

ANG BAGONG BAYANI-OFW LABOR PARTY (UNDER THE ACRONYM OFW), REPRESENTED HEREIN BY ITS SECRETARY-GENERAL, MOHAMMAD OMAR FAJARDO, PETITIONER, VS. COMMISSION ON ELECTIONS; CITIZENS ...

G.R. No. 147589. June 25, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Before the Court are Motions for proclamation filed by various party-list participants. The ultimate question raised is this: Aside from those already validly proclaimed^[1] pursuant to earlier Resolutions of this Court, are there other party-list candidates that should be proclaimed winners? The answer to this question is circumscribed by the eight-point guideline given in our June 26, 2001 Decision in these consolidated cases, as well as by the four unique parameters of the Philippine party-list system:

"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.'"^[2]

The Antecedents

To fully understand the matter on hand, we deem it wise to recapitulate some relevant antecedents.

On June 26, 2001, the Court promulgated in these consolidated cases its Decision requiring Comelec to do the following:

"x x x [I]mmediately conduct summary evidentiary hearings on the qualifications of the party-list participants in the light of the guidelines enunciated in this Decision. Considering the extreme urgency of determining the winners in the last party-list elections, the Comelec is directed to begin its hearings for the parties and organizations that appear to have garnered such number of votes as to qualify for seats in the House of Representatives. The Comelec is further DIRECTED to submit to this Court its compliance report within 30 days from notice hereof.

"The Resolution of this Court dated May 9, 2001, directing the Comelec 'to refrain from proclaiming any winner' during the last party-list election, shall remain in force until after the Comelec itself will have complied and reported its compliance with the foregoing disposition."^[3]

Comelec's First Partial Compliance Report

In its First Partial Compliance Report dated July 27, 2001, Comelec recommended that the following party-list participants be deemed to have hurdled the eight-point guideline referred to in the aforementioned Court Decision:

- BAYAN MUNA (BAYAN MUNA)
- AKBAYAN! CITIZENS ACTION PARTY (AKBAYAN!)
- LUZON FARMERS PARTY (BUTIL)
- ANAK MINDANAO (AMIN)
- ALYANSANG BAYANIHAN NG MGA MAGSASAKA, MANGGAGAWANG BUKID AT MANGINGISDA (ABA)
- PARTIDO NG MANGGAGAWA (PM)
- SANLAKAS

It also recommended the disqualification of the following party-list participants for their failure to pass the guidelines:

- GREEN PHILIPPINES FOUNDATION (GREEN PHIL)
- PARTIDO NG MASANG PILIPINO (PMP)
- ANG LAKAS NG BAGONG KOOPERATIBA (ALAB)
- PARTIDO NG MARALITANG PILIPINO - PINATUBO PARTY (PMP-PINATUBO)
- REBOLUSYONARYONG ALYANSANG MAKABANSA (RAM)
- BAYAN NG NAGTATAGUYOD NG DEMOKRATIKONG IDEOLOGIYA AT LAYUNIN, INC. (BANDILA)
- BAGONG BAYANI ORGANIZATION (BAGONG BAYANI)
- KABATAAN NG MASANG PILIPINO (KAMPIL)
- AARANGKADA ANG MGA HANDA ORAS-ORAS (AHOY)
- PHILIPPINE MEDICAL ASSOCIATION (PMA)
- ALLIANCE TO ALLEVIATE THE SOCIO-ECONOMIC AND SOCIAL ORDER, INC. (AASENSO KA)
- PARTIDO DEMOKRATIKO SOSYALISTA NG PILIPINAS (PDSP)
- COOPERATIVE UNION OF THE PHILIPPINES (CUP)
- ATIN (FORMERLY ABANTE BISAYA)
- VOLUNTEERS AGAINST CRIME AND CORRUPTION (VACC)
- ASSOCIATION OF BUILDERS CONSULTANTS AND DESIGNERS, INC. (ABCD)
- LIBERAL PARTY (LP)

- CITIZEN'S DRUGWATCH FOUNDATION, INC. (DRUGWATCH)
- ALAY SA BAYAN PARA SA KALAYAAN AT DEMOKRASYA (ABAKADA)
- ASOSASYON NG MGA TAGA INSURANCE SA PILIPINAS, INC. (ATIP)
- ANG LAKAS NG OVERSEAS CONTRACT WORKERS (OCW)
- NATIONAL FEDERATION OF SUGAR PLANTERS (NFSP)
- KABALIKAT NG BAYAN PARTY (KABALIKAT)
- PARTIDO DEMOKRATIKONG PILIPINO LAKAS NG BAYAN (PDP-LABAN)
- BANTAY BAYAN FOUNDATION PARTY, INC. (BANTAY-BAYAN)
- ABANTE KILUSANG KOOPERATIBA SA GITNANG LUZON [AKK COALITION]
- GREEN PHILIPPINES (GREEN)
- PHILIPPINE ASSOCIATION OF DETECTIVE AND PROTECTIVE AGENCY OPERATORS (PADPAO)
- ALLIANCE FOR GREATER ACHIEVEMENTS IN PEACE AND PROSPERITY (AGAP)
- ALYANSA NG KOOPERATIBANG PANGKABUHAYAN PARTY (ANGKOP)
- NATIONAL ALLIANCE FOR DEMOCRACY (NAD)
- PEOPLE POWER PARTY (PEOPLE POWER)
- PHILIPPINE TECHNOLOGICAL COUNCIL (PTC)
- PHILIPPINE LOCAL AUTONOMY MOVEMENT, INC. (PLAM)
- PROFESSIONAL CRIMINOLOGIST ASSOCIATION OF THE PHILIPPINES (PCAP)
- CITIZENS MOVEMENT FOR JUSTICE, ECONOMY, ENVIRONMENT, AND PEACE (JEEP)

In response to this Report, the Court issued its August 14, 2001 Resolution which partially lifted its May 9, 2001 Temporary Restraining Order (TRO). The Court did so to enable Comelec to proclaim Bayan Muna as the first "winner in the last party-list election, with the caveat that all proclamations should be made in accordance not only with the Decision of the Court in the instant case but also with *Veterans Federation Party v. Comelec*, GR Nos. 136781, 136786, and 136795, October 6, 2000, on how to determine and compute the winning parties and nominees in the party-list elections."

In another Resolution dated August 24, 2001, the Court again partially lifted its May 9, 2001 TRO to enable the Comelec to proclaim AKBAYAN and BUTIL "as winning party-list groups, in accordance not only with the Decision of the Court in the instant case but also with *Veterans Federation Party v. Comelec*, GR Nos. 136781, 136786, and 136795, October 6, 2000."

In its Consolidated Reply dated October 15, 2001, the Office of the Solicitor General (OSG), on behalf of the Comelec, recommended that — "except for the modification that the APEC, BUHAY, COCOFED and CIBAC be declared as having complied with the guidelines set forth in the June 26, 2001 Decision in the instant cases [—] the Partial Compliance Report dated July 27, 2001 be affirmed."^[4] But because of (1) the conflicting Comelec reports regarding the qualifications of APEC and CIBAC and (2) the disparity in the percentage of votes obtained by AMIN, the Court in a Resolution dated November 13, 2001, required the parties to file within 20 days from notice their respective final position papers on why APEC, CIBAC, and/or AMIN should or should not be

proclaimed winners in the last party-list elections.

Thereafter, in another Resolution dated January 29, 2002,[5] the Court agreed to qualify APEC and CIBAC, which had previously been disqualified by Comelec in its First Compliance Report.

Thus, in the same Resolution, the Court once more lifted its May 9, 2001 TRO to enable the Comelec to proclaim APEC and CIBAC as winners in the party-list elections. The Court said:

"we accept Comelec's submission, per the OSG, that APEC and CIBAC have sufficiently met the 8-point guidelines of this Court and have garnered sufficient votes to entitle them to seats in Congress. Since these issues are factual in character, we are inclined to adopt the Commission's findings, absent any patent arbitrariness or abuse or negligence in its action. There is no substantial proof that CIBAC is merely an arm of JIL, or that APEC is an extension of PHILRECA. The OSG explained that these are separate entities with separate memberships. Although APEC's nominees are all professionals, its membership is composed not only of professionals but also of peasants, elderly, youth and women. Equally important, APEC addresses the issues of job creation, poverty alleviation and lack of electricity. Likewise, CIBAC is composed of the underrepresented and marginalized and is concerned with their welfare. CIBAC is particularly interested in the youth and professional sectors." [6]

To summarize, after the Court had accepted and approved the First Partial Compliance Report and its amendments, the following nominees were validly proclaimed winners: BAYAN MUNA (Satur C. Ocampo, Crispin B. Beltran and Liza L. Maza), AKBAYAN (Loretta Ann P. Rosales), BUTIL (Benjamin A. Cruz), APEC (Ernesto C. Pablo) and CIBAC (Joel J. Villanueva).

Comelec's Second Partial Compliance Report

In its Second Compliance Report dated August 22, 2001 and received by this Court on August 28, 2001, Comelec recommended that the following party-list participants[7] be deemed qualified under the Court's guidelines:

10. ABANSE! PINAY
11. ADHIKAIN AT KILUSAN NG ORDINARYONG TAO PARA SA LUPA, PABAHAY, AT HANAPBUHAY (AKO)
12. ALAGAD
13. SENIOR CITIZENS/ELDERLY SECTORAL PARTY (ELDERLY)
14. ALL TRADE UNION CONGRESS OF THE PHILIPPINES (ATUCP)
15. MARITIME PARTY (MARITIME)
16. ANG BAGONG BAYANI - OFW LABOR PARTY (OFW)
17. ANIBAN NG MGA MAGSASAKA, MANGINGISDA, AT MANGGAGAWA SA AGRIKULTURA - KATIPUNAN (AMMMA)
18. ALYANSA NG NAGKAKAISANG KABATAAN NG SAMBAYANAN PARA SA KAUNLARAN (ANAKBAYAN)
19. ALYANSA NG MGA MAY KAPANSANAN SA PILIPINAS (AKAP)
20. MINDANAO FEDERATION OF SMALL COCONUT FARMERS' ORGANIZATION, INC. (MSCFO)
21. WOMENPOWER, INC. (WPI)
22. AGGRUPATION AND ALLIANCE OF FARMERS AND FISHERFOLKS OF THE PHILIPPINES (AAAFPI)
23. ALL WORKERS ALLIANCE TRADE UNIONS (AWATU)

In the same Compliance Report, the poll body classified the following party-list groups as unqualified:

- GREEN PHILIPPINES FOUNDATION (GREEN PHIL)

- PARTIDO NG MASANG PILIPINO (PMP)
- ANG LAKAS NG BAGONG KOOPERATIBA (ALAB)
- PARTIDO NG MARALITANG PILIPINO - PINATUBO PARTY (PMP-PINATUBO)
- REBOLUSYONARYONG ALYANSANG MAKABANSA (RAM)
- BAYAN NG NAGTATAGUYOD NG DEMOKRATIKONG IDEOLOGIYA AT LAYUNIN, INC. (BANDILA)
- BAGONG BAYANI ORGANIZATION (BAGONG BAYANI)
- KABATAAN NG MASANG PILIPINO (KAMPIL)
- AARANGKADA ANG MGA HANDA ORAS-ORAS (AHOY)
- PHILIPPINE MEDICAL ASSOCIATION (PMA)
- ALLIANCE TO ALLEVIATE THE SOCIO-ECONOMIC AND SOCIAL ORDER, INC. (AASENSO KA)
- PARTIDO DEMOKRATIKO SOSYALISTA NG PILIPINAS (PDSP)
- COOPERATIVE UNION OF THE PHILIPPINES (CUP)
- ATIN (FORMERLY ABANTE BISAYA)
- VOLUNTEERS AGAINST CRIME AND CORRUPTION (VACC)
- ASSOCIATION OF BUILDERS CONSULTANTS AND DESIGNERS, INC. (ABCD)
- LIBERAL PARTY (LP)
- CITIZEN'S DRUGWATCH FOUNDATION, INC. (DRUGWATCH)
- ALAY SA BAYAN PARA SA KALAYAAN AT DEMOKRASYA (ABAKADA)
- ASOSASYON NG MGA TAGA INSURANCE SA PILIPINAS, INC. (ATIP)
- ANG LAKAS NG OVERSEAS CONTRACT WORKERS (OCW)
- NATIONAL FEDERATION OF SUGAR PLANTERS (NFSP)
- KABALIKAT NG BAYAN PARTY (KABALIKAT)
- PARTIDO DEMOKRATIKONG PILIPINO LAKAS NG BAYAN (PDP-LABAN)
- BANTAY BAYAN FOUNDATION PARTY, INC. (BANTAY-BAYAN)
- ABANTE KILUSANG KOOPERATIBA SA GITNANG LUZON [AKK COALITION]
- GREEN PHILIPPINES (GREEN)
- PHILIPPINE ASSOCIATION OF DETECTIVE AND PROTECTIVE AGENCY OPERATORS (PADPAO)
- ALLIANCE FOR GREATER ACHIEVEMENTS IN PEACE AND PROSPERITY (AGAP)
- ALYANSA NG KOOPERATIBANG PANGKABUHAYAN PARTY (ANGKOP)
- NATIONAL ALLIANCE FOR DEMOCRACY (NAD)
- PEOPLE POWER PARTY (PEOPLE POWER)

- PHILIPPINE TECHNOLOGICAL COUNCIL (PTC)
- PHILIPPINE LOCAL AUTONOMY MOVEMENT, INC. (PLAM)
- PROFESSIONAL CRIMINOLOGIST ASSOCIATION OF THE PHILIPPINES (PCAP)
- CITIZENS MOVEMENT FOR JUSTICE, ECONOMY, ENVIRONMENT, AND PEACE (JEEP)

Comelec's Final Partial
Compliance Report

In its Final Partial Compliance Report dated September 27, 2001 and received by the Court a day later, Comelec recommended that the following be considered as qualified party-list participants:

24. NATIONAL CONFEDERATION OF TRICYCLE OPERATORS AND DRIVERS ASSOCIATION OF THE PHILIPPINES (NACTODAP)
25. NATIONAL FEDERATION OF SMALL COCONUT FARMERS ORGANIZATION, INC. (SCFO)
26. TRIBAL COMMUNITIES ASSOCIATION OF THE PHILIPPINES (TRICAP)
27. PILIPINONG MAY KAPANSANAN (PINOY MAY K)
28. VETERANS CARE AND WELFARE ORGANIZATION (VETERANS CARE)
29. UNION OF THE FILIPINO OVERSEAS WORKERS, INC. (OCW-UNIFIL)
30. DEMOCRATIC ALLIANCE (DA)
31. PILIPINO WORKERS PARTY (PWP)
32. PHILIPPINE ASSOCIATION OF RETIRED PERSONS (PARP)
33. ALLIANCE OF RETIRED POSTAL EMPLOYEES AND SENIOR CITIZENS, INC. (ARPES)
34. AGRARIAN REFORM BENEFICIARIES ASSOCIATION, INC. (ARBA)
35. FEDERATION OF JEEPNEY OPERATORS AND DRIVERS ASSOCIATION OF THE PHILIPPINES (FEJODAP)
36. GABAY NG MANGGAGAWANG PILIPINO PARTY (GABAY-OFW)
37. ALTERNATIVE APPROACHES OF SETTLERS (AASAHAN)
38. ALLIANCE FOR YOUTH SOLIDARITY (AYOS)
39. PARTY FOR OVERSEAS WORKERS AND EMPOWERMENT AND RE-INTEGRATION (POWER)
40. KILOS KABATAAN PILIPINO (KILOS)
41. KALOOB-KA ISANG LOOB PARA SA MARANGAL NA PANINIRAHAN (KALOOB)
42. ALYANSA NG MGA MAMAMAYAN AT MANDARAGAT SA LAWA NG LAGUNA, INC. (ALYANSA)
43. DEVELOPMENT FOUNDATION OF THE PHILIPPINES (DFP)
44. PARTIDO KATUTUBONG PILIPINO (KATUTUBO)

Further, the Comelec recommended the disqualification of the following party-list groups:

- AALAGAHAN ANG ATING KALIKASAN (ALAS)
- PHILIPPINE SOCIETY OF AGRICULTURAL ENGINEERS (PSAE)
- PARTIDO PARA SA DEMOKRATIKONG REPORMA (PDR)
- CONSUMERS UNION OF THE PHILIPPINES (CONSUMERS)
- CONFEDERATION OF NON-STOCK SAVINGS AND LOAN ASSOCIATION, INC. (CONSLA)
- PEOPLE'S PROGRESSIVE ALLIANCE FOR PEACE AND GOOD GOVERNMENT TOWARDS ALLEVIATION OF POVERTY AND SOCIAL ADVANCEMENT (PAG-ASA)
- AHONBAYAN, INC. (AHONBAYAN)

- ANGAT
- SAMA-SAMA KAYA NATIN `TO FOUNDATION, INC. (KASAMA)
- A PEACEFUL ORGANIZATION LEADERSHIP, FRIENDSHIP, SERVICE MOVEMENT (APO)
- PHILIPPINE DENTAL ASSOCIATION (PDA)
- PUSYON (BISAYA) PILIPINO (PUSYON)
- SOCIAL JUSTICE SOCIETY (SJS)
- CITIZEN'S ANTI-CRIME ASSISTANCE GROUP, INC. (CAAG)
- ASA AT SAMAHAN NG KARANIWANG PILIPINO (ASAKAPIL)
- BUSINESSMEN AND ENTREPRENEURS ASSOCIATION, INC. (BEA)
- UNITED ARCHITECTS OF THE PHILIPPINES (UAP)
- ABAY PAMILYA FOUNDATION, INC. (ABAY PAMILYA)
- PEOPLE'S REFORM PARTY (PRP)
- COALITION FOR CONSUMER PROTECTION AND WELFARE (COALITION 349)
- RIZALIST PARTY (RP)
- NATIONAL URBAN POOR ASSEMBLY (NUPA)
- ALLIANCE FOR MERITOCRACY (AFM)
- BALIKATAN SA KABUHAYAN BUHAY COALITION (BSK)
- BANTAY DAGAT, INC. (BDI)
- CONFEDERATION OF HOME OWNERS ASSOCIATION FOR REFORMS IN GOVERNANCE AND ENVIRONMENT, INC. (HOMEOWNERS)
- PORT USERS CONFEDERATION, INC. (PUC)
- LABAN PARA SA KAPAYAPAAAN, KATARUNGAN, AT KAUNLARAN (KKK)
- BONDING IDEALISM FOR NATIONAL HUMAN INITIATIVE (BINHI)
- KATIPUNAN NG MGA BANTAY BAYAN SA PILIPINAS (KABAYAN)
- FEDERATION OF SONS AND DAUGHTERS OF PHIL. VETERANS, INC. (LAHING VETERANO)
- PRIME MOVERS FOR PEACE AND PROGRESS (PRIMO)
- PROGRESSIVE ALLIANCE OF CITIZENS FOR DEMOCRACY (PACD)
- COUNCIL OF AGRICULTURAL PRODUCERS (CAP)
- TAPAT FOUNDATION, INC. (TAPAT)
- ALLIANCE FOR ALLEVIATION OF NATIONAL GOVERNANCE AND TRUST PARTY (AKA)
- ANG IPAGLABAN MO FOUNDATION (AIM)
- PHILIPPINE MINE SAFETY AND ENVIRONMENT (PMSEA)

- BICOL SARO PARTY (BSP)
- AABANTE KA PILIPINAS PARTY (SAGIP BAYAN MOVEMENT) (APIL)
- PHILIPPINE PEOPLE'S PARLIAMENT (PPP-YOUTH)
- SPORTS AND HEALTH ADVANCEMENT FOUNDATION, INC. (SHAF)
- KILUSAN TUNGO SA PAMBANSANG TANGKILIKAN, INC. (KATAPAT)
- CITIZENS' FOUNDATION FOR THE PREVENTION OF CRIMES AND INJUSTICES, INC. (CITIZEN)
- NACIONALISTA PARTY (NP) (Withdrew participation in the party-list election)
- SANDIGANG MARALITA (SM)
- ONEWAY PRINTING TECHNICAL FOUNDATION, INC. (ONEWAY PRINT)
- PHILIPPINE JURY MOVEMENT (JURY)
- ALTERNATIVE ACTION (AA)
- DEMOCRATIC WORKERS' PARTY (DWP)
- SECURITY UNITED LEAGUE NATIONWIDE GUARDS, INC. (SULONG)
- ORGANISASYONG KAUGNAYAN NASYONAL SA PAG-UNLAD (O.K. NAPU)
- PAMBANSANG SANGGUNANG KATIPUNAN NG BARANGAY KAGAWAD SA PILIPINAS (KATIPUNAN)
- NATIONAL COUNCIL FOR COMMUNITY ORGANIZER (NCCO)
- NATIONWIDE ASSOCIATION OF CONSUMERS, INC. (NACI)
- LUZVIMINDA ECONOMIC DEVELOPMENT FOUNDATION, INC. (LEDFI)
- TINDOG PARA HAN KABUBUWASON HAN WARAYNON (TINDOG WARAY)
- FEDERATION OF LAND REFORM FARMERS OF THE PHILIPPINES (FLRF)
- KATRIBU MINDANAO, INC. (KATRIBU)
- DEMOKRATIKONG UGNAYAN TAPAT SA SAMBAYANAN (DUGTUNGAN)
- KATARUNGAN SA BAYAN TAGAPAGTANGGOL NG SAMBAYANAN (KABATAS)
- GO! GO! PHILIPPINES MOVEMENT
- PAMBANSANG SAMAHANG LINGKOD NG BAYAN, INC. (PASALBA)
- PHILIPPINE REFORMIST SOCIETY (PRS)
- GABAYBAYAN (GAD)
- ALUHAY NEIGHBORHOOD ASSOCIATION, INC. (ALUHAI)
- ORGANIZED SUPPORT FOR THE MOVEMENT TO ENHANCE THE NATIONAL AGENDA (OSMEA)M

All these Compliance Reports have already been affirmed by this Court except that, in regard to the First

Compliance Report, it agreed — as earlier stated — to add APEC and CIBAC to the list of qualified groups.

Other Significant Orders and Pleadings

Under its Resolution No. NBC-02-001,[8] Comelec motu proprio amended its Compliance Reports by, inter alia, adding four more party-list participants (BUHAY, COCOFED, NCIA and BAGONG BAYANI) to the list of qualified candidates for the May 14, 2001 elections.

In its Comment dated November 15, 2002, the OSG opined that "Comelec acted correctly in revising its Party-List Canvass Report No. 26, so as to reflect the correct number of votes cast in favor of qualified party-list parties and organizations." [9] Consequently, it moved to lift our TRO with respect to COCOFED, BUHAY, SANLAKAS and PM, because "[a]s shown in the revised COMELEC Party-list Canvass Report No. 26, movants BUHAY, COCOFED, SANLAKAS and PM received 4.25%, 3.35%, 2.21% and 3.17%, respectively, of the total votes cast [10] in the May 14, 2001 party-list election." [11]

It added that "the proclamation by the COMELEC of BUHAY, COCOFED, SANLAKAS and PM (as well as all other qualified parties and organizations which received at least 2% of the total votes cast in the same party-list election) as winners in the said party-list is in order." [12]

However, in its November 25, 2002 Comment, the OSG contended that NCIA, "which is not a qualified party or organization per the Comelec [First] Partial Compliance Report dated July 27, 2001, cannot be proclaimed as winner in the last party-list elections." [13] It also recommended that ABA's Motion to lift the TRO with respect to its proclamation should be likewise granted, because it is a "qualified party or organization that hurdled the 2% threshold in the last party-list elections. For, ABA received 3.54% of the votes cast in the said party-list elections, as shown in COMELEC Resolution No. NBC-02-001. ABA's proclamation as winner is therefore in order." [14]

Preparatory to resolving the present Motions and in observance of due process, the Court resolved on February 18, 2003 to require the parties, including the OSG, to submit their respective Position Papers on the following issues:

- 1) Whether Labo v. Comelec, [15] Grego v. Comelec [16] and related cases should be deemed applicable to the determination of winners in party-list elections
- 2) Whether the votes cast for parties/organizations that were subsequently disqualified for having failed to meet the eight-point guideline contained in our June 26, 2001 Decision should be deducted from the "total votes cast for the party-list system" during the said elections

The Court's Ruling

At the outset, the Court needs to pass upon the claims of the OSG that the initial recommendation contained in Comelec's First Compliance Report dated July 27, 2001, regarding BUHAY and COCOFED should be reconsidered, and that these two party-list groups should be deemed qualified.

Qualification of BUHAY and COCOFED

In recommending the disqualification of BUHAY for being "most probably merely an extension of the El Shaddai," a religious group, Comelec said in the above-mentioned Report:

"Upon hearing the case for BUHAY, the Commission determined that, based upon BUHAY's declarations of intent in its constitution, upon its avowed platform of government — which both mirror the sentiments of the El Shaddai Movement — and upon the circumstances surrounding its relationship with the El Shaddai Movement,

BUHAY is most probably merely an extension of the El Shaddai. In this light, it is very likely that the relationship between the leader of the El Shaddai, and the nominee of BUHAY is less a matter of serendipity than an attempt to circumvent the statutory prohibition against sects or denominations from participating in the party-list elections." [17]

In the same Report, Comelec also stated that COCOFED did not deserve a seat in the House of Representatives, because it was allegedly an "adjunct of the government." Explained the Commission:

"COCOFED is a sectoral party representing the peasantry. It is a non-stock, non-profit organization of coconut farmers and producers, established in 1947. It has no religious affiliations. However, the records indicate that it is an adjunct of the government.

"COCOFED's Amended By-Laws specifically provides that:

`The Chairman of the Philippine Coconut Authority or his duly authorized representative shall automatically be a member of the National Board.

The Philippine Coconut Authority is an administrative agency of the government which receives support and funding from the national government. Thus, to have the Chairman of the Philippine Coconut Authority sit on the National Board of COCOFED clearly amounts to `participation of the government in the affairs of candidate' which, as this Court has said, would be `unfair to the other parties,' and `deleterious to the objectives of the law.'

"Furthermore, in the Articles of Incorporation of COCOFED, it declared, as one of its primary purposes, the obtaining of `possible technical and financial assistance for industry development from private or governmental sources.'" [18]

On the other hand, in its Consolidated Reply dated October 15, 2001, the OSG — in representation of the poll agency — argued that the above findings of the Comelec in regard, inter alia, to BUHAY and COCOFED are "not supported by substantial evidence" and, thus, "should be modified accordingly." This opinion is buttressed by the OSG's Comment dated November 15, 2002. [19]

The OSG stressed that the Comelec report on BUHAY was "merely anchored on conjectures or speculations." On COCOFED, the OSG explained that the bylaws making the chairman of the Philippine Coconut Authority an automatic member of the COCOFED National Board "has already been deleted as early as May, 1988."

It added that while the primary purposes of COCOFED's Articles of Incorporation authorize the organization "to help explore and obtain possible technical and financial assistance for industry development from private or governmental sources x x x," this statement does not "by itself constitute such substantial evidence to support a conclusion that the COCOFED is an entity funded or assisted by the government."

We are convinced. For the same reasons that we concurred in the earlier accreditation of APEC and CIBAC, we accept the OSG's position that indeed Comelec erred in disqualifying BUHAY and COCOFED. [20]

Therefore, we now add these two groups to the list of 44 qualified groups earlier mentioned and thereby increase the total to 46.

We shall now take up the main question of which parties/organizations won during the last party-list election.

Legal Effect of the Disqualifications
on the "Total Votes Cast"

The instant Motions for proclamation contend that the disqualification of many party-list organizations has reduced the "total number of votes cast for the party-list elections." Because of this reduction, the two-percent benchmark required by law has now been allegedly attained by movants. Hence, they now pray for their

proclamation as winners in the last party-list elections.

Recall that under Section 11(b)[21] of RA 7941 (the Party-List Act), only those parties garnering a minimum of two percent of the total votes cast for the party-list system are entitled to have a seat in the House of Representatives. The critical question now is this: To determine the "total votes cast for the party-list system," should the votes tallied for the disqualified candidates be deducted? Otherwise stated, does the clause "total votes cast for the party-list system" include only those ballots cast for qualified party-list candidates?

To answer this question, there is a need to review related jurisprudence on the matter, especially *Labo v. Comelec*[22] and *Grego v. Comelec*,[23] which were mentioned in our February 18, 2003 Resolution.

Labo and Grego

Not Applicable

In *Labo*, the Court declared that "the ineligibility of a candidate receiving majority votes does not entitle the eligible candidate receiving the next highest number of votes to be declared elected. A minority or defeated candidate cannot be deemed elected to the office." [24] In other words, the votes cast for an ineligible or disqualified candidate cannot be considered "stray."

However, "this rule would be different if the electorate, fully aware in fact and in law of a candidate's disqualification so as to bring such awareness within the realm of notoriety, would nonetheless cast their votes in favor of the ineligible candidate. In such case, the electorate may be said to have waived the validity and efficacy of their votes by notoriously misapplying their franchise or throwing away their votes, in which case, the eligible candidate obtaining the next higher number of votes may be deemed elected." [25] In short, the votes cast for a "notoriously disqualified" candidate may be considered "stray" and excluded from the canvass.

The foregoing pronouncement was reiterated in *Grego*, which held that the exception mentioned in *Labo v. Comelec* "is predicated on the concurrence of two assumptions, namely: (1) the one who obtained the highest number of votes is disqualified; and (2) the electorate is fully aware in fact and in law of a candidate's disqualification so as to bring such awareness within the realm of notoriety but would nonetheless cast their votes in favor of the ineligible candidate." [26]

Note, however, that the foregoing pronouncements (1) referred to regular elections for local offices and (2) involved the interpretation of Section 6 of RA 6646.[27] They were not meant to cover party-list elections, which are specifically governed by RA 7941. Section 10 of this latter law clearly provides that the votes cast for a party, a sectoral organization or a coalition "not entitled to be voted for shall not be counted":

"SEC. 10. Manner of Voting. — Every voter shall be entitled to two (2) votes: the first vote is a vote for candidate for membership of the House of Representatives in his legislative district, and the second, a vote for the party, organization, or coalition he wants represented in the House of Representatives: Provided, That a vote cast for a party, sectoral organization, or coalition not entitled to be voted for shall not be counted: Provided, finally, That the first election under the party-list system shall be held in May 1998." (Emphasis supplied)

The language of the law is clear; hence, there is room, not for interpretation, but merely for application.[28] Likewise, no recourse to extrinsic aids is warranted when the language of the law is plain and unambiguous.[29]

Another reason for not applying *Labo* and *Grego* is that these cases involve single elective posts, while the present controversy pertains to the acquisition of a number of congressional seats depending on the total election results — such that even those garnering second, third, fourth or lesser places could be proclaimed winners depending on their compliance with other requirements.

RA 7941 is a special statute governing the elections of party-list representatives and is the controlling law in matters pertaining thereto. Since Labo and Section 6 of RA 6646 came into being prior to the enactment of RA 7941, the latter is a qualification of the former ruling and law. On the other hand, Grego and other related cases that came after the enactment of RA 7941 should be construed as inapplicable to the latter.[30]

Subtracting the votes garnered by these disqualified party-list groups from the total votes cast under the party-list system will reduce the base figure to 6,523,185. This means that the two-percent threshold can be more easily attained by the qualified marginalized and under-represented groups. Hence, disregarding the votes of disqualified party-list participants will increase and broaden the number of representatives from these sectors. Doing so will further concretize and give flesh to the policy declaration in RA 7941, which we reproduce thus:

"SEC. 2. Declaration of Policy. — The State shall promote proportional representation in the election of representation in the election of representatives to the House of Representatives through a party-list system of registered, national 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 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."

Need for Patience and Perseverance

BAYAN MUNA contends that the deduction of votes obtained by party-list candidates disqualified after the holding of the party-list elections will result in the instability of the system. The reason is that qualified party-list candidates would be encouraged to seek the disqualification of the other candidates for the sole purpose of attaining the needed percentage of the votes cast. Although such scenario may be possible, we believe that the perceived "instability" can be alleviated because, (1) unlike in the past elections, Comelec now has the herein qualified and disqualified participants' list, which can be used for future elections; and (2) in the light of recent jurisprudential developments, Comelec will now be guided accordingly when accrediting new candidates for the next party-list elections and will be able to set the period for accreditation in such time and manner as to enable it to determine their qualifications long before the elections are held.

Indeed, it takes patience and perseverance to have the marginalized and under-represented sectors ably represented in Congress. The controversies churned during the 1998 and the 2001 party-list elections should further embolden, not distract, the nation in the process of implementing a genuine and sound Philippine-style party-list system. At this point, the Court needs to stress what it said in Veterans:

"[T]he 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 and 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."[31]

We also take this opportunity to emphasize that the formulas devised in Veterans for computing the number of nominees that the party-list winners are entitled to cannot be disregarded by the concerned agencies of

government, especially the Commission on Elections. These formulas ensure that the number of seats allocated to the winning party-list candidates conform to the principle of proportional representation mandated by the law.

The Party-List Winners

As discussed earlier, the votes obtained by disqualified party-list candidates are not to be counted in determining the total votes cast for the party-list system. In the present cases, the votes they obtained should be deducted from the canvass of the total number of votes cast during the May 14, 2001 elections. Consequently, following Section 12 of RA 7941, a new tally and ranking of qualified party-list candidates is now in order, according to the percentage of votes they obtained as compared with the total valid votes cast nationwide.

Accordingly, we will now tally and rank the qualified party-list participants during the last elections, pursuant to the approved Comelec Compliance Reports[32] and our various Resolutions in these consolidated cases. Based on our foregoing discussion, we will deduct the votes obtained by the 116[33] disqualified candidates from the total votes cast for the May 14, 2001 elections. The votes for these disqualified groups total 8,595,630. Subtracting this figure from 15,118,815 (the total votes cast as reported in the Compliance Reports) will result in a new total of 6,523,185 valid votes cast for the May 14, 2001 party-list elections. This new figure representing the votes cast for the 46 qualified party-list participants will now be the basis for computing the two-percent threshold for victory and the number of seats the winners are entitled to.

To repeat, there are only 46 qualified party-list participants. Be it remembered that the Commission recommended for qualification only 42 party-list candidates in its three Compliance Reports. To this figure should be added the two participants we approved in our January 29, 2002 Resolution, plus another two (BUHAY and COCOFED) per our earlier discussion in this ruling. Table No. 1 below-lists the 46 qualified parties.

Table No. 1[34]

Rank

Party-List Group

Votes Cast

Percentage to Total Votes Cast (%)

1

BAYAN MUNA

1,708,253

26.19

2

APEC

802,060

12.29

3

AKBAYAN!

377,852

5.79

4

BUTIL

330,282

5.06

5

CIBAC

323,810

4.96

6

BUHAY

290,760

4.46

7

AMIN

252,051

3.86

8

ABA

242,199

3.71

9

COCOFED

229,165

3.51

10

PM

216,823

3.32

11

SANLAKAS

151,017

2.31

12

ABANSE! PINAY

135,211

2.07

13

AKO

126,012

1.93

14

ALAGAD

117,161

1.80

15

ELDERLY

106,496

1.63

16

ATUCP

103,273

1.58

17

MARITIME

98,946

1.52

18

OFW

97,085

1.49

19

AMMMA

65,735

1.01

20

ANAKBAYAN

63,312

0.97

21

AKAP

54,925

0.84

22

MSCFO

49,914

0.76

23

WPI

46,831

0.72

24

AAAFPI

43,882

0.67

25

AWATU

42,149

0.65

26

NACTODAP

38,898

0.60

27

SCFO

37,470

0.57

28

TRICAP

35,807

0.55

29

PINOY MAY K

32,151

0.49

30

VETERANS CARE

31,694

0.49

31

OCW-UNIFIL

29,400

0.45

32

PWP

24,182

0.37

33

DA

24,029

0.37

34

PARP

23,297

0.36

35

ARPES

22,497

0.34

36

ARBA

22,345

0.34

37

FEJODAP

21,335

0.33

38

GABAY OFW

17,777

0.27

39

AASAHAN

16,787

0.26

40

AYOS

15,871

0.24

41

POWER

13,050

0.20

42

KILOS

11,170

0.17

43

KALOOB

9,137

0.14

44

ALYANSA

7,882

0.12

45

KATUTUBO

6,602

0.10

46

DFP

6,600

0.10

Total

6,523,185

The Winners and Their Nominees

Using simple mathematics, we find that only 12 of the 46 qualified parties obtained at least two percent of the 6,523,185 total valid votes cast. Two percent of this number is 130,464. Hence, only those qualified parties that obtained at least 130,464 votes may be declared winners. On this basis, the winners are as follows:

Table No. 2

Rank

Party-List Group

Votes Cast

Percentage to Total Votes Cast (%)

1

BAYAN MUNA

1,708,253

26.19

2

APEC

802,060

12.29

3

AKBAYAN!

377,852

5.79

4

BUTIL

330,282

5.06

5

CIBAC

323,810

4.96

6

BUHAY

290,760

4.46

7

AMIN

252,051

3.86

8

ABA

242,199

3.71

9

COCOFED

229,165

3.51

10

PM

216,823

3.32

11

SANLAKAS

151,017

2.31

12

ABANSE! PINAY

135,211

2.07

We shall now determine the number of nominees each winning party is entitled to, in accordance with the formula in Veterans. For purposes of determining the number of its nominees, BAYAN MUNA (the party that obtained the highest number of votes) is considered the first party. The applicable formula^[35] is as follows:

Number of votes of first party

=

Proportion of votes of first party relative to total votes for party-list system

Total votes for party-list system

Applying this formula, we arrive at 26.19 percent:

1,708,253

=

26.19%

6,523,185

Having obtained 26.19 percent, BAYAN MUNA is entitled to three (3) seats. This finding is pursuant to our ruling in Veterans, the pertinent portions of which we reproduce as follows:

"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."

x x x x x x x x

"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." [36]

As adverted to earlier, the issue of whether additional seats should be allocated to APEC, AKBAYAN, BUTIL and CIBAC will not be addressed in this Resolution; a separate Motion (with Supplemental Motion) challenging their entitlement thereto has been filed by BAYAN MUNA and is still pending completion as of this writing. Hence, we shall compute only the additional seat or seats to be allocated, if any, to the other qualified parties — BUHAY, AMIN, ABA, COCOFED, PM, SANLAKAS and ABANSE! PINAY.

Applying the relevant formula in Veterans to BUHAY, we arrive at 0.51:

Additional Seats

=

Votes Cast for Qualified Party

x

Allotted Seats for First Party

Votes Cast for First Party

=

290,760

x

3

1,708,253

=

0.51

Since 0.51 is less than one, BUHAY is not entitled to any additional seat.[37] It is entitled to only one qualifying seat like all the other qualified parties that are ranked below it, as shown in Table No. 3:

Table No. 3

Rank

Party-List

Votes

Percentage(%)

Additional Seats[38]

2

APEC

802,060

12.29

n/c

3

AKBAYAN!

377,852

5.79

n/c

4

BUTIL

330,282

5.06

n/c

5

CIBAC

323,810

4.96

n/c

6

BUHAY

290,760

4.46

0.51

7

AMIN

252,051

3.86

0.44

8

ABA

242,199

3.71

0.42

9

COCOFED

229,165

3.51

0.40

10

PM

216,823

3.32

0.38

11

SANLAKAS

151,017

2.31

0.26

12

ABANSE! PINAY

135,211

2.07

0.24

In sum, the above-named party-list winners, excluding those with a separate pending challenge, are entitled to the following congressional seats:

1.

BAYAN MUNA

—

three (3) seats [one qualifying and two additional seats]

2.

BUHAY

—

one qualifying seat only

3.

AMIN

—

one qualifying seat only

4.

ABA

—

one qualifying seat only

5.

COCOFED

—

one qualifying seat only

6.

PM

—

one qualifying seat only

7.

SANLAKAS

—
one qualifying seat only

8.

ABANSE! PINAY

—
one qualifying seat only

Epilogue

The determination of the winners in the last party-list elections has been neither easy nor simple. The novelty of the party-list system in our country necessarily demanded careful study and deliberation by the Court. Principles and precedents in other democracies of the world have not been very helpful, because our party-list law (RA 7941) has earmarked unique parameters, giving rise to an equally distinctive Philippine-style party-list system. Our difficulties have also been aggravated by the less than firm actions of the Commission on Elections referred to earlier, which had to be reversed based on the OSG's later submissions.

To help all concerned, especially the Commission on Elections, speed up the process of determining the party-list winners in the future, we deem it wise to summarize the implementing process we followed in this Resolution, as follows:

- After the promulgation of our Decision on June 26, 2001, we directed Comelec to conduct a factual determination as to which of the various party-list candidates had passed the eight-point guideline we instituted in that Decision. Although we gave Comelec only 30 days to undertake the work, it was able to submit its Final Compliance Report only on September 27, 2001.
- Of the various parties and organizations^[39] which Comelec allowed to participate in the 2001 party-list elections, it recommended — in its three Compliance Reports to the Court — 42 to be qualified. Later on, four more groups were added, for a total of 46.
- Next, we determined which of the 46 qualified parties garnered at least two percent of the total votes cast for the party-list system. To do so, we subtracted the votes obtained by the disqualified candidates from the "total votes cast." Those parties, organizations and coalitions that had obtained at least two percent of this balance were declared winners.
- After identifying the winners, we determined, by using the formulas mandated in *Veterans v. Comelec*, how many nominees each winning party was entitled to.
- The foregoing process would have been finished long ago and the winners proclaimed before the end of the year 2002, had Comelec been more resolute and exacting in the factual determinations contained in its Compliance Reports.
- In the interest of due process, the Court required Position Papers on the issue of whether the votes of disqualified candidates should be deducted from the "total votes cast" nationwide.
- The two rollos of these two consolidated cases contain about 14,000 pages, because almost all of the original party-list participants filed — some repeatedly — motions, pleas, position papers and so on, which all needed attention. Thus, the Court had to devote an enormous amount of time and effort poring over, understanding, and ruling upon these submissions.
- In the interest of speedy justice, this matter was deliberated upon; and this Resolution was discussed, finalized and promulgated by the Court within weeks after it had received the last Position Paper mentioned in

item 6 above.

IN THE FUTURE, the determination of the winners can truly be made much more expeditiously, now that there are precedents to guide all concerned, especially the Commission on Elections. For one thing, Comelec already has the herein base list of 46 qualified parties. For another, given the lessons and experiences in these proceedings, it can now more speedily, more carefully and more prudently pass upon the qualifications of new candidates. Such process can even be done in advance under such rules and regulations it may issue, consistent with the law and with our Decisions and Resolutions here and in *Veterans*, to pre-qualify participants well in advance of the elections.

In closing, the Court hopes that, with each bit of wisdom they learned and after the arduous journey they experienced in our one-of-a-kind Philippine-style party-list system, the marginalized and under-represented sectors of our country will be accorded ever-widening opportunities to participate in nation-building, so that they can help develop — in peace and harmony — a society that is just, humane, progressive and free.

WHEREFORE, we HOLD that, having obtained at least two percent of the total valid votes cast in the last party-list elections, the following qualified participants are DECLARED elected with one nominee each: BUHAY, AMIN, ABA, COCOFED, PM, SANLAKAS and ABANSE! PINAY. To enable the Commission on Elections to proclaim — upon finality of this Resolution — these winners and their respective nominees, we hereby partially LIFT our Temporary Restraining Order dated May 9, 2001, in regard to them only. It is made permanent in regard to the rest that did not qualify and win.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

Vitug, J., with due respect, I reiterate my dissenting opinion, promulgated along with the ponencia, on 26 June 2001 (359 SCRA 698, 733-741).

Austria-Martinez, J., on leave.

[1] These are BAYAN MUNA with three nominees; and AKBAYAN, BUTIL, APEC and CIBAC with one nominee each.

[2] *Veterans Federation Party v. Comelec*, 342 SCRA 244, 255, October 6, 2000, per Panganiban, J.

[3] Pp. 42-43; rollo, GR No. 147613, Vol. I, pp. 377-378.

[4] P. 26; rollo, GR No. 147589, Vol. III, p. 2889. In a Manifestation dated December 5, 2001, the OSG reiterated its position that "APEC and CIBAC be proclaimed as party-list winners in the last May 14, 2001 elections, APEC having garnered 5.3654%, and CIBAC having received 2.1317%, of the total votes cast, x x x." (Pp. 1-2; rollo, GR No. 147589, Vol. IV, pp. 3441-3442)

[5] Rollo, GR No. 147589, Vol. IV, pp. 3746-3751.

[6] En Banc Resolution dated 29 January 2002, pp. 3-4; rollo, GR No. 147589, Vol. IV, pp. 3748-3749.

[7] Our enumeration here begins with "10" because, as earlier stated, we have added APEC and CIBAC to the group of seven deemed qualified under the First Compliance Report.

[8] We shall not, at this point, rule on the legal effects of this "Resolution" especially insofar as it authorized the

proclamation of additional nominees for APEC, AKBAYAN, BUTIL and CIBAC, because a separate Motion challenging it has been lodged in this Court, and the parties are still in the process of submitting their various pleadings thereon.

[9] Comment dated November 15, 2002, p. 3; rollo, GR No. 147589, Vol. V, p. 4718. Underscoring in the original.

[10] Although the OSG's Comment averred that the percentages were based on "the total votes cast," a check with the November 6, 2002 Comelec Resolution shows that the basis was the total votes for only 48 parties.

[11] Ibid. See also Comelec Resolution dated November 6, 2002, p. 2; rollo, GR No. 147589, Vol. V, p. 4710.

[12] Ibid.

[13] Comment dated November 25, 2002, p. 2; rollo, GR No. 147589, Vol. V, p. 4801.

[14] Ibid. See also Comelec Resolution dated November 6, 2002, p. 2; rollo, GR No. 147589, Vol. V, p. 4710; and footnote 10 of this Resolution.

[15] GR Nos. 105111 and 105384, 211 SCRA 297, July 3, 1992.

[16] 340 Phil. 591, June 19, 1997.

[17] Comelec's First Partial Compliance Report dated July 27, 2001, pp. 36-37; GR No. 147613, Vol. I, pp. 4129.

[18] Id., pp. 38 & 4131.

[19] Supra.

[20] The Court postponed its action in regard to the OSG's recommendation on BUHAY and COCOFED, because at the time the Consolidated Reply was filed, they had not reached the two-percent benchmark required for victory. At that point, there had been no ruling yet on the issue of whether the votes of disqualified participants should be deducted from the "total votes cast." On the other hand, regardless of whether such ballots were to be deducted or not, APEC and CIBAC — along with BAYAN MUNA, AKBAYAN and BUTIL — had already obtained more than two percent of all the votes cast for all participants. Hence, there was urgency in ruling upon the qualifications of these five.

[21] "SEC. 11. Number of Party-List Representatives. — x x x

x x x x x x x x

"(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 seats."

[22] Supra.

[23] Supra.

[24] Supra, p. 311, per Bidin, J.

[25] Id., p. 312.

[26] Supra, p. 501, per Romero, J.

[27] Section 6 of RA 6646 provides:

"SEC. 6. Effect of Disqualification Case. — Any candidate who has been declared by final judgment to be disqualified shall not be voted for, and the votes cast for him shall not be counted. If for any reason a candidate is not declared by final judgment before an election to be disqualified and he is voted for and receives the winning number of votes in such election, the Court or Commission shall continue with the trial and hearing of the action, inquiry, or protest and, upon motion of the complainant or any intervenor, may during the pendency thereof order the suspension of the proclamation of such candidate whenever the evidence of his guilt is strong."

[28] *Sunga v. Comelec*, 351 Phil. 310, 327, March 25, 1998.

[29] *Republic v. CA*, 359 Phil. 530, 559, November 25, 1998.

[30] *Agpalo*, Statutory Construction, 5th ed., 1998, p. 420.

[31] *Supra*, p. 284.

[32] In its October 8, 2002 Resolution, the Court reiterated its affirmance of the Compliance Reports when it denied the Motion for Reconsideration of the VFP. It said: "VFP's Motion for Reconsideration x x x merely rehashes and reiterates arguments already debunked in the July 27, 2001 Comelec Compliance Report, which, to repeat, has been affirmed by this Court. It presents no cogent or compelling reasons why we should reverse or modify our unanimous Resolution affirming the exhaustive Comelec Reports." (P. 4; rollo, GR No. 147613, Vol. V, p. 6932)

[33] Initially, Comelec disqualified 120 in its three Compliance Reports but 4 of them — APEC, BUTIL, BUHAY, and COCOFED — are now deemed qualified.

[34] The figures in this table under "Votes Cast" are from Comelec Canvass Report No. 26 dated September 7, 2001; GR No. 147613, Vol. III, rollo, p. 5961. The percentages are rounded off to two decimal places.

[35] *Supra*, p. 279.

[36] *Id.*, pp. 279-280.

[37] For a discussion of how to compute additional nominees for parties other than the first, see *Veterans*, *supra*, at pp. 280-282. There is no "rounding off" for this portion.

[38] n/c refers to "not computed" since, to repeat, the Court is yet to resolve the validity of the proclamation of the additional nominees of APEC, AKBAYAN, BUTIL and CIBAC due to the Motion of BAYAN MUNA to set aside Comelec Resolution No. NBC-02-001 promulgated on November 6, 2002 and the related November 22, 2002 Comelec Order and the November 26, 2002 Comelec Resolution.

[39] In our June 26, 2001 Decision, we said that the participation of 154 organizations and parties was approved by Comelec. But a review of Comelec's Omnibus Resolution No. 3785 dated March 26, 2001 shows that 159 sectoral parties, organizations/coalitions and political parties were allowed to participate during the May 14, 2001 party-list elections. Compare this figure with 162, the number of parties cited in the Comelec Compliance Reports.

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