had agreed that the twenty percent membership of party-list representatives in the House "should be filled up," the Comelec en banc resolved only the issue concerning the apportionment or allocation of the remaining seats. In other words, the issue was: Should the remaining 38 unfilled seats allocated to party-list solons be given (1) to the thirteen qualified parties that had each garnered at least two percent of the total votes, or (2) to the Group of 38 - herein private respondents - even if they had not passed the two percent threshold?

The poll body held that to allocate the remaining seats only to those who had hurdled the two percent vote requirement "will mean the concentration of representation of party, sectoral or group interests in the House of Representatives to thirteen organizations representing two political parties, three coalitions and four sectors: urban poor, veterans, women and peasantry x x x. Such strict application of the 2% 'threshold' does not serve the essence and object of the Constitution and the legislature -- to develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives x x x." Additionally, it "will also prevent this Commission from complying with the

constitutional and statutory decrees for party-list representatives to compose 20% of the House of Representatives."

Thus, in its Resolution dated January 7, 1999, the Comelec en banc, by a razor-thin majority -- with three commissioners concurring^[11] and two members^[12] dissenting -- affirmed the Resolution of its Second Division. It, however, held in abeyance the proclamation of the 51st party (AABANTE KA PILIPINAS), "pending the resolution of petitions for correction of manifest errors."

Without expressly declaring as unconstitutional or void the two percent vote requirement imposed by RA 7941, the Commission blithely rejected and circumvented its application, holding that there were more important considerations than this statutory threshold.

Consequently, several petitions for certiorari, prohibition and mandamus, with prayers for the issuance of temporary restraining orders or writs of preliminary injunction, were filed before this Court by the parties and organizations that had obtained at least two per cent of the total votes cast for the party-list system.^[13] In the suits, made respondents together with the Comelec were the 38 parties, organizations and coalitions that had been declared by the poll body as likewise entitled to party-list seats in the House of Representatives. Collectively, petitioners sought the proclamation of additional representatives from each of their parties and organizations, all of which had obtained at least two percent of the total votes cast for the party-list system.

On January 12, 1999, this Court issued a Status Quo Order directing the Comelec "to CEASE and DESIST from constituting itself as a National Board of Canvassers on 13 January 1999 or on any other date and proclaiming as winners the nominees of the parties, organizations and coalitions enumerated in the dispositive portions of its 15 October 1998 Resolution or its 7 January 1999 Resolution, until further orders from this Court."

On July 1, 1999, oral arguments were heard from the parties. Atty. Jeremias U. Montemayor appeared for petitioners in GR No. 136781; Atty. Gregorio A. Andolana, for petitioners in GR No. 136786; Atty. Rodante D. Marcoleta for petitioners in GR No. 136795; Attys. Ricardo Blancaflor and Pete Quirino Quadra, for all the private respondents; Atty. Porfirio V. Sison for Intervenor NACUSIP; and Atty. Jose P. Balbuena for Respondent Comelec. Upon invitation of the Court, retired Comelec Commissioner Regalado E. Maambong acted as amicus curiae. Solicitor General Ricardo P. Galvez appeared, not for any party but also as a friend of the Court.

Thereafter, the parties and the amici curiae were required to submit their respective Memoranda in amplification of their verbal arguments.^[14]

The Issues

The Court believes, and so holds, that the main question of how to determine the winners of the subject party-list election can be fully settled by addressing the following issues:

- Is the twenty percent allocation for party-list representatives mentioned in Section 5 (2), Article VI of the Constitution, mandatory or is it merely a ceiling? In other words, should the twenty percent allocation for party-list solons be filled up completely and all the time?
- Are the two percent threshold requirement and the three-seat limit provided in Section 11 (b) of RA 7941 constitutional?
- If the answer to Issue 2 is in the affirmative, how should the additional seats of a qualified party be determined?

The Court's Ruling

The Petitions are partly meritorious. The Court agrees with petitioners that the assailed Resolutions should be nullified, but disagrees that they should all be granted additional seats.

First Issue:

Whether the Twenty Percent Constitutional Allocation Is Mandatory

The pertinent provision[15] of the Constitution on the composition of the House of Representatives reads as follows:

"Sec. 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected by a party-list system of registered national, regional, and sectoral parties or organizations.

(2) The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party-list. For three consecutive terms after the ratification of this Constitution, one half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector."

Determination of the Total

Number of Party-List Lawmakers

Clearly, the Constitution makes the number of district representatives the determinant in arriving at the number of seats allocated for party-list lawmakers, who shall comprise "twenty per centum of the total number of representatives including those under the party-list." We thus translate this legal provision into a mathematical formula, as follows:

$$\begin{array}{r}
 \text{No. of district representatives} \\
 \hline
 \times \\
 .20 \\
 \hline
 = \\
 \text{No. of party-list representatives} \\
 .80
 \end{array}$$

This formulation[16] means that any increase in the number of district representatives, as may be provided by law, will necessarily result in a corresponding increase in the number of party-list seats. To illustrate, considering that there were 208 district representatives to be elected during the 1998 national elections, the number of party-list seats would be 52, computed as follows:

$$\begin{array}{r}
 208 \\
 \hline
 \times \\
 .20
 \end{array}$$

=

52

.80

The foregoing computation of seat allocation is easy enough to comprehend. The problematic question, however, is this: Does the Constitution require all such allocated seats to be filled up all the time and under all circumstances? Our short answer is "No."

Twenty Percent Allocation a Mere Ceiling

The Constitution simply states that "[t]he party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party-list."

According to petitioners, this percentage is a ceiling; the mechanics by which it is to be filled up has been left to Congress. In the exercise of its prerogative, the legislature enacted RA 7941, by which it prescribed that a party, organization or coalition participating in the party-list election must obtain at least two percent of the total votes cast for the system in order to qualify for a seat in the House of Representatives.

Petitioners further argue that the constitutional provision must be construed together with this legislative requirement. If there is no sufficient number of participating parties, organizations or coalitions which could hurdle the two percent vote threshold and thereby fill up the twenty percent party-list allocation in the House, then naturally such allocation cannot be filled up completely. The Comelec cannot be faulted for the "incompleteness," for ultimately the voters themselves are the ones who, in the exercise of their right of suffrage, determine who and how many should represent them.

On the other hand, Public Respondent Comelec, together with the respondent parties, avers that the twenty percent allocation for party-list lawmakers is mandatory, and that the two percent vote requirement in RA 7941 is unconstitutional, because its strict application would make it mathematically impossible to fill up the House party-list complement.

We rule that a simple reading of Section 5, Article VI of the Constitution, easily conveys the equally simple message that Congress was vested with the broad power to define and prescribe the mechanics of the party-list system of representation. The Constitution explicitly sets down only the percentage of the total membership in the House of Representatives reserved for party-list representatives.

In the exercise of its constitutional prerogative, Congress enacted RA 7941. As said earlier, Congress declared therein a policy to promote "proportional representation" in the election of party-list representatives in order to enable Filipinos belonging to the marginalized and underrepresented sectors to contribute legislation that would benefit them. It however deemed it necessary to require parties, organizations and coalitions participating in the system to obtain at least two percent of the total votes cast for the party-list system in order to be entitled to a party-list seat. Those garnering more than this percentage could have "additional seats in proportion to their total number of votes." Furthermore, no winning party, organization or coalition can have more than three seats in the House of Representatives. Thus the relevant portion of Section 11(b) of the law provides:

"(b) The parties, organizations, and coalitions receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to one seat each; Provided, That those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes; Provided, finally, That each party, organization, or coalition shall be entitled to not more than three (3) seats."

Considering the foregoing statutory requirements, it will be shown presently that Section 5 (2), Article VI of the

Constitution is not mandatory. It merely provides a ceiling for party-list seats in Congress.

On the contention that a strict application of the two percent threshold may result in a "mathematical impossibility," suffice it to say that the prerogative to determine whether to adjust or change this percentage requirement rests in Congress.[17] Our task now, as should have been the Comelec's, is not to find fault in the wisdom of the law through highly unlikely scenarios of clinical extremes, but to craft an innovative mathematical formula that can, as far as practicable, implement it within the context of the actual election process.

Indeed, the function of the Supreme Court, as well as of all judicial and quasi-judicial agencies, is to apply the law as we find it, not to reinvent or second-guess it. Unless declared unconstitutional, ineffective, insufficient or otherwise void by the proper tribunal, a statute remains a valid command of sovereignty that must be respected and obeyed at all times. This is the essence of the rule of law.

Second Issue:

The Statutory Requirement and Limitation

The Two Percent Threshold

In imposing a two percent threshold, Congress wanted to ensure that only those parties, organizations and coalitions having a sufficient number of constituents deserving of representation are actually represented in Congress. This intent can be gleaned from the deliberations on the proposed bill. We quote below a pertinent portion of the Senate discussion:

"SENATOR GONZALES: For purposes of continuity, I would want to follow up a point that was raised by, I think, Senator Osmeña when he said that a political party must have obtained at least a minimum percentage to be provided in this law in order to qualify for a seat under the party-list system.

They do that in many other countries. A party must obtain at least 2 percent of the votes cast, 5 percent or 10 percent of the votes cast. Otherwise, as I have said, this will actually proliferate political party groups and those who have not really been given by the people sufficient basis for them to represent their constituents and, in turn, they will be able to get to the Parliament through the backdoor under the name of the party-list system, Mr. President." [18]

A similar intent is clear from the statements of the bill sponsor in the House of Representatives, as the following shows:

"MR. ESPINOSA. There is a mathematical formula which this computation is based at, arriving at a five percent ratio which would distribute equitably the number of seats among the different sectors. There is a mathematical formula which is, I think, patterned after that of the party list of the other parliaments or congresses, more particularly the Bundestag of Germany." [19]

Moreover, even the framers of our Constitution had in mind a minimum-vote requirement, the specification of which they left to Congress to properly determine. Constitutional Commissioner Christian S. Monsod explained:

"MR. MONSOD. x x x We are amenable to modifications in the minimum percentage of votes. Our proposal is that anybody who has two-and-a-half percent of the votes gets a seat. There are about 20 million who cast their votes in the last elections. Two-and-a-half percent would mean 500,000 votes. Anybody who has a constituency of 500,000 votes nationwide deserves a seat in the Assembly. If we bring that down to two percent, we are talking about 400,000 votes. The average vote per family is three. So, here we are talking about 134,000 families. We believe that there are many sectors who will be able to get seats in the Assembly because many of them have memberships of over 10,000. In effect, that is the operational implication of our proposal. What we are trying to avoid is this selection of sectors, the reserve seat system. We believe that it is our job to

open up the system and that we should not have within that system a reserve seat. We think that people should organize, should work hard, and should earn their seats within that system." [20]

The two percent threshold is consistent not only with the intent of the framers of the Constitution and the law, but with the very essence of "representation." Under a republican or representative state, all government authority emanates from the people, but is exercised by representatives chosen by them. [21] But to have meaningful representation, the elected persons must have the mandate of a sufficient number of people. Otherwise, in a legislature that features the party-list system, the result might be the proliferation of small groups which are incapable of contributing significant legislation, and which might even pose a threat to the stability of Congress. Thus, even legislative districts are apportioned according to "the number of their respective inhabitants, and on the basis of a uniform and progressive ratio" [22] to ensure meaningful local representation.

All in all, we hold that the statutory provision on this two percent requirement is precise and crystalline. When the law is clear, the function of courts is simple application, not interpretation or circumvention. [23]

The Three-Seat-Per-Party Limit

An important consideration in adopting the party-list system is to promote and encourage a multiparty system of representation. Again, we quote Commissioner Monsod:

"MR. MONSOD. Madam President, I just want to say that we suggested or proposed the party list system because we wanted to open up the political system to a pluralistic society through a multiparty system. But we also wanted to avoid the problems of mechanics and operation in the implementation of a concept that has very serious shortcomings of classification and of double or triple votes. We are for opening up the system, and we would like very much for the sectors to be there. That is why one of the ways to do that is to put a ceiling on the number of representatives from any single party that can sit within the 50 allocated under the party list system. This way, we will open it up and enable sectoral groups, or maybe regional groups, to earn their seats among the fifty. x x x." [24]

Consistent with the Constitutional Commission's pronouncements, Congress set the seat-limit to three (3) for each qualified party, organization or coalition. "Qualified" means having hurdled the two percent vote threshold. Such three-seat limit ensures the entry of various interest-representations into the legislature; thus, no single group, no matter how large its membership, would dominate the party-list seats, if not the entire House.

We shall not belabor this point, because the validity of the three-seat limit is not seriously challenged in these consolidated cases.

Third Issue:

Method of Allocating Additional Seats

Having determined that the twenty percent seat allocation is merely a ceiling, and having upheld the constitutionality of the two percent vote threshold and the three-seat limit imposed under RA 7941, we now proceed to the method of determining how many party-list seats the qualified parties, organizations and coalitions are entitled to. The very first step - there is no dispute on this - is to rank all the participating parties, organizations and coalitions (hereafter collectively referred to as "parties") according to the votes they each obtained. The percentage of their respective votes as against the total number of votes cast for the party-list system is then determined. All those that garnered at least two percent of the total votes cast have an assured or guaranteed seat in the House of Representatives. Thereafter, "those garnering more than two percent of the votes shall be entitled to additional seats in proportion to their total number of votes." The problem is how to distribute additional seats "proportionally," bearing in mind the three-seat limit further imposed by the law.

One Additional Seat Per Two Percent Increment

One proposed formula is to allocate one additional seat for every additional proportion of the votes obtained equivalent to the two percent vote requirement for the first seat.[25] Translated in figures, a party that wins at least six percent of the total votes cast will be entitled to three seats; another party that gets four percent will be entitled to two seats; and one that gets two percent will be entitled to one seat only. This proposal has the advantage of simplicity and ease of comprehension. Problems arise, however, when the parties get very lop-sided votes -- for example, when Party A receives 20 percent of the total votes cast; Party B, 10 percent; and Party C, 6 percent. Under the method just described, Party A would be entitled to 10 seats; Party B, to 5 seats and Party C, to 3 seats. Considering the three-seat limit imposed by law, all the parties will each uniformly have three seats only. We would then have the spectacle of a party garnering two or more times the number of votes obtained by another, yet getting the same number of seats as the other one with the much lesser votes. In effect, proportional representation will be contravened and the law rendered nugatory by this suggested solution. Hence, the Court discarded it.

The Niemeyer Formula

Another suggestion that the Court considered was the Niemeyer formula, which was developed by a German mathematician and adopted by Germany as its method of distributing party-list seats in the Bundestag. Under this formula, the number of additional seats to which a qualified party would be entitled is determined by multiplying the remaining number of seats to be allocated by the total number of votes obtained by that party and dividing the product by the total number of votes garnered by all the qualified parties. The integer portion of the resulting product will be the number of additional seats that the party concerned is entitled to. Thus:

No. of remaining seats to be allocated
 No. of votes of party concerned
 No. of additional seats of party concerned (Integer decimal)

x

=

Total no. of votes of qualified parties

The next step is to distribute the extra seats left among the qualified parties in the descending order of the decimal portions of the resulting products. Based on the 1998 election results, the distribution of party-list seats under the Niemeyer method would be as follows:

Party	Number of Votes	Guaranteed Seats	Additional Seats	Extra Seats	Total
1. APEC	503,487				

1

5.73

1

7

2. ABA

321,646

1

3.66

1

5

3. ALAGAD

312,500

1

3.55

4

4. VETERANS FEDERATION

304,802

1

3.47

4

5. PROMDI

255,184

1

2.90

1

4

6. AKO

239,042

1

2.72

1

4

7. NCSCFO

238,303

1

2.71

1

4

8. ABANSE! PINAY

235,548

1

2.68

1

4

9. AKBAYAN

232,376

1

2.64

1

4

10. BUTIL

215,643

1

2.45

3

11. SANLAKAS

194,617

1

2.21

3

12. COOP-NATCCO

189,802

1

2.16

3

13. COCOFED

186,388

1

2.12

3

Total

3,429,338

13

32

7

52

However, since Section 11 of RA 7941 sets a limit of three (3) seats for each party, those obtaining more than the limit will have to give up their excess seats. Under our present set of facts, the thirteen qualified parties will each be entitled to three seats, resulting in an overall total of 39. Note that like the previous proposal, the Niemeyer formula would violate the principle of "proportional representation," a basic tenet of our party-list system.

The Niemeyer formula, while no doubt suitable for Germany, finds no application in the Philippine setting, because of our three-seat limit and the non-mandatory character of the twenty percent allocation. True, both our Congress and the Bundestag have threshold requirements -- two percent for us and five for them. There are marked differences between the two models, however. As ably pointed out by private respondents,[26] one half of the German Parliament is filled up by party-list members. More important, there are no seat limitations, because German law discourages the proliferation of small parties. In contrast, RA 7941, as already mentioned, imposes a three-seat limit to encourage the promotion of the multiparty system. This major statutory difference makes the Niemeyer formula completely inapplicable to the Philippines.

Just as one cannot grow Washington apples in the Philippines or Guimaras mangoes in the Arctic because of fundamental environmental differences, neither can the Niemeyer formula be transplanted in toto here because of essential variances between the two party-list models.

The Legal and Logical Formula for the Philippines

It is now obvious that the Philippine style party-list system is a unique paradigm which demands an equally unique formula. In crafting a legally defensible and logical solution to determine the number of additional seats that a qualified party is entitled to, we need to review the parameters of the Filipino party-list system.

As earlier mentioned in the Prologue, they are as follows:

First, the twenty percent allocation - the combined number of all party-list congressmen shall not exceed twenty percent of the total membership of the House of Representatives, including those elected under the party list.

Second, the two percent threshold - only those parties garnering a minimum of two percent of the total valid votes cast for the party-list system are "qualified" to have a seat in the House of Representatives;

Third, the three-seat limit - each qualified party, regardless of the number of votes it actually obtained, is entitled to a maximum of three seats; that is, one "qualifying" and two additional seats.

Fourth, proportional representation - the additional seats which a qualified party is entitled to shall be computed "in proportion to their total number of votes."

The problem, as already stated, is to find a way to translate "proportional representation" into a mathematical formula that will not contravene, circumvent or amend the above-mentioned parameters.

After careful deliberation, we now explain such formula, step by step.

Step One. There is no dispute among the petitioners, the public and the private respondents, as well as the members of this Court, that the initial step is to rank all the participating parties, organizations and coalitions from the highest to the lowest based on the number of votes they each received. Then the ratio for each party is computed by dividing its votes by the total votes cast for all the parties participating in the system. All parties with at least two percent of the total votes are guaranteed one seat each. Only these parties shall be considered in the computation of additional seats. The party receiving the highest number of votes shall thenceforth be referred to as the "first" party.

Step Two. The next step is to determine the number of seats the first party is entitled to, in order to be able to compute that for the other parties. Since the distribution is based on proportional representation, the number of seats to be allotted to the other parties cannot possibly exceed that to which the first party is entitled by virtue of its obtaining the most number of votes.

For example, the first party received 1,000,000 votes and is determined to be entitled to two additional seats. Another qualified party which received 500,000 votes cannot be entitled to the same number of seats, since it garnered only fifty percent of the votes won by the first party. Depending on the proportion of its votes relative to that of the first party whose number of seats has already been predetermined, the second party should be given less than that to which the first one is entitled.

The other qualified parties will always be allotted less additional seats than the first party for two reasons: (1) the ratio between said parties and the first party will always be less than 1:1, and (2) the formula does not admit of mathematical rounding off, because there is no such thing as a fraction of a seat. Verily, an arbitrary rounding off could result in a violation of the twenty percent allocation. An academic mathematical demonstration of such incipient violation is not necessary because the present set of facts, given the number of qualified parties and the voting percentages obtained, will definitely not end up in such constitutional contravention.

The Court has previously ruled in *Guingona Jr. v. Gonzales*[27] that a fractional membership cannot be converted into a whole membership of one when it would, in effect, deprive another party's fractional membership. It would be a violation of the constitutional mandate of proportional representation. We said further that "no party can claim more than what it is entitled to x x x."

In any case, the decision on whether to round off the fractions is better left to the legislature. Since Congress did not provide for it in the present law, neither will this Court. The Supreme Court does not make the law; it merely applies it to a given set of facts.

Formula for Determining Additional Seats for the First Party

Now, how do we determine the number of seats the first party is entitled to? The only basis given by the law is that a party receiving at least two percent of the total votes shall be entitled to one seat. Proportionally, if the first party were to receive twice the number of votes of the second party, it should be entitled to twice the latter's number of seats and so on. The formula, therefore, for computing the number of seats to which the first party is entitled is as follows:

$$\frac{\text{Number of votes of first party}}{\text{Proportion of votes of first party relative to total votes for party-list system}} = \text{Total votes for party-list system}$$

If the proportion of votes received by the first party without rounding it off is equal to at least six percent of the total valid votes cast for all the party list groups, then the first party shall be entitled to two additional seats or a total of three seats overall. If the proportion of votes without a rounding off is equal to or greater than four percent, but less than six percent, then the first party shall have one additional or a total of two seats. And if the proportion is less than four percent, then the first party shall not be entitled to any additional seat.

We adopted this six percent bench mark, because the first party is not always entitled to the maximum number of additional seats. Likewise, it would prevent the allotment of more than the total number of available seats, such as in an extreme case wherein 18 or more parties tie for the highest rank and are thus entitled to three seats each. In such scenario, the number of seats to which all the parties are entitled may exceed the maximum number of party-list seats reserved in the House of Representatives.

Applying the above formula, APEC, which received 5.5% of the total votes cast, is entitled to one additional seat or a total of two seats.

Note that the above formula will be applicable only in determining the number of additional seats the first party is entitled to. It cannot be used to determine the number of additional seats of the other qualified parties. As explained earlier, the use of the same formula for all would contravene the proportional representation parameter. For example, a second party obtains six percent of the total number of votes cast. According to the above formula, the said party would be entitled to two additional seats or a total of three seats overall. However, if the first party received a significantly higher amount of votes -- say, twenty percent -- to grant it the same number of seats as the second party would violate the statutory mandate of proportional representation, since a party getting only six percent of the votes will have an equal number of representatives as the one obtaining twenty percent. The proper solution, therefore, is to grant the first party a total of three seats; and the party receiving six percent, additional seats in proportion to those of the first party.

Formula for Additional Seats of Other Qualified Parties

Step Three The next step is to solve for the number of additional seats that the other qualified parties are entitled to, based on proportional representation. The formula is encompassed by the following complex fraction:

$$\frac{\text{No. of votes of concerned party}}{\text{-----}}$$

Total no. of votes for party-list system

Additional seats for concerned party

=

x

No. of additional seats allocated to the first party

No. of votes of first party

Total no. of votes for party list system

In simplified form, it is written as follows:

No. of votes of concerned party

Additional seats for concerned party

=

x

No. of additional seats allocated to the first party

No. of votes of first party

Thus, in the case of ABA, the additional number of seats it would be entitled to is computed as follows:

No. of votes of ABA

Additional seats for concerned party (ABA)

=

x

No. of additional seats allocated to the first party

No. of votes of first party (APEC)

Substituting actual values would result in the following equation:

321,646

Additional seats for concerned party (ABA)

=

x 1

= .64 or 0 additional seat, since rounding off is not to be applied

503,487

Applying the above formula, we find the outcome of the 1998 party-list election to be as follows:

Organization

Votes Garnered

% age of Total Votes

Initial No. of Seats

Additional Seats

Total

1. APEC

503,487

5.50%

1

1

2

2. ABA

321,646

3.51%

1

$321,646 / 503,487 *$

$1 = 0.64$

1

3. ALAGAD

312,500

3.41%

1

$312,500 / 503,487 *$

$1 = 0.62$

1

4. VETERANS FEDERATION

304,802

3.33%

1

304,802 / 503,487 *

1 = 0.61

1

5. PROMDI

255,184

2.79%

1

255,184 / 503,487 *

1 = 0.51

1

6. AKO

239,042

2.61%

1

239,042 / 503,487 *

1 = 0.47

1

7. NCSFO

238,303

2.60%

1

238,303 / 503,487 *

1 = 0.47

1

8. ABANSE! PINAY

235,548

2.57%

1

321,646 / 503,487 *

1 = 0.47

1

9. AKBAYAN!

232,376

2.54%

1

232,376 / 503,487 *

1 = 0.46

1

10. BUTIL

215,643

2.36%

1

215,643 / 503,487 *

1 = 0.43

1

11. SANLAKAS

194,617

2.13%

1

194,617 / 503,487 *

1 = 0.39

1

12. COOP-NATCCO

189,802

2.07%

1

$$189,802 / 503,487 *$$

$$1 = 0.38$$

1

13. COCOFED

186,388

2.04%

1

$$186,388 / 503,487 *$$

$$1 = 0.37$$

1

Incidentally, if the first party is not entitled to any additional seat, then the ratio of the number of votes for the other party to that for the first one is multiplied by zero. The end result would be zero additional seat for each of the other qualified parties as well.

The above formula does not give an exact mathematical representation of the number of additional seats to be awarded since, in order to be entitled to one additional seat, an exact whole number is necessary. In fact, most of the actual mathematical proportions are not whole numbers and are not rounded off for the reasons explained earlier. To repeat, rounding off may result in the awarding of a number of seats in excess of that provided by the law. Furthermore, obtaining absolute proportional representation is restricted by the three-seat-per-party limit to a maximum of two additional slots. An increase in the maximum number of additional representatives a party may be entitled to would result in a more accurate proportional representation. But the law itself has set the limit: only two additional seats. Hence, we need to work within such extant parameter.

The net result of the foregoing formula for determining additional seats happily coincides with the present number of incumbents; namely, two for the first party (APEC) and one each for the twelve other qualified parties. Hence, we affirm the legality of the incumbencies of their nominees, albeit through the use of a different formula and methodology.

In his Dissent, Justice Mendoza criticizes our methodology for being too strict. We say, however, that our formula merely translated the Philippine legal parameters into a mathematical equation, no more no less. If Congress in its wisdom decides to modify RA 7941 to make it "less strict," then the formula will also be modified to reflect the changes willed by the lawmakers.

Epilogue

In sum, we hold that the Comelec gravely abused its discretion in ruling that the thirty-eight (38) herein respondent parties, organizations and coalitions are each entitled to a party-list seat, because it glaringly violated two requirements of RA 7941: the two percent threshold and proportional representation.

In disregarding, rejecting and circumventing these statutory provisions, the Comelec effectively arrogated unto itself what the Constitution expressly and wholly vested in the legislature: the power and the discretion to define the mechanics for the enforcement of the system. The wisdom and the propriety of these impositions, absent any clear transgression of the Constitution or grave abuse of discretion amounting to lack or excess of jurisdiction, are beyond judicial review.[28]

Indeed, the Comelec and the other parties in these cases - both petitioners and respondents - have failed to demonstrate that our lawmakers gravely abused their discretion in prescribing such requirements. By grave abuse of discretion is meant such capricious or whimsical exercise of judgment equivalent to lack or excess of jurisdiction.[29]

The Comelec, which is tasked merely to enforce and administer election-related laws,[30] cannot simply disregard an act of Congress exercised within the bounds of its authority. As a mere implementing body, it cannot judge the wisdom, propriety or rationality of such act. Its recourse is to draft an amendment to the law and lobby for its approval and enactment by the legislature.

Furthermore, a reading of the entire Constitution reveals no violation of any of its provisions by the strict enforcement of RA 7941. It is basic that to strike down a law or any of its provisions as unconstitutional, there must be a clear and unequivocal showing that what the Constitution prohibits, the statute permits.[31]

Neither can we grant petitioners' prayer that they each be given additional seats (for a total of three each), because granting such plea would plainly and simply violate the "proportional representation" mandated by Section 11 (b) of RA 7941.

The low turnout of the party-list votes during the 1998 elections should not be interpreted as a total failure of the law in fulfilling the object of this new system of representation. It should not be deemed a conclusive indication that the requirements imposed by RA 7941 wholly defeated the implementation of the system. Be it remembered that the party-list system, though already popular in parliamentary democracies, is still quite new in our presidential system. We should allow it some time to take root in the consciousness of our people and in the heart of our tripartite form of republicanism. Indeed, the Comelec and the defeated litigants should not despair.

Quite the contrary, the dismal result of the first election for party-list representatives should serve as a challenge to our sectoral parties and organizations. It should stir them to be more active and vigilant in their campaign for representation in the State's lawmaking body. It should also serve as a clarion call for innovation and creativity in adopting this novel system of popular democracy.

With adequate information dissemination to the public and more active sectoral parties, we are confident our people will be more responsive to future party-list elections. Armed with patience, perseverance and perspicacity, our marginalized sectors, in time, will fulfill the Filipino dream of full representation in Congress under the aegis of the party-list system, Philippine style.

WHEREFORE, the Petitions are hereby partially GRANTED. The assailed Resolutions of the Comelec are SET ASIDE and NULLIFIED. The proclamations of the fourteen (14) sitting party-list representatives - two for APEC and one each for the remaining twelve (12) qualified parties - are AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon Jr., JJ., concur.

Bellosillo, Melo, and Vitug, JJ., in the result.

Puno, J., see separate concurring opinion.

Mendoza, J., dissents.

Kapunan, and Quisumbing, JJ., join the opinion of J. Mendoza.

[*] At the outset of this case, I offered to inhibit myself from participating in these cases because, prior to my appointment to this Court, I had been a general counsel and director of one of the respondents. However, the

Court unanimously resolved to deny my request for the following reasons: (1) I was merely a voluntary non-compensated officer of the non-profit Philippine Chamber of Commerce and Industry (PCCI), (2) the present case and its antecedents were not extant during my incumbency at PCCI, and (3) this case involved important constitutional questions, and the Court believed that all justices should as much as possible participate and vote. This Court action was announced during the Oral Argument on July 1, 1999.

[1] Rollo in GR No. 136781, pp. 62-71. Penned by Comm. Japal M. Guiani, concurred in by Comm. Abdul Gani M. Marohombsar, Al. Haj.; with Pres. Comm. Julio F. Desamito, dissenting.

[2] People's Progressive Alliance for Peace and Good Government Toward Alleviation of Poverty and Social Advancement (PAG-ASA) v. Comelec.

[3] Rollo in GR No. 136781, pp. 81-109. Per curiam, concurred in by Comm. and Officer-in-Charge Luzviminda G. Tancangco, and Comms. Japal M. Guiani and Abdul Gani M. Marohombsar, Al. Haj. Comms. Julio F. Desamito and Teresita Dy-Liacco Flores dissented; while Comm. Manolo B. Gorospe took no part, being "out of town."

[4] See II Record of the Constitutional Commission 253.

[5] §10, RA 7941.

[6] Commission on Elections, Party-List Canvass Report No. 16 (By Rank); Assailed Comelec en banc Resolution, p. 22.

[7] Resolution No. 3047-C, September 9, 1998.

[8] People's Reform Party (PRP), Ang Lakas OCW, KAMPIL, Maharlika, Women Power, Inc., NACUSIP, Aniban Ng Mga Magsasaka, Mangingisda at Manggagawa sa Agrikultura Inc., All Trade Unions Congress Party (ATUCP), and Anak-Mindanao (AMIN).

[9] More accurately, it should be "House of Representatives."

[10] See Dissenting Opinion of Comm. T.D. Flores and the Memorandum for petitioners in GR No. 136786 which was filed with the Court on July 12, 1999 and signed by Attys. Hans Leo J. Cacdac, Raissa H. Jajurie and Manuel Senar.

[11] Comms. Luzviminda G. Tancangco, Japal M. Guiani and Abdul Gani M. Marohombsar.

[12] Comms. Julio F. Desamito and Teresita Dy-Liacco Flores. Comm. Manolo B. Gorospe did not vote, as he was "out of town."

[13] The Petitions of PROMDI, ABANSE! PINAY and COOP-NATCCO were dismissed for procedural deficiencies. SANLAKAS did not file any petition.

[14] These consolidated cases were deemed submitted for resolution upon receipt by the Court of Intervenor NACUSIP's Memorandum on July 20, 1999. This was signed by Attys. Froilan M. Bacungan, Porfirio V. Sison and Zoilo V. de la Cruz. The writing of this Decision was, however, assigned to this ponente only on September 26, 2000 during the deliberations and verbal discussions of the contentious issues, wherein the Court, by majority vote, upheld his then dissenting views.

[15] §5, Article VI, 1987 Constitution.

[16] In their Consolidated Memorandum filed on July 12, 1999 and signed by Attys. Rodante B. Marcoleta,

Jeremias U. Montemayor, R.A.V. Saguisag, Romeo G. Roxas and Katrina Legarda-Santos, petitioners submitted this similar computation:

$$"208 : \frac{1}{4} = 208/4 = 52 \text{ or } 208 : 0.8 (0.20) = 52"$$

[17] See the Concurring Opinion of Comm. Tancangco, in which she posits that the "strict application" of the two percent threshold may become a "mathematical impossibility," because "52 seats multiplied by two percent yields a total of 104 percent." Though theoretically imaginable, such feared impossibility will not ripen to a judicial controversy, because two percent of the votes will never be achieved by each of 52 parties in the same election. In short, the fear is purely academic. Besides, the mathematical impossibility wrongly assumes that the Constitution requires all 52 seats to be filled up all the time. See also Memorandum for private respondents dated July 9, 1999 and signed by Attys. Arturo M. Tolentino, C. Fortunato R. Balasbas and Miguel Amador S.O. Camero.

[18] II Record of the Senate 145, Second Regular Session, Ninth Congress.

[19] Transcript, House of Representatives, November 22, 1994, p. 34.

[20] II Record of the Constitutional Commission 256.

[21] Joaquin G. Bernas, SJ, *The 1987 Constitution of the Philippines: A Reviewer-Primer*, 2nd ed. (1992), p. 15.

[22] §5, Article VI of the Constitution.

[23] *Quijano v. Development Board*, 35 SCRA 270, October 16, 1970; *Luzon Surety v. de Garcia*, 30 SCRA 111, October 31, 1969, cited in the Memorandum of the Solicitor General, filed on July 12, 1999 and signed by Sol. Gen. Ricardo P. Galvez, Asst. Sol. Gen. Cecilio O. Estoesta and Sol. Ma. Antonia Edita C. Dizon.

[24] *Supra*.

[25] In its en banc Resolution No. 2847 dated June 25, 1996, Comelec adopted this simple formula, but discarded it in the assailed Resolutions.

[26] In fairness, the Group of 38 explains these differences in the context of its concluding plea to dilute the two percent threshold. See Memorandum for private respondents, pp. 44-46.

[27] 214 SCRA 789, October 20, 1992; 219 SCRA 329, March 1, 1993 (Resolution on the Motion for Reconsideration).

[28] See *Tañada v. Angara*, 272 SCRA 18, May 2, 1997; *Santiago v. Guingona*, 298 SCRA 756, November 18, 1998.

[29] *Commissioner of Internal Revenue v. Court of Appeals*, 257 SCRA 200, 209, June 4, 1996; *Santiago v. Guingona Jr.*, 298 SCRA 756, 786, November 18, 1998; *People v. Court of Appeals and Casan Maquiling*, GR No. 128986, June 21, 1999.

[30] §2 (1), Article IX-C of the Constitution.

[31] *Garcia v. Commission on Elections*, 227 SCRA 100, October 5, 1993.

SEPARATE CONCURRING OPINION

PUNO, J.:I. Prefatory Statement

The case at bar is one of first impression and of immense difficulty. The constitutional issues involved are full of

slippery slopes but the most difficult one concerns the apportionment of additional seats to the parties that hurdled the 2% threshold requirement. There is much to be admired in the mathematical formula forwarded by our esteemed colleague, Mr. Justice Vicente V. Mendoza, but with due respect, I find more attractive the majority formula, crafted with equal expertise by another esteemed colleague, Mr. Justice Artemio Panganiban. To be sure, the two formulae may be faulted by mathematicians obsessed with exactitude but the fault lies with the inexactitude of the law itself. However it may be, I join the majority of my brethren for I find its geometry of the phrase "proportionately according to the percentage of votes obtained by each party, organization, or coalition as against the total nationwide votes cast for the party-list system" more expressive of the spirit of the Constitution, albeit, arguable.

II. Issues

The case at bar, however, is suffused with other significant constitutional issues. They are:

- Is it a mandatory requirement that a party/organization/coalition should obtain at least 2% of the total votes cast for the party-list system to be entitled to a seat?
- Is it mandatory to fill up all the 52 seats allotted for the party-list representatives of the House of Representatives as provided for under Article VI, Sec. 5(2) of the 1987 Constitution? If so, how are the seats to be allocated?
- Whether Sec. 5(2), Article VI of the Constitution requires that every time the number of district representatives is increased from 200 there should be a corresponding increase in the number of party-list representatives so that, as there are now 208 district representatives, there should be 52 party-list representatives constituting 20% of the total number of members of the House of Representatives;
- Whether the 2% threshold requirement in Section 11(b), R.A. 7941 is not unconstitutional; and
- Whether the three-seat limit provided in Section 11 (b), R.A. 7941 is not unconstitutional.

In addition to the scholarly disquisitions of the majority opinion, I humbly offer the following:

III. Submissions

A. The 2% threshold requirement

Respondent Commission refused to give a strict and literal interpretation to the 2% requirement of Section 11 of R.A. 7941 on the ground that it runs contrary to the Constitution and the law which is "to enable the marginalized sectors of the Philippine society to be represented in the House of Representatives," "to represent the broadest sector of the Philippine society," and "to encourage multi-party system." It likewise proffered the thesis that to allow only the 13 proclaimed parties/organization to be represented in the House of Representatives will result in the concentration of party-list representation to only a few sectors, namely urban poor, veterans, women and peasantry. Thus, respondent Commission holds that all the sectors should be equally represented and hence should be given one seat each.

Like the majority of the brethren, I cannot support such a stance. The Record of the 1986 Constitutional Commission, as well as that of the Senate deliberations, will clearly disclose a specific intent to impose a minimum percentage of votes to be obtained, that is, at least two (2%) percent of the total votes cast nationwide, in order that a party/organization/coalition under the party-list system may have a seat in the House of Representatives. I quote relevant excerpts from the Record of the 1986 Constitutional Commission:

"a) MR. MONSOD. x x x [A]nybody who has at least 2 1/2 percent of the vote qualifies and the 50 seats are apportioned among all of these parties who get at least 2 1/2 percent of the vote.

"What does that mean? It means that any group or party who has a constituency of, say, 500,000 nationwide gets a seat in the National Assembly. What is the justification for that? When we allocate legislative districts, we are saying that any district that has 200,000 votes gets a seat. There is no reason why a group that has a national constituency, even if it is a sectoral or special interest group, should not have a voice in the National Assembly. x x x If each of them gets only one percent or five of them get one percent, they are not entitled to any representative. So, they will begin to think that if they really have a common interest, they should band together, form a coalition and get five percent of the vote and, therefore, have two seats in the Assembly. Those are the dynamics of a party list system.

"We feel that this approach gets around the mechanics of sectoral representation while at the same time making sure that those who really have a national constituency or sectoral constituency will get a chance to have a seat in the National Assembly.[1]

"b) MR. MONSOD. x x x When these parties register with the COMELEC, they would simultaneously submit a list of the people who would sit in case they win the required number of votes in the order in which they place them. x x x If they win the required number of votes, let us say they win 400,000 votes, then they will have one seat. If they win 2 million votes, then they will have five seats.[2]

"c) MR. MONSOD. Madam President, I just want to say that we suggested or proposed the party list system because we wanted to open up the political system to a pluralistic society through a multiparty system. But we also wanted to avoid the problems of mechanics and operation in the implementation of a concept that has very serious shortcomings of classification and of double or triple votes. We are for opening up the system, and we would like very much for the sectors to be there. That is why one of the ways to do that is to put a ceiling on the number of representatives from any single party that can sit within the 50 allocated under the party list system. This way, we will open it up and enable sectoral groups, or maybe regional groups, to earn their seats among the fifty. When we talk about limiting it, if there are two parties, then we are opening it up to the extent of 30 seats. We are amenable to modifications in the minimum percentage of votes. Our proposal is that anybody who has two-and-a-half percent of the votes gets a seat. There are about 20 million who cast their votes in the last elections. Two-and-a-half percent would mean 500,000 votes. Anybody who has a constituency of 500,000 votes, nationwide, deserves a seat in the Assembly. If we bring that down to two percent, we are talking about 400,000 votes. The average vote per family is three. So, here we are talking about 134,000 families. We believe that there are many sectors who will be able to get seats in the Assembly because many of them have memberships over 10,000. In effect, that is the operational implication of our proposal. What we are trying to avoid is this selection of sectors, the reserve seat system. We believe that it is our job to open up the system and that we should not have within that system a reserve seat. We think that people should organize, should work hard, and should earn their seats within that system.[3]

"d) MR. TADEO. x x x Ngayon, sa ganitong kalagayan, gusto ko po lamang ipaliwanag ang party list. Ang ibig sabihin nito, doon sa ilalim ng two-party system, kapag kumuha ka ng 51 percent, iyong ibang partido ay wala nang nakuhang puwesto sa legislature. Ang ibig sabihin ng party list system, makakuha ka lamang ng 2.5 percent ay mayroon ka nang isang puwesto.[4]

Similarly, I call attention to the pertinent debates in the Senate, viz.:

"a) Senator Gonzales: Yes, Mr. President. But nonetheless, if his party qualifies, at least, for the minimum number of the requirement to be entitled to a seat, then he would be proclaimed by the Commission as having been elected under the party-list system.[5]

"b) Senator Gonzales: For purposes of continuity, I would want to follow up a point that was raised by, I think, Senator Osmena when he said that a political party must have obtained at least a minimum percentage to be provided in this law in order to qualify for a seat under the party-list system.

"They do that in many other countries. A party must obtain at least 2 percent of the votes cast, 5 percent or 10

percent of the votes cast. Otherwise, as I have said, this will actually proliferate political party groups and those who have not really been given by the people sufficient basis for them to represent their constituents and, in turn, they will be able to get to the Parliament through the backdoor under the name of party-list system, Mr. President.[6]

"c) Senator Tolentino: x x x Mr. President, the required number of votes here refers to the votes that will qualify it for certain number of representatives. The phrase "required number of votes" simply means here the number of votes that will qualify it to have a certain number of representatives in the House of Representatives.[7]

"d) Senator Gonzales: Would not all of them be entitled to a proportionate seat in the three categories allocated for the party-list members?

"Senator Tolentino: If they do not receive the votes that would be needed in order to give them a proportionate number of seats, then, of course, they would not have any seat in the category in which they are.

"Senator Gonzales: That is why in my interpellation during our last session, I suggested that, probably, it would be better to set a minimum percentage of votes to be received by them in order to qualify for a seat so that we can, more or less, limit the party-list members to those who obtain a substantial portion of the votes cast, Mr. President.[8]

"e) Senator Gonzales: x x x The idea is to open the system so that it is not all or nothing. Kahit na hindi manalo ang kaniyang kandidato but he obtained at least the minimum number of votes cast, which I would propose later in order to ensure that only those with a more or less substantial following can be represented, then the purpose of party-list system has already been achieved.[9]

"f) Senator Gonzales: My amendment, Mr. President, will be x x x add the following: "Provided, however that a political party or group whether national, regional, or sectoral must obtain at least two (2) percent of the votes cast to be entitled to a seat."

"Senator Tolentino: A minimum of 2 percent of what?

"Senator Gonzales: My initial position, Mr. President, is the total votes cast nationwide. At least, it would have a right to demand representation. Imagine a political party obtaining only 10,000 votes nationwide, it is already entitled to a seat. I do not think that is doing justice to the representative system.[10]

"g) Senator Gonzales: x x x We said that in the minimum number of votes for a political party, whether national or regional or a sectoral organization to be entitled to the party list, it must have received at least 2 percent of the votes cast in that category."[11]

The rationale for the 2% threshold can thus be synthesized as follows:

- to avoid a situation where the candidate will just use the party-list system as a fallback position;[12]
- to discourage nuisance candidates or parties, who are not ready and whose chances are very low, from participating in the elections;[13]
- to avoid the reserve seat system by opening up the system ;
- to encourage the marginalized sectors to organize, work hard, and earn their seats within the system;[14]
- to enable sectoral representatives to rise to the same majesty as that of the elected representatives in the legislative body, rather than owing to some degree their seats in the legislative body either to an outright constitutional gift or to an appointment by the President of the Philippines;[15]
- if no threshold is imposed, this will actually proliferate political party groups and those who have not really been

given by the people sufficient basis for them to represent their constituents and, in turn, they will be able to get to the Parliament through the backdoor under the name of the party-list system;[16] and

- to ensure that only those with a more or less substantial following can be represented.[17]

We are not at liberty to pass judgment on the wisdom of the law. The principle of separation of powers prohibits this Court from engaging in judicial legislation. Both the legislative intent and the language of the law as to the 2% threshold requirement are clear and unambiguous. It leaves no room for further interpretation. It demands our obeisance.

Respondent Commission is of the mind that the sectoral groups have a vested right to a seat in the House of Representatives. It assumes that this is mandated by the law which aims to provide a party-list system where the marginalized and underrepresented sectors of society can actively participate and attain the broadest possible representation in the House of Representatives. The assumption cannot stand scrutiny.

First, in order that a sectoral group or party can participate under the party-list system, it should comply with certain statutory requirements such as the filing, before the Comelec, of a manifestation (Section 4) and a petition (Section 5) expressing its intent to participate in the party-list system. Comelec is required to verify and review such petition, and is empowered to refuse or cancel the registration of a sectoral party on grounds stated in the law.

Second, during the deliberations in the Constitutional Commission and the Senate, it was clear that the party-list system is not synonymous with that of sectoral representation. Sectoral representation means that certain sectors would have reserved seats; under the party-list system, there are no reserved seats for sectors.[18] The party-list system recognizes the right of sectoral parties or organizations to register. Nonetheless, it only enables these sectors to be part of the party, if they have the capacity, but it does not reserve any seat for the sectors. To stress, it is not a reserve seat system.[19]

Third, the framers of the Constitution knew that the sectoral groups suffer from major disadvantages in the competitive election arena. They sought to remedy this inequality through an outright constitutional gift of reserve seats for the first three terms of the sectoral representatives and no further. Thereafter, they have to earn their seats through participation in the party-list system. Thus:

"MR. OPLE. x x x The ideal manner of securing functional representation is through a party list system through popular suffrage so that when sectoral representatives get into a legislative body on this basis, rather than direct regional or district representation, they can rise to the same majesty as that of the elected representatives in the legislative body, rather than owing to some degree their seats in the legislative body either to an outright constitutional gift or to an appointment by the President of the Philippines. I think, therefore, this proposed amendment now meets this test. There is an outright constitutional gift for the first two terms of the sectoral representatives but, after that, they will have to earn the seats through participation in a party list system or, even beyond that, to be direct competitors with established and more orthodox parties in the general political arena. I see no reason why after having occupied seats in the House of Representatives for two terms, the representatives of the sectors may not be able to combine their forces in order to form their own political parties or become powerful adjuncts to existing political parties so that they will enjoy not only the benefits of a party list system but also the benefits of being able to compete directly in the wider political arena.

"x x x And after two or three terms, then they will be in a position to take full advantage of the party list system so that on the basis of two-and-a-half percent or two percent of all the qualified voters in the country, one seat is earned x x x. Let us assume that the representatives of these organizations x x x occupy the seats for two terms, will not six years be enough for them to amalgamate their forces if there is enough basis of

unification so that, from their platform in the legislature, they can, through a party list system, amass as many seats as are available now outside territorial representation? And beyond that, they can even rise to the level of a major political party able to compete for territorial representation both for the Senate and the House of Representatives.

"x x x Therefore, I support this amendment. It installs sectoral representation as a constitutional gift, but at the same time, it challenges the sector to rise to the majesty of being elected representatives later on through a party list system, and even beyond that, to become actual political parties capable of contesting political power in the constitutional arena for major political parties." [20]

Fourth, the objective of the party-list system is not alone to provide representation to sectoral groups but also to accord proportionate representation for political parties participating in the election, so that those political parties whose candidates did not win in any district but obtained a substantial amount of the votes cast by the people will not be completely denied representation in the House. [21]

Fifth, in the Senate, it was proposed that all the sectors mentioned in the law should be entitled to at least one seat each. [22] This proposal was not approved for it is nowhere to be found in the present law. Thus, it cannot be doubted that the lawmakers did not contemplate a reserve seat system for the sectoral groups. Verily, the ruling of respondent Commission that the party-list groups from rank nos. 1 to 51 shall be given one seat each so that all sectors are represented runs contrary to the intendment of the legislature.

There is no constitutional right to win elections, only the constitutional right to equal opportunity to participate in and influence the selection of candidates. It is not a violation of equal protection to deny legislative seats to losing candidates. The fact that minorities or interest groups in an electoral unit find themselves consistently outvoted and without a person elected from their particular group is no basis for invoking constitutional remedies where there is no indication that the complaining minority or interest group has been denied access to the political system. [23]

And neither can the sectoral groups claim discrimination simply because they failed to get a seat in the House of Representatives. It is not enough to prove that some of the sectors are not represented because the party or organization representing them failed to win in the elections. It must be shown that the party-list system was conceived or operated as a purposeful device to further discriminate against them. [24]

In the past, it cannot be gainsaid that there was a hostility against sectoral groups as their unelected representatives were criticized as people who owed their seats to a constitutional provision and could not rise to the same status or dignity as those elected by the people. [25] This criticism was laid to rest with the passage of the party-list system where sectoral representatives had to undergo an election. To be sure, these sectoral candidates were given a favored treatment. During the Senate deliberations on Senate Bill No. 1913, which later became R.A. 7941, Senator Tolentino emphatically declared that the purpose of the party-list system is "to give access to the House those who are considered as marginal political groups that cannot elect a representative in one district, but when taken together nationally, they may be able to have a representative." [26] But while given a favored treatment, the sectoral candidates were not guaranteed seats. Indeed, the party-list system was devised to replace the reserve seat system. For unlike the reserve seat system which assured sectoral groups of a seat in the House of Representatives, the party-list system merely provides for a mechanism by which the sectoral groups can run for election as sectoral representatives. The very essence of the party-list system is representation by election.

The lack of success in the elections is not indicative of a lack of access to the political system but rather from a failure of the parties/organizations to turn out as many of the voters as will enable them to meet the required number of votes. The access guideline touches upon whether the political processes are open to minorities or sectoral groups, not on whether such groups are successful once access has been obtained. [27] The party-list

system was conceived in order to open the system to sectoral representation, but it does not warrant representation for these sectors with absolute certainty.

Finally, Section 6 of R.A. 7941 provides that the Comelec may, *motu proprio* or upon verified complaint of any interested party, refuse or cancel, after due notice and hearing, the registration of any national, regional or sectoral party if it fails to obtain at least two percent of the votes cast under the party-list system in the two preceding elections for the constituency in which it has registered. If a sectoral party cannot even register when it fails to obtain the 2% required number of votes, with more reason that it should not be entitled to get a seat in the House of Representatives. An absurdity may arise where a sectoral party which failed to meet the 2% threshold is given a seat in the House but is actually disqualified for registration and therefore has no legal personality and standing as such.

B. The 20% membership requirement for sectoral representatives

Respondent Commission held that a restriction on the allocation of seats only to those obtaining the 2% threshold will prevent compliance with the purported constitutional and statutory mandate that the party-list representatives shall be composed of 20% of the entire membership of the House of Representatives, including the party list. The ruling is predicated on the supposition that the 20% requirement is mandatory and that the law requires that all the seats apportioned to sectoral representatives must be filled up.

Article VI, Section 5, subparagraph 1 of the Constitution provides that "the House of Representatives shall be composed of not more than two hundred and fifty members x x x who shall be elected from legislative districts, x x x and those who x x x shall be elected through a party-list system of registered national, regional and sectoral parties or organizations." The record of the ConCom will show that the delegates considered this provision as a grant of authority to the legislature, and hence should not be viewed as either directory or mandatory.[28]

Section 5 further provides, under subparagraph (2) thereof, that "the party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list." Axiomatic is the rule that a provision of law must be read in harmony with the other provisions. Consequently, subparagraph (2) should be accorded a similar treatment as subparagraph (1), i.e., that it is neither directory nor mandatory, but simply a grant of legislative authority.

In the exercise of such authority, Congress passed R.A. 7941 which contains exactly the same provision as that found in the Constitution. The query is whether Congress intended the 20% requirement as a ceiling or whether it intended all the seats allocated to sectoral groups to be filled up. Section 5 of Article VI, as originally worded, provides that "the sectoral or party-list representatives shall in no case exceed twenty percent of the entire membership of the House of Representatives." From the language thereof, it is clear that the framers intended to simply impose a ceiling. Nevertheless, in its final form, the phrase "in no case exceed" was deleted. Does this mean then that the 20% requirement was meant to be mandatory? A perusal of the Record of the ConCom will negate this implication, thus:

"MR. GASCON. In the Gentleman's proposal, he has replaced the words `SHALL APPOINT' by "MAY APPOINT" which means there is a possibility that the President will not appoint. Will it not be best that to make that assurance - since it was the intent, I believe, during our deliberation that either we should write an ordinance with regard to sectoral representation or encourage an appointment by the President - we change the words "MAY APPOINT" to "SHALL APPOINT"?"

"x x x x x x x x x x"

"MR. MONSOD. x x x I would be more comfortable by just saying: "THE PRESIDENT MAY FILL."

"The President may have her commitments to labor and the peasant sector. But a directive on this point may in fact be counterproductive because she may not have the full period to look into how to implement the selection. If we do it that way, the President may be hurried into a selection because she has to comply with it by July and it may not be a good or meaningful selection. It may be necessary that there will be, as Commissioner Lerum said, various congresses in order to make it a real systematic choice. I do not know if there is enough time. But why do we not leave it to the President to determine if there is time to do this properly?"[29]

The word "may" was used in the final version of the Constitution. Ostensibly, ConCom wanted to give the President the discretion whether to appoint sectoral representatives or not. If the President does not, then there can be vacancies in the seats allocated for sectoral representatives. Perforce, such an eventuality is not highly improbable and cannot thus be disregarded or ignored.

The Senate deliberations on the matter are more revealing:

"1) Senator Alvarez: But, Mr. President, we already have a ceiling of 20 percent for party-list representatives.[30]

"2) Senator Herrera: So that if there will only be two organizations participating, even if we have to give them the maximum, these two organizations will only be entitled to ten seats, and that will be less than the number of 25 seats that are supposed to be covered under the party list system.

"Senator Tolentino: Yes, Mr. President. That is what is going to happen if we limit to five seats. But as had been brought out in the interpellations last night, if we use as a basis the total number of votes cast for the parties that are participating in the party-list system of election, then, perhaps, there would be no need of a limitation to five seats because the proportion can be strictly applied.

"x x x x x x x x

"Senator Maceda: Mr. President, just on this point. In the example given, if a party gets a certain percentage of votes that should entitle it to seven seats or eight seats and then it is cut down to five seats - the first computation will be to compute the percentage of all the parties, and they get a corresponding number of seats - what happens to the excess since there is a limitation on five seats?

"Senator Tolentino: What is going to happen is, there may be vacancies under this system.

"Senator Maceda: I just wanted to clarify that.

"Senator Tolentino: That is why, I think, the basis must always be the total number of votes and give them what is due them in the mathematical proportion.

"Senator Maceda: But even based on the total number of votes, we may have one or two major parties or major labor organizations, for that matter, really getting more than five seats.

"Senator Tolentino: Yes, that is going to happen, Mr. President, if there is no limitation. But the alternative is we will have some vacancies in the House of Representatives.

"Senator Maceda: Because the alternative to vacancies, if it is so provided in the law, would be to further redistribute the vacancies. After providing for the parties that get a maximum of five seats, then the excess could be reapportioned among all the parties that would not be getting the maximum of five seats.

"Senator Tolentino: That could be expressly provided for.

"Senator Maceda: Yes, that could be the other alternative. But as framed now, the result would be that there would be vacancies if some parties get more than five seats.

"Senator Tolentino: That is right, Mr. President.[31]

It bears to stress that in imposing a limitation on the number of seats to which a sectoral group or organization may be entitled, the lawmakers anticipated that vacancies will occur. To obviate the possibility, it was proposed in the Senate that "the excess of seats, if any, shall be proportionally allotted to the participants entitled to a smaller number of seats." The purpose was to distribute proportionately the excess seats to those who are lower in rank.[32] The proposal was approved in the Senate, but was not included in the final version of the law. Hence, it stands to reason that the lawmakers did not intend to fill up the entire 20% allotted to the sectoral groups. This is not at all surprising given the sentiment shared among members of the House of Representatives against sectoral representation.[33]

Respondent Commission further held that allocating the seats only to those obtaining the 2% threshold will prevent compliance with the alleged constitutional mandate that the party-list representatives shall be composed of 20% of the entire membership of the House of Representatives. Again, I beg to disagree for it unduly assumes that the 2% threshold is not mandatory and that it is essential to fill up the entire 20% of the seats allocated to party-list representatives. In effect, the respondent Commission effectively voids the 2% threshold using the mandatory or directory nature of certain provisions of the law. This is too artificial a technique of interpretation for what we ought to decipher is the real legislative intent, which can only be ascertained from the nature and object of the act, and the consequences which would result from construing it one way or another.[34] Using these guidelines, it is clear that the 2% threshold is mandatory while the 20% requirement is but a ceiling.

A corollary issue raised is whether Article VI, Section 5(2) of the Constitution requires that everytime the number of district representatives is increased from 200 there shall be a corresponding increase in the number of party-list representatives. The answer can be found in the discussions of the Constitutional Commission, to wit:

"MR. GASCON. I would like to ask a question. Is the intent of the proposal of Commissioner Monsod to maintain the ratio of 80 percent legislative district and 20 percent party list representatives on a constant basis?

"MR. MONSOD. Yes, Mr. Presiding Officer.

"MR. GASCON. Regardless of the number of legislative representatives and the number of the party list representatives?

"MR. MONSOD. Yes, Mr. Presiding Officer."

Similarly, the Senate records reveal the following exchange between Senator Osmena and Senator Tolentino:

"Senator Osmena: x x x Going to paragraph (2), it states:

"The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list.

And paragraph (1) states:

"The House shall be composed of not more than 250 members. Twenty percent of 250 would be 50. Is that the total number to be elected? Or is it 20 percent of the existing membership of the House which, I think, is 207?

"The membership of the House is changing because every time we enact a law creating a province, a new member is added. Like in the case of Mandaluyong, a newly created city, a new member is added.

"As a matter of fact, we have a bill before us - which I do not think is the right thing to do - which creates one more seat in Makati through the operation of a simple law and not through reapportionment.

"In effect, Mr. President, the number of members of the House is not static. It can change from time to time. It

can increase or it can even conceivably decrease if there are mergers.

"What is the 20 percent going to be based on, Mr. President?

"Senator Tolentino: The 20 per centum would be what is provided already by law. I think the creation of new cities may not automatically involve an increase in the number of members of the House but may have to wait until a new district is provided by law, Mr. President.

"In other words, if that is the interpretation, then the membership will remain the same.

"But if we take a different view that every city or every new province is entitled, by the Constitution itself, to a member, that means the number will actually change depending upon the number of seats that we add by the creation of new urbanized cities or new provinces.

"That will mean that in every election where there is a party list system, the computation of the number of seats for the party list will change." [35]

Upon further clarification by Senator Lina, it was explained by Senator Tolentino that it will not be a fixed and definite number of seats but that the party-list representatives shall constitute a given percentage of the total number of the Members of the House of Representatives to be elected including those under the party-list. [36]

C. The 3-seat limitation

The rationale for the 3-seat limit is to distribute party-list representation to as many party groups as possible. According to Senator Tolentino, if one party will be allowed to dominate, then the idea of giving as much as possible to the marginalized groups may be defeated. [37] The purpose is to allow as many as possible of the marginalized groups that would be entitled to representation to have a seat in Congress, [38] and to have enough seats left for those who are way below the list. [39] There is nothing offensive to this requirement as to warrant a declaration of unconstitutionality. Indeed, the parties do not attack this provision as legally infirmed.

IV. Conclusion

The party list-system of election is one of the major innovations in our 1987 Constitution. The system gives the poor and the powerless in our society a fighting chance to elect representatives in Congress who will act as their real mouthpieces. In a country like ours where vested interest reigns and may reign till kingdom come, this rare opportunity given by the Constitution to our less privileged people should be re-examined so that the exercise of the privilege will not be diluted by undemocratic restraints. R.A. 7941 while brimming with good intention can stand a lot of improvements. Hopefully, the bills filed and that may still be filed in Congress improving R.A. 7941 may bring about the day when our democracy will be more vibrant, as they who have less in life will have more in law because they themselves can make the law.

I vote with the majority.

[1] Record of the ConCom, Vol. II, pp. 85-86.

[2] Id., p. 253.

[3] Id., p. 256.

[4] Id., p. 562.

[5] Record of the Senate, Vol. II, No. 33, p. 143.

[6] Id., p. 145.

- [7] Id., No. 34, p. 164.
- [8] Id., p. 186.
- [9] Id., p. 343.
- [10] Id., No. 37, p. 349.
- [11] Id., No. 40, p. 511.
- [12] Id., p. 500.
- [13] Id., p. 501.
- [14] Record of the ConCom, Vol. II, p. 256.
- [15] Id., p. 567.
- [16] Record of the Senate, Vol. II, No. 33, p. 145.
- [17] Id., No. 37, p. 343.
- [18] Record of the ConCom, Vol. II, p. 85.
- [19] Id., p. 253.
- [20] Id., pp. 567-568.
- [21] Record of the Senate, Vol. II, No. 37, pp. 342-343.
- [22] Id., p. 352.
- [23] *Shapiro v. State of Maryland*, 336 F.Supp. 1205 (1972).
- [24] *Nevett, et al. v. Sides, et al.*, 571 F.2d 209 (1978).
- [25] Record of the ConCom, Vol. V, p. 332.
- [26] Record of the Senate, Vol. II, No. 32, p. 127.
- [27] *Clark, et al. v. Marengo County, et al.*, 469 F. Supp. 1150 (1979).
- [28] Record of the ConCom, Vol. V, p. 80.
- [29] Id., p. 335.
- [30] Record of the Senate, Vol. II, No. 32, p. 126.
- [31] Id., No. 34, p. 159.
- [32] Id., No. 37, pp. 195, 344.
- [33] See: Record of the Senate, Vol. II, No. 32, p. 129; No. 37, p. 351.
- [34] *Menssen, et al. v. Eureka Unit Dist. No. 140, Woodford County, et al.*, 388 N.E.2d 273 (1979).
- [35] Record of the Senate, Vol. II, No. 33, pp. 137-138.
- [36] Id., No. 37, pp. 349-350.
- [37] Id., No. 32, p. 126.

[38] Id., No. 33, p. 139.

[39] Id., No. 34, p. 159.

DISSENTING

MENDOZA, J.:

My disagreement with the majority is in respect of its computation of the number of seats to which the parties, organizations, and coalitions, which obtained more than 2 percent of the votes for the party-list system are entitled to have under the Constitution and the implementing law, R.A. No. 7941. Beyond affirming the election of the 14 party-list representatives as the majority does, I contend that 25 more should be proclaimed to give each of the winning parties, organizations, and coalitions the maximum three seats allowed by law, thus bringing the total number of party-list representatives in the House of Representatives to 39. I am afraid that today's ruling, denying additional seats to the winning groups, bodes ill for the future of the party-list system in this country.

I

To be sure, those who drafted the Constitution simply sketched out the basic features of proportional representation, leaving it to Congress to flesh out the bare bones of an idea. The record of the Constitutional Commission shows:

MR. RODRIGO: Then, I will propound my question to Commissioner Monsod whose name appears as number one in the list.

My question have reference to the party list system and the sectoral representation in the House of Representatives. I would like to preface my questions by stating that I am in favor of the basic idea of having sectoral representation and representation by means of the party list in the House of Representatives. However, from the very beginning, I already expressed my misgivings about the mechanics, the practicableness of this idea. I think this is in line with the thinking of the Constitutional Commission on this matter. We like this party list and sectoral representation, if they can be implemented properly. And we should leave to the legislature the enactment of the implementing laws or the enabling acts. The legislature will have more time to study the problem on how this can be implemented. The legislature can go into details on the mechanics. This we cannot do in the Constitutional Commission because a Constitution must be brief, concise and broad.

So, I am very glad when I read this proposed amendment which stated twice the phrase "AS PROVIDED BY LAW." . . .

And so, my first question is: In the light of the phrase "AS PROVIDED BY LAW," do I take it that this party list system and the sectoral representation provision will not take effect until an enabling act or an implementing legislation shall have been enacted by Congress?

MR. MONSOD: Madam President, the first Assembly will be in March or April. But when we say "AS PROVIDED BY LAW," it could really mean that it may be by ordinance appended to this Constitution or an executive order by the incumbent President or, as the Gentleman has said, by law provided by the incoming Congress. So, it could be any of these ways.

MR. RODRIGO: Madam President, we are all witnesses to the difficulty in arriving at a consensus of these very novel ideas on the disputes that we have had. And up to now, there is no real consensus yet. Does the Commissioner believe that we should really try to go into the details by enacting an ordinance to the Constitution? In other words, should we force the issue? Should we insist that before this Constitution is

submitted to the people in a plebiscite, we shall have already defined the details on how this party list system and sectoral representation can be implemented in the first election after the ratification of the Constitution?

MR. MONSOD: We just want to establish the principle of the party list system with sectoral representation in the present Constitution. We can discuss whether the body in its collective wisdom feels that it is qualified or should go into the ordinance after we have established the principle, and we will be guided by the vote or judgment of this Commission.[1]

When the fundamental law, therefore, emerged from the Commission, Art. VI, §5 merely provided:

SEC. 5. (1) The House of Representatives shall be composed of not more than two hundred fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.

(2) The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law except the religious sector.

Pursuant to its mandate under the Constitution, Congress enacted R.A. No. 7941 which in pertinent parts provides:

SEC. 11. Number of Party-List Representatives.-The party-list representatives shall constitute twenty per centum (20%) of the total number of the members of the House of Representatives including those under the party-list.

....

In determining the allocation of seats for the second vote, the following procedure shall be observed:

(a) The parties, organizations, and coalitions shall be ranked from the highest to the lowest based on the number of votes they garnered during the elections.

(b) The parties, organizations, and coalitions receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to one seat each; Provided, That those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes: Provided, finally, That each party, organization, or coalition shall be entitled to not more than three (3) seats.

Rep. Tito R. Espinosa, co-sponsor of the bill which became R.A. No. 7941, explained that the system embodied in the law was largely patterned after the mixed party-list system in Germany. Indeed, the decision to use the German model is clear from the exchanges in the Constitutional Commission between Commissioners Blas F. Ople and Christian S. Monsod.[2] The difference between our system and that of Germany is that whereas in Germany half (328) of the seats in the Bundestag are filled by direct vote and the other half (328) are filled through the party-list system, in our case the membership of the House of Representatives is composed of 80 percent district and 20 percent party-list representatives.

The party-list system of proportional representation is based on the Niemeyer formula, embodied in Art. 6(2) of the German Federal Electoral Law, which provides that, in determining the number of seats a party is entitled to have in the Bundestag, seats should be multiplied by the number of votes obtained by each party and then the product should be divided by the sum total of the second votes obtained by all the parties that have polled at least

5 percent of the votes. First, each party receives one seat for each whole number resulting from the calculation. The remaining seats are then allocated in the descending sequence of the decimal fractions. The Niemeyer formula was adopted in R.A. No. 7941, §11. As Representative Espinosa said:

MR. ESPINOSA: [T]his mathematical computation or formula was patterned after that of Niemeyer formula which is being practiced in Germany as formerly stated. As this is the formula or mathematical computation which they have seen most fit to be applied in a party-list system. This is not just a formula arrived at because of suggestions of individual Members of the Committee but rather a pattern which was already used, as I have said, in the assembly of Germany.[3]

The rules in §11 require a four-step process of distributing the seats for the party-list system. Using the results of the last elections, the application of the rules in §11 is as follows:

Step 1. R.A. No. 7941, §11 states that "the parties, organizations, and coalitions shall be ranked from the highest to the lowest based on the number of votes they garnered during the elections." The first step, therefore, is to rank the groups taking part in the election for party-list seats and get the total number of votes cast for all of them. Then determine which of them obtained at least 2 percent of the total votes cast. The application of this rule shows that only 13 parties, organizations, and coalitions obtained at least 2 percent of the total votes (9,155,309) cast for the party-list system.

Step 2. R.A. No. 7941, §11 provides that "the parties, organizations, or coalitions receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to one seat each." Since only 13 parties, organizations, and coalitions obtained at least 2 percent of the total votes cast, only they should initially get one seat each. The results of applying Steps 1 and 2 are shown in Table 1:

Table 1

DETERMINATION OF 2 PERCENTERS AND INITIAL DISTRIBUTION OF SEATS TO THEM

Group

Actual votes received

Percentage of votes cast for party-list

Guaranteed seat

1. APEC

503,487

5.50%

1

2. ABA

321,646

3.51%

1

3. ALAGAD

312,500

3.41%

1

4. VETERANS FEDERATION

304,902

3.33%

1

5. PROMDI

255,184

2.79%

1

6. AKO

239,042

2.61%

1

7. NCSFO

338,303

2.60%

1

8. ABANSE! PINAY

235,548

2.57%

1

9. AKBAYAN!

232,376

2.54%

1

10. BUTIL

215,643

2.36%

1

11. SANLAKAS

194,617

2.13%

1

12. COOP-NATCCO

189,802

2.07%

1

13. COCOFED

186,388

2.04%

1

14. SENIOR CITIZENS

143,444

1.57%

1

15. Other Parties

5,582,427

Each with less than 2%

Total

9,155,309

100%

13

Step 3. R.A. No. 7941, §11 provides that "those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes." The initial allocation of seats to the 13 parties and organizations which obtained at least 2 percent of the votes leaves 39 seats (52 minus 13) available for further distribution. How should this be done? As stated earlier, Congress adopted the Niemeyer formula for distributing seats in the Bundestag.

Accordingly, the number of additional seats to which a 2 percenter is entitled should 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 (3,429,438) garnered by all the 2 percenters. The 2 percenters are each entitled to the additional seats equivalent to the integer portion of the resulting product. Thus, APEC will have five additional seats computed as follows:

$$\begin{array}{r} 39 \times 503,487 \\ \hline = 5.73 \\ 3,429,438 \end{array}$$

The result of the application of this formula is shown in Column 4 of Table 2, with 32 seats (the sum of the integer portions of the resulting products) being apportioned among the 2 percenters. The seats remaining after the distribution of seats in accordance with Step 3 should be distributed to the two percenters in the descending order of the decimal portions of the products shown in Column 4. This distribution of the remaining seats is shown in Column 5.

Group

Total votes

Guaranteed seats

Additional seats

Extra seats

Total

obtained

(1)

(2)

(3)

(4)

1. APEC

503,487

1

5.73

1

7

2. ABA

321,646

1

3.66

1

5

3. ALAGAD

312,500

1

3.55

4

4. VETERANS FEDERATION

304,902

1

3.47

4

5. PROMDI

255,184

1

2.90

1

4

6. AKO

239,042

1

2.72

1

4

7. NCSFO

238,303

1

2.71

1

4

8. ABANSE! PINAY

235,548

1

2.68

1

4

9. AKBAYAN!

232,376

1

2.64

1

4

10. BUTIL

215,643

1

2.45

3

11. SANLAKAS

194,617

1

2.21

3

12. COOP-NATCCO

189,802

1

2.16

3

13.COCOFED

186,388

1

2.12

3

Total

3,429,438

13

32

7

52

It may be asked why, despite the fact that most of the parties have already exceeded the three-seat limit while the rest have obtained three seats, the computation is still brought forward. The answer is that it is possible that every party will get three or more seats after following the procedure in Step 3. The only reason why, in the cases at bar, the results seem to make the distribution of excess seats superfluous is that the 2 percenters are not sufficiently numerous.

Indeed, the goal should be to fill all seats allowed for party-list representatives, which at present are 52. Thus, Art. VI, §5(2) of the Constitution that "the party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party-list." This provision thus fixes a ratio of 80 percent district representatives to 20 percent party-list representatives. If in fact all seats reserved for party-list representatives are not filled, that is due to the fact that the law limits parties, organizations, and coalitions to three (3) seats each. To maintain this ratio, the entire number of seats for the party-list system, after deducting the number of seats initially distributed to the 2 percenters, must be allocated to them.

The above formula is similar to that used by this Court in determining the proportional representation of political parties in the Commission on Appointments of Congress. Art. VI, §18 of the Constitution provides that the Commission shall be composed 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 the political parties and parties or organizations registered under the party-list system represented therein." In *Guingona Jr. v. Gonzales*,^[4] this Court held:^[5]

As a result of the national elections held last May 11, 1992, the Senate is composed of the following members or Senators representing the respective political affiliations:

LDP

- 15 senators

NPC

- 5 senators

LAKAS-NUCD

- 3 senators

LP-PDP-LABAN

- 1 senator

Applying the mathematical formula agreed to by the parties as follows:

No. of senators of a political party

x

12 seats

Total No. of senators elected

the resulting composition of the senate based on the rule of proportional representation of each political party with elected representatives in the Senate, is as follows:

Political Party/Political Coalition

Membership

Proportional Representatives

LDP

15

7.5 members

NPC

5

2.5 members

LAKAS-NUCD

3

1.5 members

LP-PDP-LABAN

1

.5 members

Step 4. Finally, R.A. No. 7941, §11 provides that "each party, organization, or coalition shall be entitled to not more than three (3) seats." Hence, the 2 percenters, which are determined to be entitled to more than three seats are finally allotted three seats each, or 38 seats in all, as shown in Column 8 of Table 3. This incidentally leaves 13 seats in the House of Representatives for the party-list vacant.

Table 3

FINAL DISTRIBUTION OF SEATS

Party/organization/coalition

Total number of seats obtained

Seats in excess of 3

Total number of seats allowed

1. APEC

7

4

3

2. ABA

5

2

3

3. ALAGAD

4

1

3

4. VETERANS FEDERATION

4

1

3

5. PROMDI

4

1

3

6. AKO

4

1

3

7. NCSFO

4

1

3

8. ABANSE! PINAY

4

1

3

9. AKBAYAN!

4

1

3

10. BUTIL

3

-

3

11. SANLAKAS

3

-

3

12. COOP-NATCCO

3

-

3

13. COCOFED

3

-

3

TOTAL

52

13

39

On the basis of the foregoing computations, I reach the following conclusions:

- The proclamation by the COMELEC of the 13 parties, which obtained at least 2 percent of the votes cast for the party-list system, should be affirmed.
- The 13 parties should be given two (2) additional seats, with the exception of APEC which should be allotted only one (1) additional seat, thus giving each party the maximum three (3) seats allowed by law, on the basis of

votes obtained by them in proportion to the votes cast for all of them. This means a total of 25 party-list representatives belonging to the 13 parties will be added to the 14 now in office, bringing to 39 the total number of party-list representatives in the House.

- The decision of the COMELEC en banc allocating seats to 38 other parties, all of which failed to obtain at least 2 percent of the total votes cast, is set aside.

- The proclamation of 25 additional party-list representatives will leave 13 seats for party-list representatives vacant. While Art. VI, §5(b) of the Constitution fixes a ratio of 80 percent district to 20 percent party-list representatives, does not really require that all seats allotted to party-list representatives - at present 52 - be filled.

The results of the application of the foregoing steps are summarized and explained in the Consolidated Table appended to this opinion.

II

The majority holds that "the Niemeyer formula, while no doubt suitable for Germany, finds no application in the Philippine setting, because of our three-seat limit and the non-mandatory character of the twenty percent allocation." Claiming that it is "obvious that the Philippine style party-list system is a unique model which demands an equally unique formula," the majority instead allocates seats to the winning groups in a manner which cannot be justified in terms of the rules in §11. While it disavows any intention to "reinvent or second-guess [the law]," the majority in reality does so and in the process engages in a bit of judicial legislation.

First. In determining the number of seats to which the first party is entitled, the majority applies the "one seat for every 2 percent" rule.[6] But after once applying the rule to the highest ranking party, the majority does not apply it to the rest of the 2 percenters. Indeed, it cannot consistently do so because it is mathematically impossible to require that the 52 seats for party-list representatives be filled at the rate of 2 percent per seat. That would mean that the votes needed to win the 52 seats is 104 percent of the votes cast in the election. The majority admits this. It says that its "formula will be applicable only in determining the number of additional seats the first party is entitled to. It cannot be used to determine the additional seats of the other qualified parties."

If the formula applies only to the first party, then it is no formula at all because it is incapable of consistent and general application. It is even iniquitous. If a party got 5.5 percent of the votes and is given two (2) seats, it is hard to see why the next ranking party, which got 5 percent of the votes should get only one (1) seat.

Indeed, the law does not distinguish between the first ranking party and the rest of the other 2 percenters insofar as obtaining additional seats are concerned. The law provides that "those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes." The operative word is "their" which refers to none other than the total number of votes cast for the 2 percenters. The plain language of the law is that the basis for the allocation of additional seats is the total number of votes cast for the 2 percenters. This rule applies to all parties obtaining more than 2 percent of the votes cast for the winning parties.

Second. In determining the additional seats for the 2 percenters after determining the number of seats for the first ranking party, the majority uses the following formula:

No of votes of concerned party

Additional seats for concerned party

=

x

No. of additional seats allocated to the first party

No. of votes of first party

R.A. No. 7941, §11 requires the determination of two types of proportions. The first is the determination of the proportion of the votes obtained by a party in relation to the total number of votes cast for the party-list. The purpose of the rule is to determine whether a party was able to hurdle the 2 percent threshold. The second is the determination of number of votes a party obtained in proportion to the number of votes cast for all the parties obtaining at least 2 percent of the votes. The purpose for determining the second proportion is to allocate the seats left after the initial allocation of one (1) seat each to every 2 percenter. The total number of votes obtained by a party in relation to the total number of votes obtained by all 2 percenters is multiplied by the remaining number of seats.

If an analogy is needed to explain this formula, the remaining 39 seats may be likened to a pie to be distributed among the 2 percenters. The way to distribute it is to use the weight of their individual votes in relation to their total number of votes. There is no reason for using the number of votes of the first party as a divisor since it is not the votes obtained by the first ranking party which are being distributed.

In truth, §11 does not say that those garnering more than 2 percent of the votes "shall be entitled to additional seats in proportion to the number of additional seats given to the highest ranking party." What it says is that such additional seats must be "in proportion to their total number of votes," the antecedent of "their" being "those garnering more than two percent (2%) of the votes."

Third. I see no legal or logical basis for the majority's fixation with designating the highest ranking participant as a "first" party. This procedure, as admitted by the majority, assumes that the seats to be allocated to the qualified parties depend on the seats of the so-called first party. One will search in vain the proceedings of both Houses of Congress for a discussion of this procedure or even just a reference to it. There is none.

Fourth. Still it is argued that there should be a distinction between the number of seats for the first ranking party and those for the rest of the 2 percenters. As an example, the majority cites the case of a first ranking party obtaining 20 percent of the votes and the second ranking party obtaining 6 percent of the votes. According to the majority, to give the two parties the same number of seats would be to violate the "proportional representation parameter."

As already stated, however, the majority's inordinate concern with the first ranking party is not consistently carried to the other 2 percenters. The result is that if the first ranking party obtains 5.99 percent of the total votes cast, the second ranking party 5.98 percent, and the last ranking party 2.0 percent, under the majority's formula, the .01 percent difference between the first and the second ranking party will justify the difference of one (1) seat between them. However, the 3.98 percent difference between the second ranking party and the last ranking party is disregarded by the majority. Indeed, even under the majority's novel formula of proportional representation, its own parameters are violated.

Fifth. In essence, the majority "formula" amounts simply to the following prescription: (1) follow the "1 seat for every 2%" rule in allocating seats to the first ranking party only and (2) with respect to the rest of the 2 percenters, give each party one (1) seat, unless the first ranking party gets at least six percent, in which case all 2 percenters with at least one-half of the votes of the first ranking party should get an extra seat. I cannot see how this formula could have been intended by Congress. Only in a Pickwickian sense can the result of the application of such "formula" be considered proportional representation.

Sixth. The formula adopted by the majority effectively deprives party-list representatives of representation considering that it eliminates the ratio 4 district representatives to 1 party-list representative in the House. This is so because, under the rule formulated by the majority, it becomes very difficult to reach the ceiling of 20 percent of the House. In the case at bar, to fill 52 seats in the House, the first ranking party would have to obtain exactly 6 percent of the votes and 25 other parties must get at least 3 percent. In practical terms, this formula violates the Constitution insofar as it makes it improbable to obtain the ceiling of 20 percent thereby preventing the realization of the framers's intent of opening up the system to party-list representatives.

Seventh. The scheme adopted by the majority will prevent all 2 percenters, which are not the first ranking party, from obtaining the maximum number of seats. This is so because, with their votes being proportioned against the votes of the first ranking party, there will never be an instance where the additional seats of these parties will be equivalent to 2. Again, this is contrary to R.A. No. 7941, §11 which contemplates the possibility of more than one (1) party obtaining the maximum number of seats allowed by law.

Already, the proportion of party-list representatives to district representatives is small compared to the mixed system in Germany where half of the seats (328) of the Bundestag are district representatives and the other half (328) are reserved for party-list representatives. The ruling announced today would ensure that the proportion of party-list representatives to the district representatives who constitute 80 percent of the total membership in the House of Representatives is even less than 20 percent. The constitutional intent to afford marginalized groups in our society to be represented in the House is thus frustrated if not subverted.

For these reasons, I vote to grant the petitions in these cases and to order the Commission on Elections to proclaim as elected one additional nominee of APEC and two additional nominees of each of the following parties, organizations, or coalitions: ABA, ALAGAD, VETERANS FEDERATION, PROMDI, AKO, NCSCFO, ABANSE! PINAY, AKBAYAN!, BUTIL, SANLAKAS, COOP-NATCCO, and COCOFED.

[1] 2 RECORD OF THE CONSTITUTIONAL COMMISSION (hereafter referred to as RECORD) 572-573 (Session of August 1, 1986).

[2] 2 RECORD 258 (Session of July 25, 1986); 567-568 (Session of Aug. 1, 1986).

[3] Transcript, House of Representatives, Session of November 22, 1994, pp. 66-67.

[4] 214 SCRA 789 (1992).

[5] Id. at 791-92.

[6] The rule is allegedly based on Resolution No. 2847 of the COMELEC. The resolution does not, however, contain the alleged rule. To the contrary, it reiterates in §12 that "The parties, organizations, and coalitions receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to one seat each; Provided, That those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes; Provided finally, That each party, organization, or coalition shall be entitled to not more than three (3) seats each." It is only in the illustration attached as Annex A to the resolution where it is stated that the computation under Column D of the Table of Allocation of Seats is made at the rate of "1 seat for every 2%; maximum of 3 seats." How this was arrived at was not explained.

Group

- (1) Actual votes received[1]
- (2) Percentage of votes cast for party-list[2]
- (3) Guaranteed seat[3]
- (4) Additional seats[4]
- (5) Extra seats[5]
- (6) Total[6]
- (7) Seats in excess of 3
- (8) Total number of seats allowed[7]

1. APEC

503,487

5.50%

1

5.73

1

7

4

3

2. ABA

321,646

3.51%

1

3.66

1

5

2

3

3. ALAGAD

312,500

3.41%

1

3.55

4

1

3

4. VETERANS FEDERATION

304,902

3.33%

1

3.47

4

1

3

5. PROMDI

255,184

2.79%

1

2.90

1

4

1

3

6. AKO

239,042

2.61%

1

2.72

1

4

1

3

7. NCSFO

338,303

2.60%

1

2.71

1

4

1

3

8. ABANSE! PINAY

235,548

2.57%

1

2.68

1

4

1

3

9. AKBAYAN!

232,376

2.54%

1

2.64

1

4

1

3

10 BUTIL

215,643

2.36%

1

2.45

3

-

3

11. SANLAKAS

194,617

2.13%

1

2.21

3

-

3

12. COOP-NATCCO

189,802

2.07%

1

2.16

3

-

3

13. COCOFED

186,388

2.04%

1

2.12

3

-

3

14. SENIOR CITIZENS

143,444

1.57%

15. Other Parties

5,582,427

Each with less than 2%

TOTAL

9,155,309

100%

13

32

7

52

13

39

[1] COMELEC Canvass Report dated June 1, 1998.

[2] Obtained by dividing the votes received by one party by the total number of votes cast for the party-list system.

[3] Pursuant to the first clause of R.A. No. 7941, 11(b) which provides: "The parties, organizations and coalitions receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to one seat each."

[4] Pursuant to the second clause of R.A. No. 7941, 11(b) which provides: "Provided, That those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes." This is obtained by dividing the total votes received by a 2 percenter over the total votes received by all 2 percenters.

[5] Allocated by ranking the decimal portions of the resulting products shown in Column 4.

[6] Sum of integers in Columns 4 & 5.

[7] Pursuant to the third clause of R.A. No. 7941 which provides: "Provided, finally, That each party, organization or coalition shall be entitled to not more than three (3) seats."

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