

ATONG PAGLAUM, INC., REPRESENTED BY ITS PRESIDENT, MR. ALAN IGOT, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 203766. April 02, 2013

Ponente: CARPIO, J.

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CARPIO, J.:

The Cases

These cases constitute 54 Petitions for Certiorari and Petitions for Certiorari and Prohibition^[1] filed by 52 party-list groups and organizations assailing the Resolutions issued by the Commission on Elections (COMELEC) disqualifying them from participating in the 13 May 2013 party-list elections, either by denial of their petitions for registration under the party-list system, or cancellation of their registration and accreditation as party-list organizations.

This Court resolved to consolidate the 54 petitions in the Resolutions dated 13 November 2012,^[2] 20 November 2012,^[3] 27 November 2012,^[4] 4 December 2012,^[5] 11 December 2012,^[6] and 19 February 2013.^[7]

The Facts

Pursuant to the provisions of Republic Act No. 7941 (R.A. No. 7941) and COMELEC Resolution Nos. 9366 and 9531, approximately 280 groups and organizations registered and manifested their desire to participate in the 13 May 2013 party-list elections.

The COMELEC, however, denied the petitions for registration of the following groups and organizations:

G.R. No. SPP No. Group Grounds for Denial

A. Via the COMELEC En Banc's automatic review of the COMELEC Division's resolutions approving registration of groups/organizations

Resolution dated 23 November 2012^[8]

1

204379

12-099 (PLM)

Alagad ng Sining (ASIN)

- The "artists" sector is not considered marginalized and underrepresented;
- Failure to prove track record; and

- Failure of the nominees to qualify under RA 7941 and Ang Bagong Bayani.

Omnibus Resolution dated 27 November 2012[9]

2

204455

12-041 (PLM)

Manila Teachers Savings and Loan Association, Inc. (Manila Teachers)

- A non-stock savings and loan association cannot be considered marginalized and underrepresented; and
- The first and second nominees are not teachers by profession.

3

204426

12-011 (PLM)

Association of Local Athletics Entrepreneurs and Hobbyists, Inc. (ALA-EH)

- Failure to show that its members belong to the marginalized; and
- Failure of the nominees to qualify.

Resolution dated 27 November 2012[10]

4

204435

12-057 (PLM)

1 Alliance

Advocating Autonomy Party (1AAAP)

- Failure of the nominees to qualify: although registering as a regional political party, two of the nominees are not residents of the region; and four of the five nominees do not belong to the marginalized and underrepresented.

Resolution dated 27 November 2012[11]

5

204367

12-104 (PL)

Akbay Kalusugan (AKIN), Inc.

- Failure of the group to show that its nominees belong to the urban poor sector.

Resolution dated 29 November 2012[12]

6

204370

12-011 (PP)

Ako An Bisaya (AAB)

- Failure to represent a marginalized sector of society, despite the formation of a sectoral wing for the benefit of farmers of Region 8;
- Constituency has district representatives;
- Lack of track record in representing peasants and farmers; and
- Nominees are neither farmers nor peasants.

Resolution dated 4 December 2012[13]

7

204436

12-009 (PP), 12-165 (PLM)

Abyan Ilonggo Party (AI)

- Failure to show that the party represents a marginalized and underrepresented sector, as the Province of Iloilo has district representatives;
- Untruthful statements in the memorandum; and
- Withdrawal of three of its five nominees.

Resolution dated 4 December 2012[14]

8

204485

12-175 (PL)

Alliance of Organizations, Networks and Associations of the Philippines, Inc. (ALONA)

- Failure to establish that the group can represent 14 sectors;
- The sectors of homeowners' associations, entrepreneurs and cooperatives are not marginalized and underrepresented; and
- The nominees do not belong to the marginalized and underrepresented.

B. Via the COMELEC En Banc's review on motion for reconsideration of the COMELEC Division's resolutions denying registration of groups and organizations

Resolution dated 7 November 2012[15]

9

204139

12-127 (PL)

Alab ng Mamamahayag (ALAM)

- Failure to prove track record as an organization;
- Failure to show that the group actually represents the marginalized and underrepresented; and

- Failure to establish that the group can represent all sectors it seeks to represent.

Resolution dated 7 November 2012[16]

10

204402

12-061 (PP)

Kalikasan Party-List (KALIKASAN)

- The group reflects an advocacy for the environment, and is not representative of the marginalized and underrepresented;
- There is no proof that majority of its members belong to the marginalized and underrepresented;
- The group represents sectors with conflicting interests; and
- The nominees do not belong to the sector which the group claims to represent.

Resolution dated 14 November 2012[17]

11

204394

12-145 (PL)

Association of Guard, Utility Helper, Aider, Rider, Driver/Domestic Helper, Janitor, Agent and Nanny of the Philippines, Inc. (GUARDJAN)

- Failure to prove membership base and track record;
- Failure to present activities that sufficiently benefited its intended constituency; and
- The nominees do not belong to any of the sectors which the group seeks to represent.

Resolution dated 5 December 2012[18]

12

204490

12-073 (PLM)

Pilipinas Para sa Pinoy (PPP)

- Failure to show that the group represents a marginalized and underrepresented sector, as Region 12 has district representatives; and
- Failure to show a track record of undertaking programs for the welfare of the sector the group seeks to represent.

In a Resolution dated 5 December 2012,[19] the COMELEC En Banc affirmed the COMELEC Second Division's resolution to grant Partido ng Bayan ng Bida's (PBB) registration and accreditation as a political party in the National Capital Region. However, PBB was denied participation in the 13 May 2013 party-list elections because PBB does not represent any "marginalized and underrepresented" sector; PBB failed to apply for registration as a party-list group; and PBB failed to establish its track record as an organization that seeks to uplift the lives of the "marginalized and underrepresented." [20]

These 13 petitioners (ASIN, Manila Teachers, ALA-EH, 1AAAP, AKIN, AAB, AI, ALONA, ALAM, KALIKASAN, GUARDJAN, PPP, and PBB) were not able to secure a mandatory injunction from this Court. The COMELEC, on 7 January 2013 issued Resolution No. 9604,[21] and excluded the names of these 13 petitioners in the printing of the official ballot for the 13 May 2013 party-list elections.

Pursuant to paragraph 2[22] of Resolution No. 9513, the COMELEC En Banc scheduled summary evidentiary hearings to determine whether the groups and organizations that filed manifestations of intent to participate in the 13 May 2013 party-list elections have continually complied with the requirements of R.A. No. 7941 and Ang Bagong Bayani-OFW Labor Party v. COMELEC[23] (Ang Bagong Bayani). The COMELEC disqualified the following groups and organizations from participating in the 13 May 2013 party-list elections:

G.R. No.

SPP No.

Group

Grounds for Denial

Resolution dated 10 October 2012[24]

1

203818-19

12-154 (PLM)

12-177 (PLM)

AKO Bicol Political Party (AKB)

Retained registration and accreditation as a political party, but denied participation in the May 2013 party-list elections

- Failure to represent any marginalized and underrepresented sector;
- The Bicol region already has representatives in Congress; and
- The nominees are not marginalized and underrepresented.

Omnibus Resolution dated 11 October 2012[25]

2

203766

12-161 (PLM)

Atong Paglaum, Inc. (Atong Paglaum)

Cancelled registration and accreditation

- The nominees do not belong to the sectors which the party represents; and
- The party failed to file its Statement of Contributions and Expenditures for the 2010 Elections.

3

203981

12-187 (PLM)

Association for Righteousness Advocacy on Leadership (ARAL)

Cancelled registration and accreditation

- Failure to comply, and for violation of election laws;
- The nominees do not represent the sectors which the party represents; and
- There is doubt that the party is organized for religious purposes.

4

204002

12-188 (PLM)

Alliance for Rural Concerns (ARC)

Cancelled registration and accreditation

- Failure of the nominees to qualify; and
- Failure of the party to prove that majority of its members belong to the sectors it seeks to represent.

5

204318

12-220 (PLM)

United Movement Against Drugs Foundation (UNIMAD)

Cancelled registration and accreditation

- The sectors of drug counsellors and lecturers, veterans and the youth, are not marginalized and underrepresented;
- Failure to establish track record; and
- Failure of the nominees to qualify as representatives of the youth and young urban professionals.

Omnibus Resolution dated 16 October 2012[26]

6

204100

12-196 (PLM)

1-Bro Philippine Guardians Brotherhood, Inc. (1BRO-PGBI)

Cancelled registration

- Failure to define the sector it seeks to represent; and
- The nominees do not belong to a marginalized and underrepresented sector.

7

204122

12-223 (PLM)

1 Guardians Nationalist Philippines, Inc. (1GANAP/GUARDIANS)

Cancelled registration

- The party is a military fraternity;
- The sector of community volunteer workers is too broad to allow for meaningful representation; and
- The nominees do not appear to belong to the sector of community volunteer workers.

8

204263

12-257 (PLM)

Blessed Federation of Farmers and Fishermen International, Inc. (A BLESSED Party-List)

Cancelled registration

- Three of the seven nominees do not belong to the sector of farmers and fishermen, the sector sought to be represented; and
- None of the nominees are registered voters of Region XI, the region sought to be represented.

Resolution dated 16 October 2012[27]

9

203960

12-260 (PLM)

1st Consumers Alliance for Rural Energy, Inc. (1-CARE)

Cancelled registration

- The sector of rural energy consumers is not marginalized and underrepresented;
- The party's track record is related to electric cooperatives and not rural energy consumers; and
- The nominees do not belong to the sector of rural energy consumers.

Resolution dated 16 October 2012[28]

10

203922

12-201 (PLM)

Association of Philippine Electric Cooperatives (APEC)

Cancelled registration and accreditation

- Failure to represent a marginalized and underrepresented sector; and
- The nominees do not belong to the sector that the party claims to represent.

Resolution dated 23 October 2012[29]

11

204174

12-232 (PLM)

Aangat Tayo Party-List Party (AT)

Cancelled registration and accreditation

- The incumbent representative in Congress failed to author or sponsor bills that are beneficial to the sectors that the party represents (women, elderly, youth, urban poor); and
- The nominees do not belong to the marginalized sectors that the party seeks to represent.

Omnibus Resolution dated 24 October 2012[30]

12

203976

12-288 (PLM)

Alliance for Rural and Agrarian Reconstruction, Inc. (ARARO)

Cancelled registration and accreditation

- The interests of the peasant and urban poor sectors that the party represents differ;
- The nominees do not belong to the sectors that the party seeks to represent;
- Failure to show that three of the nominees are bona fide party members; and
- Lack of a Board resolution to participate in the party-list elections.

Omnibus Resolution dated 24 October 2012[31]

13

204240

12-279 (PLM)

Agri-Agra na Reporma Para sa Magsasaka ng Pilipinas Movement (AGRI)

Cancelled registration

- The party ceased to exist for more than a year immediately after the May 2010 elections;
- The nominees do not belong to the sector of peasants and farmers that the party seeks to represent;
- Only four nominees were submitted to the COMELEC; and
- Failure to show meaningful activities for its constituency.

14

203936

12-248 (PLM)

Aksyon Magsasaka-Partido Tinig ng Masa (AKMA-PTM)

Cancelled registration

- Failure to show that majority of its members are marginalized and underrepresented;
- Failure to prove that four of its nine nominees actually belong to the farmers sector; and

- Failure to show that five of its nine nominees work on uplifting the lives of the members of the sector.

15

204126

12-263 (PLM)

Kaagapay ng Nagkakaisang Agilang Pilipinong Magsasaka (KAP)

Cancelled registration

- The Manifestation of Intent and Certificate of Nomination were not signed by an appropriate officer of the party;
- Failure to show track record for the farmers and peasants sector; and
- Failure to show that nominees actually belong to the sector, or that they have undertaken meaningful activities for the sector.

16

204364

12-180 (PLM)

Adhikain at Kilusan ng Ordinaryong Tao Para sa Lupa, Pabahay, Hanapbuhay at Kaunlaran (AKO-BAHAY)

Cancelled registration

- Failure to show that nominees actually belong to the sector, or that they have undertaken meaningful activities for the sector.

17

204141

12-229 (PLM)

The True Marcos Loyalist (for God, Country and People) Association of the Philippines, Inc. (BANTAY)

Cancelled registration

- Failure to show that majority of its members are marginalized and underrepresented; and
- Failure to prove that two of its nominees actually belong to the marginalized and underrepresented.

18

204408

12-217 (PLM)

Pilipino Association for Country – Urban Poor Youth Advancement and Welfare (PACYAW)

Cancelled registration

- Change of sector (from urban poor youth to urban poor) necessitates a new application;
- Failure to show track record for the marginalized and underrepresented;
- Failure to prove that majority of its members and officers are from the urban poor sector; and
- The nominees are not members of the urban poor sector.

19

204153

12-277 (PLM)

Pasang Masda Nationwide Party (PASANG MASDA)

Cancelled registration

- The party represents drivers and operators, who may have conflicting interests; and
- Nominees are either operators or former operators.

20

203958

12-015 (PLM)

Kapatiran ng mga Nakulong na Walang Sala, Inc. (KAKUSA)

Cancelled registration

- Failure to prove that majority of its officers and members belong to the marginalized and underrepresented;
- The incumbent representative in Congress failed to author or sponsor bills that are beneficial to the sector that the party represents (persons imprisoned without proof of guilt beyond reasonable doubt);
- Failure to show track record for the marginalized and underrepresented; and
- The nominees did not appear to be marginalized and underrepresented.

Resolution dated 30 October 2012[32]

21

204428

12-256 (PLM)

Ang Galing Pinoy (AG)

Cancelled registration and accreditation

- Failure to attend the summary hearing;
- Failure to show track record for the marginalized and underrepresented; and
- The nominees did not appear to be marginalized and underrepresented.

Resolution dated 7 November 2012[33]

22

204094

12-185 (PLM)

Alliance for Nationalism and Democracy (ANAD)

Cancelled registration and accreditation

- Failure to represent an identifiable marginalized and underrepresented sector;
- Only three nominees were submitted to the COMELEC;
- The nominees do not belong to the marginalized and underrepresented; and

- Failure to submit its Statement of Contribution and Expenditures for the 2007 Elections.

Omnibus Resolution dated 7 November 2012[34]

23

204239

12-060 (PLM)

Green Force for the Environment Sons and Daughters of Mother Earth (GREENFORCE)

Cancelled registration and accreditation

- The party is an advocacy group and does not represent the marginalized and underrepresented;
- Failure to comply with the track record requirement; and
- The nominees are not marginalized citizens.

24

204236

12-254 (PLM)

Firm 24-K Association, Inc. (FIRM 24-K)

Cancelled registration and accreditation

- The nominees do not belong to the sector that the party seeks to represent (urban poor and peasants of the National Capital Region);
- Only two of its nominees reside in the National Capital Region; and
- Failure to comply with the track record requirement.

25

204341

12-269 (PLM)

Action League of Indigenous Masses (ALIM)

Cancelled registration and accreditation

- Failure to establish that its nominees are members of the indigenous people in the Mindanao and Cordilleras sector that the party seeks to represent;
- Only two of the party's nominees reside in the Mindanao and Cordilleras; and
- Three of the nominees do not appear to belong to the marginalized.

Resolution dated 7 November 2012[35]

26

204358

12-204 (PLM)

Alliance of Advocates in Mining Advancement for National Progress (AAMA)

Cancelled registration

- The sector it represents is a specifically defined group which may not be allowed registration under the party-list system; and
- Failure to establish that the nominees actually belong to the sector.

Resolution dated 7 November 2012[36]

27

204359

12-272 (PLM)

Social Movement for Active Reform and Transparency (SMART)

Cancelled registration

- The nominees are disqualified from representing the sectors that the party represents;
- Failure to comply with the track record requirement; and
- There is doubt as to whether majority of its members are marginalized and underrepresented.

Resolution dated 7 November 2012[37]

28

204238

12-173 (PLM)

Alliance of Bicolnon Party (ABP)

Cancelled registration and accreditation

- Defective registration and accreditation dating back to 2010;
- Failure to represent any sector; and
- Failure to establish that the nominees are employed in the construction industry, the sector it claims to represent.

Resolution dated 7 November 2012[38]

29

204323

12-210 (PLM)

Bayani Party List (BAYANI)

Cancelled registration and accreditation

- Failure to prove a track record of trying to uplift the marginalized and underrepresented sector of professionals; and
- One nominee was declared unqualified to represent the sector of professionals.

Resolution dated 7 November 2012[39]

30

204321

12-252 (PLM)

Ang Agrikultura Natin Isulong (AANI)

Cancelled registration and accreditation

- Failure to establish a track record of enhancing the lives of the marginalized and underrepresented farmers which it claims to represent; and
- More than a majority of the party's nominees do not belong to the farmers sector.

Resolution dated 7 November 2012[40]

31

204125

12-292 (PLM)

Agapay ng Indigenous Peoples Rights Alliance, Inc. (A-IPRA)

Cancelled registration and accreditation

- Failure to prove that its five nominees are members of the indigenous people sector;
- Failure to prove that its five nominees actively participated in the undertakings of the party; and
- Failure to prove that its five nominees are bona fide members.

Resolution dated 7 November 2012[41]

32

204216

12-202 (PLM)

Philippine Coconut Producers Federation, Inc. (COCOFED)

Cancelled registration and accreditation

- The party is affiliated with private and government agencies and is not marginalized;
- The party is assisted by the government in various projects; and
- The nominees are not members of the marginalized sector of coconut farmers and producers.

Resolution dated 7 November 2012[42]

33

204220

12-238 (PLM)

Abang Lingkod Party-List (ABANG LINGKOD)

Cancelled registration

- Failure to establish a track record of continuously representing the peasant farmers sector;

- Failure to show that its members actually belong to the peasant farmers sector; and
- Failure to show that its nominees are marginalized and underrepresented, have actively participated in programs for the advancement of farmers, and adhere to its advocacies.

Resolution dated 14 November 2012[43]

34

204158

12-158 (PLM)

Action Brotherhood for Active Dreamers, Inc. (ABROAD)

Cancelled registration and accreditation

- Failure to show that the party is actually able to represent all of the sectors it claims to represent;
- Failure to show a complete track record of its activities since its registration; and
- The nominees are not part of any of the sectors which the party seeks to represent.

Resolution dated 28 November 2012[44]

35

204374

12-228 (PLM)

Binhi-Partido ng mga Magsasaka Para sa mga Magsasaka (BINHI)

Cancelled registration and accreditation

- The party receives assistance from the government through the Department of Agriculture; and
- Failure to prove that the group is marginalized and underrepresented.

Resolution dated 28 November 2012[45]

36

204356

12-136 (PLM)

Butil Farmers Party (BUTIL)

Cancelled registration and accreditation

- Failure to establish that the agriculture and cooperative sectors are marginalized and underrepresented; and
- The party's nominees neither appear to belong to the sectors they seek to represent, nor to have actively participated in the undertakings of the party.

Resolution dated 3 December 2012[46]

37

204486

12-194 (PLM)

1st Kabalikat ng Bayan Ginawang Sangkatauhan (1st KABAGIS)

Cancelled registration and accreditation

- Declaration of untruthful statements;
- Failure to exist for at least one year; and
- None of its nominees belong to the labor, fisherfolk, and urban poor indigenous cultural communities sectors which it seeks to represent.

Resolution dated 4 December 2012[47]

38

204410

12-198 (PLM)

1-United Transport Koalisyon (1-UTAK)

Cancelled accreditation

- The party represents drivers and operators, who may have conflicting interests; and
- The party's nominees do not belong to any marginalized and underrepresented sector.

Resolution dated 4 December 2012[48]

39

204421, 204425

12-157 (PLM), 12-191 (PLM)

Coalition of Senior Citizens in the Philippines, Inc. (SENIOR CITIZENS)

Cancelled registration

- The party violated election laws because its nominees had a term-sharing agreement.

These 39 petitioners (AKB, Atong Paglaum, ARAL, ARC, UNIMAD, 1BRO-PGBI, 1GANAP/GUARDIANS, A BLESSED Party-List, 1-CARE, APEC, AT, ARARO, AGRI, AKMA-PTM, KAP, AKO-BAHAY, BANTAY, PACYAW, PASANG MASDA, KAKUSA, AG, ANAD, GREENFORCE, FIRM 24-K, ALIM, AAMA, SMART, ABP, BAYANI, AANI, A-IPRA, COCOFED, ABANG LINGKOD, ABROAD, BINHI, BUTIL, 1st KABAGIS, 1-UTAK, SENIOR CITIZENS) were able to secure a mandatory injunction from this Court, directing the COMELEC to include the names of these 39 petitioners in the printing of the official ballot for the 13 May 2013 party-list elections.

Petitioners prayed for the issuance of a temporary restraining order and/or writ of preliminary injunction. This Court issued Status Quo Ante Orders in all petitions. This Decision governs only the 54 consolidated petitions that were granted Status Quo Ante Orders, namely:

G.R. No.

SPP No.

Group

Resolution dated 13 November 2012

203818-19

12-154 (PLM)

12-177 (PLM)

AKO Bicol Political Party (AKB)

203981

12-187 (PLM)

Association for Righteousness Advocacy on Leadership (ARAL)

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Alliance for Rural Concerns (ARC)

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12-201 (PLM)

Association of Philippine Electric Cooperatives (APEC)

203960

12-260 (PLM)

1st Consumers Alliance for Rural Energy, Inc. (1-CARE)

203936

12-248 (PLM)

Aksyon Magsasaka-Partido Tinig ng Masa (AKMA-PTM)

203958

12-015 (PLM)

Kapatiran ng mga Nakulong na Walang Sala, Inc. (KAKUSA)

203976

12-288 (PLM)

Alliance for Rural and Agrarian Reconstruction, Inc. (ARARO)

Resolution dated 20 November 2012

204094

12-185 (PLM)

Alliance for Nationalism and Democracy (ANAD)

204125

12-292 (PLM)

Agapay ng Indigenous Peoples Rights Alliance, Inc. (A-IPRA)

204100

12-196 (PLM)

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Resolution dated 27 November 2012

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Resolutions dated 4 December 2012

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12-204 (PLM)

Alliance of Advocates in Mining Advancement for National Progress (AAMA)

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Binhi-Partido ng mga Magsasaka Para sa mga Magsasaka (BINHI)

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1st Kabalikat ng Bayan Ginawang Sangkatauhan (1st KABAGIS)

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204421, 204425

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12-175 (PL)

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204484

11-002

Partido ng Bayan ng Bida (PBB)

Resolution dated 11 December 2012

204153

12-277 (PLM)

Pasang Masda Nationwide Party (PASANG MASDA)

The Issues

We rule upon two issues: first, whether the COMELEC committed grave abuse of discretion amounting to lack or

excess of jurisdiction in disqualifying petitioners from participating in the 13 May 2013 party-list elections, either by denial of their new petitions for registration under the party-list system, or by cancellation of their existing registration and accreditation as party-list organizations; and second, whether the criteria for participating in the party-list system laid down in *Ang Bagong Bayani and Barangay Association for National Advancement and Transparency v. Commission on Elections*[49] (BANAT) should be applied by the COMELEC in the coming 13 May 2013 party-list elections.

The Court's Ruling

We hold that the COMELEC did not commit grave abuse of discretion in following prevailing decisions of this Court in disqualifying petitioners from participating in the coming 13 May 2013 party-list elections. However, since the Court adopts in this Decision new parameters in the qualification of national, regional, and sectoral parties under the party-list system, thereby abandoning the rulings in the decisions applied by the COMELEC in disqualifying petitioners, we remand to the COMELEC all the present petitions for the COMELEC to determine who are qualified to register under the party-list system, and to participate in the coming 13 May 2013 party-list elections, under the new parameters prescribed in this Decision.

The Party-List System

The 1987 Constitution provides the basis for the party-list system of representation. Simply put, the party-list system is intended to democratize political power by giving political parties that cannot win in legislative district elections a chance to win seats in the House of Representatives.[50] The voter elects two representatives in the House of Representatives: one for his or her legislative district, and another for his or her party-list group or organization of choice. The 1987 Constitution provides:

Section 5, Article VI

(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 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.

Sections 7 and 8, Article IX-C

Sec. 7. No votes cast in favor of a political party, organization, or coalition shall be valid, except for those registered under the party-list system as provided in this Constitution.

Sec. 8. Political parties, or organizations or coalitions registered under the party-list system, shall not be represented in the voters' registration boards, boards of election inspectors, boards of canvassers, or other similar bodies. However, they shall be entitled to appoint poll watchers in accordance with law.

Commissioner Christian S. Monsod, the main sponsor of the party-list system, stressed that "the party-list system is not synonymous with that of the sectoral representation." [51] The constitutional provisions on the party-list system should be read in light of the following discussion among its framers:

MR. MONSOD: x x x.

I would like to make a distinction from the beginning that the proposal for the party list system is not synonymous with that of the sectoral representation. Precisely, the party list system seeks to avoid the dilemma of choice of sectors and who constitute the members of the sectors. In making the proposal on the party list system, we were made aware of the problems precisely cited by Commissioner Bacani of which sectors will have reserved seats. In effect, a sectoral representation in the Assembly would mean that certain sectors would have reserved seats; that they will choose among themselves who would sit in those reserved seats. And then, we have the problem of which sector because as we will notice in Proclamation No. 9, the sectors cited were the farmers, fishermen, workers, students, professionals, business, military, academic, ethnic and other similar groups. So these are the nine sectors that were identified here as "sectoral representatives" to be represented in this Commission. The problem we had in trying to approach sectoral representation in the Assembly was whether to stop at these nine sectors or include other sectors. And we went through the exercise in a caucus of which sector should be included which went up to 14 sectors. And as we all know, the longer we make our enumeration, the more limiting the law become because when we make an enumeration we exclude those who are not in the enumeration. Second, we had the problem of who comprise the farmers. Let us just say the farmers and the laborers. These days, there are many citizens who are called "hyphenated citizens." A doctor may be a farmer; a lawyer may also be a farmer. And so, it is up to the discretion of the person to say "I am a farmer" so he would be included in that sector.

The third problem is that when we go into a reserved seat system of sectoral representation in the Assembly, we are, in effect, giving some people two votes and other people one vote. We sought to avoid these problems by presenting a party list system. Under the party list system, there are no reserved seats for sectors. Let us say, laborers and farmers can form a sectoral party or a sectoral organization that will then register and present candidates of their party. How do the mechanics go? Essentially, under the party list system, every voter has two votes, so there is no discrimination. First, he will vote for the representative of his legislative district. That is one vote. In that same ballot, he will be asked: What party or organization or coalition do you wish to be represented in the Assembly? And here will be attached a list of the parties, organizations or coalitions that have been registered with the COMELEC and are entitled to be put in that list. This can be a regional party, a sectoral party, a national party, UNIDO, Magsasaka or a regional party in Mindanao. One need not be a farmer to say that he wants the farmers' party to be represented in the Assembly. Any citizen can vote for any party. At the end of the day, the COMELEC will then tabulate the votes that had been garnered by each party or each organization — one does not have to be a political party and register in order to participate as a party — and count the votes and from there derive the percentage of the votes that had been cast in favor of a party, organization or coalition.

When such parties register with the COMELEC, we are assuming that 50 of the 250 seats will be for the party list system. So, we have a limit of 30 percent of 50. That means that the maximum that any party can get out of these 50 seats is 15. When the parties register they then submit a list of 15 names. They have to submit these names because these nominees

have to meet the minimum qualifications of a Member of the National Assembly. At the end of the day, when the votes are tabulated, one gets the percentages. Let us say, UNIDO gets 10 percent or 15 percent of the votes; KMU gets 5 percent; a women's party gets 2 1/2 percent and anybody 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. It also means that, let us say, there are three or four labor groups, they all register as a party or as a group. 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. These sectors or these groups may not have the constituency to win a seat on a legislative district basis. They may not be able to win a seat on a district basis but surely, they will have votes on a nationwide basis.

The purpose of this is to open the system. In the past elections, we found out that there were certain groups or parties that, if we count their votes nationwide; have about 1,000,000 or 1,500,000 votes. But they were always third place or fourth place in each of the districts. So, they have no voice in the Assembly. But this way, they would have five or six representatives in the Assembly even if they would not win individually in legislative districts. So, that is essentially the mechanics, the purpose and objectives of the party list system.

BISHOP BACANI: Madam President, am I right in interpreting that when we speak now of party list system though we refer to sectors, we would be referring to sectoral party list rather than sectors and party list?

MR. MONSOD: As a matter of fact, if this body accepts the party list system, we do not even have to mention sectors because the sectors would be included in the party list system. They can be sectoral parties within the party list system.

x x x x

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. x x x 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. x x x.

x x x

MR. MONSOD. Madam President, the candidacy for the 198 seats is not limited to political parties. My question is this: Are we going to classify for example Christian Democrats and Social Democrats as political parties? Can they run under the party list concept or must they be under the district legislation side of it only?

MR. VILLACORTA. In reply to that query, I think these parties that the Commissioner mentioned can field candidates for the Senate as well as for the House of Representatives. Likewise, they can also field sectoral candidates for the 20 percent or 30 percent, whichever is adopted, of the seats that we are allocating under the party list system.

MR. MONSOD. In other words, the Christian Democrats can field district candidates and can also participate in the party list system?

MR. VILLACORTA. Why not? When they come to the party list system, they will be fielding only sectoral candidates.

MR. MONSOD. May I be clarified on that? Can UNIDO participate in the party list system?

MR. VILLACORTA. Yes, why not? For as long as they field candidates who come from the different marginalized sectors that we shall designate in this Constitution.

MR. MONSOD. Suppose Senator Tañada wants to run under BAYAN group and says that he represents the farmers, would he qualify?

MR. VILLACORTA. No, Senator Tañada would not qualify.

MR. MONSOD. But UNIDO can field candidates under the party list system and say Juan dela Cruz is a farmer. Who would pass on whether he is a farmer or not?

MR. TADEO. Kay Commissioner Monsod, gusto ko lamang linawin ito. Political parties, particularly minority political parties, are not prohibited to participate in the party list election if they can prove that they are also organized along sectoral lines.

MR. MONSOD. What the Commissioner is saying is that all political parties can participate because it is precisely the contention of political parties that they represent the broad base of citizens and that all sectors are represented in them. Would the Commissioner agree?

MR. TADEO. Ang punto lamang namin, pag pinayagan mo ang UNIDO na isang political party, it will dominate the party list at mawawalang saysay din yung sector. Lalamunin mismo ng political parties ang party list system. Gusto ko lamang bigyan ng diin ang “reserve.” Hindi ito reserve seat sa marginalized sectors. Kung titingnan natin itong 198 seats, reserved din ito sa political parties.

MR. MONSOD. Hindi po reserved iyon kasi anybody can run there. But my question to Commissioner Villacorta and probably also to Commissioner Tadeo is that under this system, would UNIDO be banned from running under the party list system?

MR. VILLACORTA. No, as I said, UNIDO may field sectoral candidates. On that condition alone, UNIDO may be allowed to register for the party list system.

MR. MONSOD. May I inquire from Commissioner Tadeo if he shares that answer?

MR. TADEO. The same.

MR. VILLACORTA. Puwede po ang UNIDO, pero sa sectoral lines.

MR. MONSOD: Sino po ang magsasabi kung iyong kandidato ng UNIDO ay hindi talagang labor leader or isang laborer? Halimbawa, abogado ito.

MR. TADEO: Iyong mechanics.

MR. MONSOD: Hindi po mechanics iyon because we are trying to solve an inherent problem of sectoral representation. My question is: Suppose UNIDO fields a labor leader, would he qualify?

MR. TADEO: The COMELEC may look into the truth of whether or not a political party is really organized along a specific sectoral line. If such is verified or confirmed, the political party may submit a list of individuals who are actually members of such sectors. The lists are to be published to give individuals or organizations belonging to such sector the chance to present evidence contradicting claims of membership in the said sector or to question the claims of the existence of such sectoral organizations or parties. This proceeding shall be conducted by the COMELEC and shall be summary in character. In other words, COMELEC decisions on this matter are final and unappealable.[52] (Emphasis supplied)

Indisputably, the framers of the 1987 Constitution intended the party-list system to include not only sectoral parties but also non-sectoral parties. The framers intended the sectoral parties to constitute a part, but not the entirety, of the party-list system. As explained by Commissioner Wilfredo Villacorta, political parties can participate in the party-list system “[F]or as long as they field candidates who come from the different marginalized sectors that we shall designate in this Constitution.”[53]

In fact, the framers voted down, 19-22, a proposal to reserve permanent seats to sectoral parties in the House of Representatives, or alternatively, to reserve the party-list system exclusively to sectoral parties. As clearly

explained by Justice Jose C. Vitug in his Dissenting Opinion in *Ang Bagong Bayani*:

The draft provisions on what was to become Article VI, Section 5, subsection (2), of the 1987 Constitution took off from two staunch positions — the first headed by Commissioner Villacorta, advocating that of the 20 per centum of the total seats in Congress to be allocated to party-list representatives half were to be reserved to appointees from the marginalized and underrepresented sectors. The proposal was opposed by some Commissioners. Mr. Monsod expressed the difficulty in delimiting the sectors that needed representation. He was of the view that reserving seats for the marginalized and underrepresented sectors would stunt their development into full-pledged parties equipped with electoral machinery potent enough to further the sectoral interests to be represented. The Villacorta group, on the other hand, was apprehensive that pitting the unorganized and less-moneyed sectoral groups in an electoral contest would be like placing babes in the lion's den, so to speak, with the bigger and more established political parties ultimately gobbling them up. R.A. 7941 recognized this concern when it banned the first five major political parties on the basis of party representation in the House of Representatives from participating in the party-list system for the first party-list elections held in 1998 (and to be automatically lifted starting with the 2001 elections). The advocates for permanent seats for sectoral representatives made an effort towards a compromise — that the party-list system be open only to underrepresented and marginalized sectors. This proposal was further whittled down by allocating only half of the seats under the party-list system to candidates from the sectors which would garner the required number of votes. The majority was unyielding. Voting 19-22, the proposal for permanent seats, and in the alternative the reservation of the party-list system to the sectoral groups, was voted down. The only concession the Villacorta group was able to muster was an assurance of reserved seats for selected sectors for three consecutive terms after the enactment of the 1987 Constitution, by which time they would be expected to gather and solidify their electoral base and brace themselves in the multi-party electoral contest with the more veteran political groups.[54] (Emphasis supplied)

Thus, in the end, the proposal to give permanent reserved seats to certain sectors was outvoted. Instead, the reservation of seats to sectoral representatives was only allowed for the first three consecutive terms.[55] There can be no doubt whatsoever that the framers of the 1987 Constitution expressly rejected the proposal to make the party-list system exclusively for sectoral parties only, and that they clearly intended the party-list system to include both sectoral and non-sectoral parties.

The common denominator between sectoral and non-sectoral parties is that they cannot expect to win in legislative district elections but they can garner, in nationwide elections, at least the same number of votes that winning candidates can garner in legislative district elections. The party-list system will be the entry point to membership in the House of Representatives for both these non-traditional parties that could not compete in legislative district elections.

The indisputable intent of the framers of the 1987 Constitution to include in the party-list system both sectoral and non-sectoral parties is clearly written in Section 5(1), Article VI of the Constitution, which states:

Section 5. (1) The House of Representative shall be composed of not more that 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 through a party-list system of registered national, regional, and sectoral parties or organizations. (Emphasis supplied)

Section 5(1), Article VI of the Constitution is crystal-clear that there shall be “a party-list system of registered national, regional, and sectoral parties or organizations.” The commas after the words “national[,]” and “regional[,]” separate national and regional parties from sectoral parties. Had the framers of the 1987 Constitution intended national and regional parties to be at the same time sectoral, they would have stated “national and

regional sectoral parties.” They did not, precisely because it was never their intention to make the party-list system exclusively sectoral.

What the framers intended, and what they expressly wrote in Section 5(1), could not be any clearer: the party-list system is composed of three different groups, and the sectoral parties belong to only one of the three groups. The text of Section 5(1) leaves no room for any doubt that national and regional parties are separate from sectoral parties.

Thus, the party-list system is composed of three different groups: (1) national parties or organizations; (2) regional parties or organizations; and (3) sectoral parties or organizations. National and regional parties or organizations are different from sectoral parties or organizations. National and regional parties or organizations need not be organized along sectoral lines and need not represent any particular sector.

Moreover, Section 5(2), Article VI of the 1987 Constitution mandates that, during the first three consecutive terms of Congress after the ratification of the 1987 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.” This provision clearly shows again that the party-list system is not exclusively for sectoral parties for two obvious reasons.

First, the other one-half of the seats allocated to party-list representatives would naturally be open to non-sectoral party-list representatives, clearly negating the idea that the party-list system is exclusively for sectoral parties representing the “marginalized and underrepresented.” Second, the reservation of one-half of the party-list seats to sectoral parties applies only for the first “three consecutive terms after the ratification of this Constitution,” clearly making the party-list system fully open after the end of the first three congressional terms. This means that, after this period, there will be no seats reserved for any class or type of party that qualifies under the three groups constituting the party-list system.

Hence, the clear intent, express wording, and party-list structure ordained in Section 5(1) and (2), Article VI of the 1987 Constitution cannot be disputed: the party-list system is not for sectoral parties only, but also for non-sectoral parties.

Republic Act No. 7941 or the Party-List System Act, which is the law that implements the party-list system prescribed in the Constitution, provides:

Section 3. Definition of Terms. (a) The party-list system is a mechanism of proportional representation in the election of representatives to the House of Representatives from national, regional and sectoral parties or organizations or coalitions thereof registered with the Commission on Elections (COMELEC). Component parties or organizations of a coalition may participate independently provided the coalition of which they form part does not participate in the party-list system.

(b) A party means either a political party or a sectoral party or a coalition of parties.

(c) A political party refers to an organized group of citizens advocating an ideology or platform, principles and policies for the general conduct of government and which, as the most immediate means of securing their adoption, regularly nominates and supports certain of its leaders and members as candidates for public office.

It is a national party when its constituency is spread over the geographical territory of at least a majority of the regions. It is a regional party when its constituency is spread over the geographical territory of at least a majority of the cities and provinces comprising the region.

(d) A sectoral party refers to an organized group of citizens belonging to any of the sectors enumerated in

Section 5 hereof whose principal advocacy pertains to the special interest and concerns of their sector.

(e) A sectoral organization refers to a group of citizens or a coalition of groups of citizens who share similar physical attributes or characteristics, employment, interests or concerns.

(f) A coalition refers to an aggrupation of duly registered national, regional, sectoral parties or organizations for political and/or election purposes. (Emphasis supplied)

Section 3(a) of R.A. No. 7941 defines a “party” as “either a political party or a sectoral party or a coalition of parties.” Clearly, a political party is different from a sectoral party. Section 3(c) of R.A. No. 7941 further provides that a “political party refers to an organized group of citizens advocating an ideology or platform, principles and policies for the general conduct of government.” On the other hand, Section 3(d) of R.A. No. 7941 provides that a “sectoral party refers to an organized group of citizens belonging to any of the sectors enumerated in Section 5 hereof whose principal advocacy pertains to the special interest and concerns of their sector.” R.A. No. 7941 provides different definitions for a political and a sectoral party. Obviously, they are separate and distinct from each other.

R.A. No. 7941 does not require national and regional parties or organizations to represent the “marginalized and underrepresented” sectors. To require all national and regional parties under the party-list system to represent the “marginalized and underrepresented” is to deprive and exclude, by judicial fiat, ideology-based and cause-oriented parties from the party-list system. How will these ideology-based and cause-oriented parties, who cannot win in legislative district elections, participate in the electoral process if they are excluded from the party-list system? To exclude them from the party-list system is to prevent them from joining the parliamentary struggle, leaving as their only option the armed struggle. To exclude them from the party-list system is, apart from being obviously senseless, patently contrary to the clear intent and express wording of the 1987 Constitution and R.A. No. 7941.

Under the party-list system, an ideology-based or cause-oriented political party is clearly different from a sectoral party. A political party need not be organized as a sectoral party and need not represent any particular sector. There is no requirement in R.A. No. 7941 that a national or regional political party must represent a “marginalized and underrepresented” sector. It is sufficient that the political party consists of citizens who advocate the same ideology or platform, or the same governance principles and policies, regardless of their economic status as citizens.

Section 5 of R.A. No. 7941 states that “the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.”[56] The sectors mentioned in Section 5 are not all necessarily “marginalized and underrepresented.” For sure, “professionals” are not by definition “marginalized and underrepresented,” not even the elderly, women, and the youth. However, professionals, the elderly, women, and the youth may “lack well-defined political constituencies,” and can thus organize themselves into sectoral parties in advocacy of the special interests and concerns of their respective sectors.

Section 6 of R.A. No. 7941 provides another compelling reason for holding that the law does not require national or regional parties, as well as certain sectoral parties in Section 5 of R.A. No. 7941, to represent the “marginalized and underrepresented.” Section 6 provides the grounds for the COMELEC to refuse or cancel the registration of parties or organizations after due notice and hearing.

Section 6. Refusal and/or Cancellation of Registration. — 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, organization or coalition on any of the following grounds:

- (1) It is a religious sect or denomination, organization or association organized for religious purposes;
- (2) It advocates violence or unlawful means to seek its goal;
- (3) It is a foreign party or organization;
- (4) It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through third parties for partisan election purposes;
- (5) It violates or fails to comply with laws, rules or regulations relating to elections;
- (6) It declares untruthful statements in its petition;
- (7) It has ceased to exist for at least one (1) year; or
- (8) It fails to participate in the last two (2) preceding elections or fails to obtain at least two per centum (2%) of the votes cast under the party-list system in the two (2) preceding elections for the constituency in which it has registered.

None of the 8 grounds to refuse or cancel registration refers to non-representation of the “marginalized and underrepresented.”

The phrase “marginalized and underrepresented” appears only once in R.A. No. 7941, in Section 2 on Declaration of Policy.[57] Section 2 seeks “to promote proportional representation in the election of representatives to the House of Representatives through the party-list system,” which will enable Filipinos belonging to the “marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies,” to become members of the House of Representatives. While the policy declaration in Section 2 of R.A. No. 7941 broadly refers to “marginalized and underrepresented sectors, organizations and parties,” the specific implementing provisions of R.A. No. 7941 do not define or require that the sectors, organizations or parties must be “marginalized and underrepresented.” On the contrary, to even interpret that all the sectors mentioned in Section 5 are “marginalized and underrepresented” would lead to absurdities.

How then should we harmonize the broad policy declaration in Section 2 of R.A. No. 7941 with its specific implementing provisions, bearing in mind the applicable provisions of the 1987 Constitution on the matter?

The phrase “marginalized and underrepresented” should refer only to the sectors in Section 5 that are, by their nature, economically “marginalized and underrepresented.” These sectors are: labor, peasant, fisherfolk, urban poor, indigenous cultural communities, handicapped, veterans, overseas workers, and other similar sectors. For these sectors, a majority of the members of the sectoral party must belong to the “marginalized and underrepresented.” The nominees of the sectoral party either must belong to the sector, or must have a track record of advocacy for the sector represented. Belonging to the “marginalized and underrepresented” sector does not mean one must “wallow in poverty, destitution or infirmity.” It is sufficient that one, or his or her sector, is below the middle class. More specifically, the economically “marginalized and underrepresented” are those who fall in the low income group as classified by the National Statistical Coordination Board.[58]

The recognition that national and regional parties, as well as sectoral parties of professionals, the elderly, women and the youth, need not be “marginalized and underrepresented” will allow small ideology-based and cause-oriented parties who lack “well-defined political constituencies” a chance to win seats in the House of Representatives. On the other hand, limiting to the “marginalized and underrepresented” the sectoral parties for labor, peasant, fisherfolk, urban poor, indigenous cultural communities, handicapped, veterans, overseas workers, and other sectors that by their nature are economically at the margins of society, will give the “marginalized and

underrepresented” an opportunity to likewise win seats in the House of Representatives.

This interpretation will harmonize the 1987 Constitution and R.A. No. 7941 and will give rise to a multi-party system where those “marginalized and underrepresented,” both in economic and ideological status, will have the opportunity to send their own members to the House of Representatives. This interpretation will also make the party-list system honest and transparent, eliminating the need for relatively well-off party-list representatives to masquerade as “wallowing in poverty, destitution and infirmity,” even as they attend sessions in Congress riding in SUVs.

The major political parties are those that field candidates in the legislative district elections. Major political parties cannot participate in the party-list elections since they neither lack “well-defined political constituencies” nor represent “marginalized and underrepresented” sectors. Thus, the national or regional parties under the party-list system are necessarily those that do not belong to major political parties. This automatically reserves the national and regional parties under the party-list system to those who “lack well-defined political constituencies,” giving them the opportunity to have members in the House of Representatives.

To recall, Ang Bagong Bayani expressly declared, in its second guideline for the accreditation of parties under the party-list system, that “while even major political parties are expressly allowed by RA 7941 and the Constitution to participate in the party-list system, they must comply with the declared statutory policy of enabling ‘Filipino citizens belonging to marginalized and underrepresented sectors xxx to be elected to the House of Representatives.’ ” However, the requirement in Ang Bagong Bayani, in its second guideline, that “the political party xxx must represent the marginalized and underrepresented,” automatically disqualified major political parties from participating in the party-list system. This inherent inconsistency in Ang Bagong Bayani has been compounded by the COMELEC’s refusal to register sectoral wings officially organized by major political parties. BANAT merely formalized the prevailing practice when it expressly prohibited major political parties from participating in the party-list system, even through their sectoral wings.

Section 11 of R.A. No. 7941 expressly prohibited 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” from participating in the May 1988 party-list elections.[59] Thus, major political parties can participate in subsequent party-list elections since the prohibition is expressly limited only to the 1988 party-list elections. However, major political parties should participate in party-list elections only through their sectoral wings. The participation of major political parties through their sectoral wings, a majority of whose members are “marginalized and underrepresented” or lacking in “well-defined political constituencies,” will facilitate the entry of the “marginalized and underrepresented” and those who “lack well-defined political constituencies” as members of the House of Representatives.

The 1987 Constitution and R.A. No. 7941 allow major political parties to participate in party-list elections so as to encourage them to work assiduously in extending their constituencies to the “marginalized and underrepresented” and to those who “lack well-defined political constituencies.” The participation of major political parties in party-list elections must be geared towards the entry, as members of the House of Representatives, of the “marginalized and underrepresented” and those who “lack well-defined political constituencies,” giving them a voice in law-making. Thus, to participate in party-list elections, a major political party that fields candidates in the legislative district elections must organize a sectoral wing, like a labor, peasant, fisherfolk, urban poor, professional, women or youth wing, that can register under the party-list system.

Such sectoral wing of a major political party must have its own constitution, by-laws, platform or program of government, officers and members, a majority of whom must belong to the sector represented. The sectoral wing is in itself an independent sectoral party, and is linked to a major political party through a coalition. This linkage

is allowed by Section 3 of R.A. No. 7941, which provides that “component parties or organizations of a coalition may participate independently (in party-list elections) provided the coalition of which they form part does not participate in the party-list system.”

Section 9 of R.A. No. 7941 prescribes the qualifications of party-list nominees. This provision prescribes a special qualification only for the nominee from the youth sector.

Section 9. Qualifications of Party-List Nominees. No person shall be nominated as party-list representative unless he is a natural-born citizen of the Philippines, a registered voter, a resident of the Philippines for a period of not less than one (1) year immediately preceding the day of the election, able to read and write, a bona fide member of the party or organization which he seeks to represent for at least ninety (90) days preceding the day of the election, and is at least twenty-five (25) years of age on the day of the election.

In case of a nominee of the youth sector, he must at least be twenty-five (25) but not more than thirty (30) years of age on the day of the election. Any youth sectoral representative who attains the age of thirty (30) during his term shall be allowed to continue in office until the expiration of his term.

A party-list nominee must be a bona fide member of the party or organization which he or she seeks to represent. In the case of sectoral parties, to be a bona fide party-list nominee one must either belong to the sector represented, or have a track record of advocacy for such sector.

In disqualifying petitioners, the COMELEC used the criteria prescribed in Ang Bagong Bayani and BANAT. Ang Bagong Bayani laid down the guidelines for qualifying those who desire to participate in the party-list system:

First, the political party, sector, organization or coalition must represent the marginalized and underrepresented groups identified in Section 5 of RA 7941. x x x

Second, while even major political parties are expressly allowed by RA 7941 and the Constitution to participate in the party-list system, they must comply with the declared statutory policy of enabling “Filipino citizens belonging to marginalized and underrepresented sectors x x x to be elected to the House of Representatives.” x x x.

x x x x

Third, x x x the religious sector may not be represented in the party-list system. x x x.

x x x x

Fourth, a party or an organization must not be disqualified under Section 6 of RA 7941, which enumerates the grounds for disqualification as follows:

“(1) It is a religious sect or denomination, organization or association, organized for religious purposes;

(2) It advocates violence or unlawful means to seek its goal;

(3) It is a foreign party or organization;

(4) It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through third parties for partisan election purposes;

(5) It violates or fails to comply with laws, rules or regulations relating to elections;

(6) It declares untruthful statements in its petition;

(7) It has ceased to exist for at least one (1) year; or

(8) It fails to participate in the last two (2) preceding elections or fails to obtain at least two per centum (2%) of the votes cast under the party-list system in the two (2) preceding elections for the constituency in which it has registered.”

Fifth, the party or organization must not be an adjunct of, or a project organized or an entity funded or assisted by, the government. x x x.

x x x x

Sixth, the party must not only comply with the requirements of the law; its nominees must likewise do so. Section 9 of RA 7941 reads as follows:

“SEC 9. Qualifications of Party-List Nominees. — No person shall be nominated as party-list representative unless he is a natural-born citizen of the Philippines, a registered voter, a resident of the Philippines for a period of not less than one (1) year immediately preceding the day of the election, able to read and write, a bona fide member of the party or organization which he seeks to represent for at least ninety (90) days preceding the day of the election, and is at least twenty-five (25) years of age on the day of the election.

In case of a nominee of the youth sector, he must at least be twenty-five (25) but not more than thirty (30) years of age on the day of the election. Any youth sectoral representative who attains the age of thirty (30) during his term shall be allowed to continue in office until the expiration of his term.”

Seventh, not only the candidate party or organization must represent marginalized and underrepresented sectors; so also must its nominees. x x x.

Eighth, x x x the nominee must likewise be able to contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole. (Emphasis supplied)

In 2009, by a vote of 8-7 in BANAT, this Court stretched the Ang Bagong Bayani ruling further. In BANAT, the majority officially excluded major political parties from participating in party-list elections,[60] abandoning even the lip-service that Ang Bagong Bayani accorded to the 1987 Constitution and R.A.No. 7941 that major political parties can participate in party-list elections.

The minority in BANAT, however, believed that major political parties can participate in the party-list system through their sectoral wings. The minority expressed that “[e]xcluding the major political parties in party-list elections is manifestly against the Constitution, the intent of the Constitutional Commission, and R.A. No. 7941. This Court cannot engage in socio-political engineering and judicially legislate the exclusion of major political parties from the party-list elections in patent violation of the Constitution and the law.”[61] The experimentations in socio-political engineering have only resulted in confusion and absurdity in the party-list system. Such experimentations, in clear contravention of the 1987 Constitution and R.A. No. 7941, must now come to an end.

We cannot, however, fault the COMELEC for following prevailing jurisprudence in disqualifying petitioners. In following prevailing jurisprudence, the COMELEC could not have committed grave abuse of discretion. However, for the coming 13 May 2013 party-list elections, we must now impose and mandate the party-list system actually envisioned and authorized under the 1987 Constitution and R.A. No. 7941. In BANAT, this Court devised a new formula in the allocation of party-list seats, reversing the COMELEC's allocation which followed the then prevailing formula in Ang Bagong Bayani. In BANAT, however, the Court did not declare that the COMELEC committed grave abuse of discretion. Similarly, even as we acknowledge here that the COMELEC did not commit grave abuse of discretion, we declare that it would not be in accord with the 1987 Constitution and R.A. No. 7941 to apply the criteria in Ang Bagong Bayani and BANAT in determining who are qualified to participate in the coming 13 May 2013 party-list elections. For this purpose, we suspend our rule[62] that a party

may appeal to this Court from decisions or orders of the COMELEC only if the COMELEC committed grave abuse of discretion.

Thus, we remand all the present petitions to the COMELEC. In determining who may participate in the coming 13 May 2013 and subsequent party-list elections, the COMELEC shall adhere to the following parameters:

- Three different groups may participate in the party-list system: (1) national parties or organizations, (2) regional parties or organizations, and (3) sectoral parties or organizations.
- National parties or organizations and regional parties or organizations do not need to organize along sectoral lines and do not need to represent any “marginalized and underrepresented” sector.
- Political parties can participate in party-list elections provided they register under the party-list system and do not field candidates in legislative district elections. A political party, whether major or not, that fields candidates in legislative district elections can participate in party-list elections only through its sectoral wing that can separately register under the party-list system. The sectoral wing is by itself an independent sectoral party, and is linked to a political party through a coalition.
- Sectoral parties or organizations may either be “marginalized and underrepresented” or lacking in “well-defined political constituencies.” It is enough that their principal advocacy pertains to the special interest and concerns of their sector. The sectors that are “marginalized and underrepresented” include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, handicapped, veterans, and overseas workers. The sectors that lack “well-defined political constituencies” include professionals, the elderly, women, and the youth.
- A majority of the members of sectoral parties or organizations that represent the “marginalized and underrepresented” must belong to the “marginalized and underrepresented” sector they represent. Similarly, a majority of the members of sectoral parties or organizations that lack “well-defined political constituencies” must belong to the sector they represent. The nominees of sectoral parties or organizations that represent the “marginalized and underrepresented,” or that represent those who lack “well-defined political constituencies,” either must belong to their respective sectors, or must have a track record of advocacy for their respective sectors. The nominees of national and regional parties or organizations must be bona-fide members of such parties or organizations.
- National, regional, and sectoral parties or organizations shall not be disqualified if some of their nominees are disqualified, provided that they have at least one nominee who remains qualified.

The COMELEC excluded from participating in the 13 May 2013 party-list elections those that did not satisfy these two criteria: (1) all national, regional, and sectoral groups or organizations must represent the “marginalized and underrepresented” sectors, and (2) all nominees must belong to the “marginalized and underrepresented” sector they represent. Petitioners may have been disqualified by the COMELEC because as political or regional parties they are not organized along sectoral lines and do not represent the “marginalized and underrepresented.” Also, petitioners' nominees who do not belong to the sectors they represent may have been disqualified, although they may have a track record of advocacy for their sectors. Likewise, nominees of non-sectoral parties may have been disqualified because they do not belong to any sector. Moreover, a party may have been disqualified because one or more of its nominees failed to qualify, even if the party has at least one remaining qualified nominee. As discussed above, the disqualification of petitioners, and their nominees, under such circumstances is contrary to the 1987 Constitution and R.A. No. 7941.

This Court is sworn to uphold the 1987 Constitution, apply its provisions faithfully, and desist from engaging in socio-economic or political experimentations contrary to what the Constitution has ordained. Judicial power does

not include the power to re-write the Constitution. Thus, the present petitions should be remanded to the COMELEC not because the COMELEC committed grave abuse of discretion in disqualifying petitioners, but because petitioners may now possibly qualify to participate in the coming 13 May 2013 party-list elections under the new parameters prescribed by this Court.

WHEREFORE, all the present 54 petitions are GRANTED. The 13 petitions, which have been granted Status Quo Ante Orders but without mandatory injunction to include the names of petitioners in the printing of ballots, are remanded to the Commission on Elections only for determination whether petitioners are qualified to register under the party-list system under the parameters prescribed in this Decision but they shall not participate in the 13 May 2013 party-list elections. The 41 petitions, which have been granted mandatory injunctions to include the names of petitioners in the printing of ballots, are remanded to the Commission on Elections for determination whether petitioners are qualified to register under the party-list system and to participate in the 13 May 2013 party-list elections under the parameters prescribed in this Decision. The Commission on Elections may conduct summary evidentiary hearings for this purpose. This Decision is immediately executory.

SO ORDERED.

Bersamin, Del Castillo, Villarama, Jr., and Perez, JJ. concur.

Sereno, C.J., I dissent; And Bagong Bayani should be upheld, not reversed. see concurring and dissenting opinion.

Velasco, Jr., J., no part due to relative's participation in party list election.

Leonardo-De Castro, J., I concur and also with the additional grounds cites in Justices Brion's concurring opinion for revisiting the Ang bagong Bayani ruling and his erudite analysis of the aim of the Party-list system under the Constitution and law and its implications on political parties, party-list registration and nominee.

Brion, J., see separate opinion.

Peralta, and Abad, JJ., joins the separate opinion of J. Brion.

Mendoza, J., I concur to remand but there was a grave abuse of discussion but only with respect to the disqualification of nominees separate from the party organization.

Reyes, J., with separate, concurring and dissenting opinion.

Perlas-Bernabe, J., on official leave.

Leonen, J., see separate concurring opinion and dissenting opinion.

[1] Under Rule 64 in relation to Rule 65 of the 1997 Rules of Civil Procedure.

[2] Rollo (G.R. Nos. 203818-19), pp. 1079-1080.

[3] Rollo (G.R. No. 204094), pp. 176-177.

[4] Rollo (G.R. No. 204141), pp. 145-148.

[5] Rollo (G.R. No. 203766), unpaginated.

[6] Id.

[7] Id.

[8] Rollo (G.R. No. 204379), pp. 26-35. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph dissenting.

[9] Rollo (G.R. No. 204455), pp. 38-55; rollo (G.R. No. 204426), pp. 127-144. Signed by Chairman Sixto S.

Brillantes, Jr. and Commissioners Rene V. Sarmiento, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph dissenting; Commissioner Armando C. Velasco also concurred except for Ala-Eh.

[10] Rollo (G.R. No. 204435), pp. 47-55. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph dissenting.

[11] Rollo (G.R. No. 204367), pp. 30-35. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph dissenting.

[12] Rollo (G.R. No. 204370), pp. 37-50. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph dissenting.

[13] Rollo (G.R. No. 204436), pp. 45-57. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph dissenting.

[14] Rollo (G.R. No. 204485), pp. 42-49. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, and Christian Robert S. Lim with Commissioners Lucenito N. Tagle and Elias R. Yusoph dissenting. Commissioner Maria Gracia Cielo M. Padaca took no part.

[15] Rollo (G.R. No. 204139), pp. 505-512. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, and Armando C. Velasco. Commissioners Elias R. Yusoph and Christian Robert S. Lim also voted in favor. Commissioner Maria Gracia Cielo M. Padaca took no part.

[16] Rollo (G.R. No. 204402), pp. 22-33. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, and Christian Robert S. Lim. Commissioners Armando C. Velasco and Maria Gracia Cielo M. Padaca on official business.

[17] Rollo (G.R. No. 204394), pp. 59-62. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, and Christian Robert S. Lim. Commissioner Maria Gracia Cielo M. Padaca took no part.

[18] Rollo, (G.R. No. 204490), pp. 71-78. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Armando C. Velasco, Elias R. Yusoph, and Christian Robert S. Lim. Commissioners Lucenito N. Tagle and Rene V. Sarmiento concurred but took no part in Ang Ating Damayan. Commissioner Maria Gracia Cielo M. Padaca took no part.

[19] Rollo, (G.R. No. 204484), pp. 42-45. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca.

[20] PBB's petition is docketed as G.R. No. 204484 before this Court, and as SPP No. 11-002 before the COMELEC.

[21] In the Matter of Clarifying the Inclusion in the Party-List Raffle of New Groups Denied Accreditation but were Able to Obtain a Status Quo Ante Order from the Supreme Court.

[22] (2) To set for summary evidentiary hearings by the Commission En Banc, for purposes of determining their

continuing compliance with the requirements of R.A. No. 7941 and the guidelines in the Ang Bagong Bayani case, and, if non-compliant, cancel the registration of the following:

(a) Party-list groups or organizations which are already registered and accredited and will participate in the May 13, 2013 Elections, provided that the Commission En Banc has not passed upon the grant of their respective Petitions for Registration; and

(b) Party-list groups or organizations which are existing and retained in the list of Registered Party-List Parties per Resolution No. 9412, promulgated on 27 April 2012, and which have filed their respective Manifestations of Intent to Participate in the Party-List System of Representation in the May 13, 2013 Elections. (Boldface and italics in the original)

[23] 412 Phil. 308 (2001).

[24] Rollo (G.R. Nos. 203818-19), pp. 83-87. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, and Christian Robert S. Lim. Commissioner Maria Gracia Cielo M. Padaca took no part.

[25] Rollo (G.R. No. 203766), pp. 75-99; rollo (G.R. No. 203981), pp. 47-70; rollo (G.R. No. 204002), pp. 53-76; (G.R. No. 204318), pp. 23-46. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, and Christian Robert S. Lim. Commissioner Rene V. Sarmiento also voted in favor. Commissioner Maria Gracia Cielo M. Padaca took no part.

[26] Rollo, (G.R. No. 204100), pp. 52-67; rollo (G.R. No. 204122), pp. 36-51; rollo (G.R. No. 204263), pp. 28-43. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, and Christian Robert S. Lim. Commissioner Maria Gracia Cielo M. Padaca took no part.

[27] Rollo (G.R. No. 203960), pp. 61-68. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Lucenito N. Tagle, Armando C. Velasco, and Elias R. Yusoph. Commissioner Christian Robert S. Lim also concurred but did not sign. Commissioners Rene V. Sarmiento and Maria Gracia Cielo M. Padaca took no part.

[28] Rollo (G.R. No. 203922), pp. 92-101. Signed by Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, and Christian Robert S. Lim. Chairman Sixto S. Brillantes, Jr. penned a Separate Concurring Opinion. Commissioner Maria Gracia Cielo M. Padaca took no part.

[29] Rollo (G.R. No. 204174), pp. 158-164. Signed by Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, and Elias R. Yusoph. Commissioner Christian Robert S. Lim also concurred but did not sign. Chairman Sixto S. Brillantes, Jr. penned an extended opinion. Commissioner Maria Gracia Cielo M. Padaca took no part.

[30] Rollo (G.R. No. 203976), pp. 21-37. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Christian Robert S. Lim. Commissioner Elias R. Yusoph also voted in favor. Commissioner Maria Gracia Cielo M. Padaca took no part.

[31] Rollo (G.R. No. 204240), pp. 47-69; rollo (G.R. No. 203936), pp. 128-150; rollo (G.R. No. 204126), pp. 51-73; rollo (G.R. No. 204364), pp. 34-56; rollo (G.R. No. 204141), pp. 31-53; rollo (G.R. No. 204408), pp. 46-68; rollo (G.R. No. 204153), pp. 24-46; rollo (G.R. No. 203958), pp. 26-48. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco. Commissioner Elias R. Yusoph also voted in favor. Commissioner Christian Robert S. Lim also concurred but inhibited in KAKUSA. Commissioner Maria Gracia Cielo M. Padaca took no part.

[32] Rollo (G.R. No. 204428), pp. 35-40. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, and Armando C. Velasco. Commissioner Christian Robert S. Lim also concurred but did not sign. Commissioner Elias R. Yusoph also voted in favor but was on official business at the time of signing. Commissioner Maria Gracia Cielo M. Padaca took no part.

[33] Rollo (G.R. No. 204094), pp. 30-40. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, and Christian Robert S. Lim. Commissioners Armando C. Velasco and Maria Gracia Cielo M. Padaca were on official business.

[34] Rollo, (G.R. No. 204239), pp. 25-42; rollo (G.R. No. 204236), pp. 57-74; rollo (G.R. No. 204341), pp. 29-46. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, and Christian Robert S. Lim. Commissioner Armando C. Velasco was on official business. Commissioner Maria Gracia Cielo M. Padaca took no part.

[35] Rollo (G.R. No. 204358), pp. 140-148. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca. Commissioner Armando C. Velasco was on official business. .

[36] Rollo (G.R. No. 204359), pp. 42-50. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, and Elias R. Yusoph. Commissioner Christian Robert S. Lim also concurred but was on official business at the time of signing. Commissioner Maria Gracia Cielo M. Padaca took no part.

[37] Rollo (G.R. No. 204238), pp. 54-58. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, and Christian Robert S. Lim. Commissioners Armando C. Velasco and Maria Gracia Cielo M. Padaca were on official business.

[38] Rollo (G.R. No. 204323), pp. 44-48. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca. Commissioner Armando C. Velasco was on official business.

[39] Rollo (G.R. No. 204321), pp. 43-51. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca. Commissioner Armando C. Velasco was on official business.

[40] Rollo (G.R. No. 204125), pp. 44-48. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, and Christian Robert S. Lim. Commissioner Armando C. Velasco was on official business. Commissioner Maria Gracia Cielo M. Padaca took no part.

[41] Rollo (G.R. No. 204216), pp. 23-28. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, and Maria Gracia Cielo M. Padaca. Commissioner Christian Robert S. Lim penned a separate Concurring Opinion. Commissioner Armando C. Velasco was on official business.

[42] Rollo (G.R. No. 204220), pp. 39-44. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, and Christian Robert S. Lim. Commissioners Armando C. Velasco and Maria Gracia Cielo M. Padaca were on official business.

[43] Rollo (G.R. No. 204158), pp. 59-64. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, and Christian Robert S. Lim. Commissioner Maria Gracia Cielo M. Padaca took no part.

[44] Rollo (G.R. No. 204374), pp. 36-41. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, and Christian Robert S. Lim. Commissioner Maria Gracia Cielo M. Padaca took no part.

[45] Rollo (G.R. No. 204356), pp. 56-64. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, and Christian Robert S. Lim. Commissioner Maria Gracia Cielo M. Padaca took no part.

[46] Rollo (G.R. No. 204486), pp. 42-47. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim. Commissioners Lucenito N. Tagle and Maria Gracia Cielo M. Padaca took no part.

[47] Rollo (G.R. No. 204410), pp. 63-67. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, and Christian Robert S. Lim. Commissioner Lucenito N. Tagle penned a Dissenting Opinion and joined by Commissioner Elias R. Yusoph. Maria Gracia Cielo M. Padaca took no part.

[48] Rollo (G.R. No. 204421), pp. 43-50; rollo (G.R. No. 204425), pp. 21-28. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Christian Robert S. Lim, and Maria Gracia Cielo M. Padaca with Commissioners Lucenito N. Tagle, Armando C. Velasco, and Elias R. Yusoph, dissenting.

[49] G.R. Nos. 179271 and 179295, 21 April 2009, 586 SCRA 210.

[50] II Record, Constitutional Commission 566-567 (1 August 1986).

[51] II Record, Constitutional Commission 85-86 (22 July 1986).

[52] II Record, Constitutional Commission 85-86 (22 July 1986), 256-257 (25 July 1986).

[53] II Record, Constitutional Commission 257 (25 July 1986).

[54] 412 Phil. 347, 350 (2001).

[55] Party-List System: The Philippine Experience, Fritzie Palma Tangkia and Ma. Araceli Basco Habaradas, Ateneo School of Government and Friedrich Ebert Stiftung (FES), Philippine Office, April 2001, <http://library.fes.de/pdf-files/bueros/philippinen/50076.pdf> (accessed 30 March 2013).

[56] Section 5. Registration. – Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not later than ninety (90) days before the election a petition verified by its president or secretary stating its desire to participate in the party-list system as a national, regional or sectoral party or organization or a coalition of such parties or organizations, attaching thereto its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require: Provided, That the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.

The COMELEC shall publish the petition in at least two (2) national newspapers of general circulation.

The COMELEC shall, after due notice and hearing, resolve the petition within fifteen (15) days from the date it was submitted for decision but in no case not later than sixty (60) days before election.

[57] Section 2. Declaration of Policy. — 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 provided the simplest scheme possible. (Emphasis supplied)

[58] The National Statistical Coordination Board (NSDB) classifies the population into three income groups: the high income, the middle income, and the low income group. See Table 2. Annual Family Income of the Low, Middle, and High Income Classes: 1997, <http://www.nscb.gov.ph/ncs/10thNCS/papers/contributed%20papers/cps-12/cps12-01.pdf> (accessed 30 March 2013).

[59] Section 11 of R.A. No. 7941 provides in part:

x x x For purposes of the May 1988 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.

x x x.

[60] G.R. Nos. 179271 and 179295, 21 April 2009, 586 SCRA 210, 258 citing Constitution, Art. XIII, Sec. 1.

[61] Id. at 251.

[62] Rule 64 in relation to Rule 65, 1997 Rules of Civil Procedure.

CONCURRING AND DISSENTING OPINION

SERENO, C.J.:

The party-list system is primarily a tool for social justice.

I believe that the ponencia may have further marginalized the already marginalized and underrepresented of this country. In the guise of political plurality, it allows national and regional parties or organizations to invade what is and should be constitutionally and statutorily protected space. What the ponencia fails to appreciate is that the party-list system under the 1987 Constitution and the party-list law or RA 7941 is not about mere political plurality, but plurality with a heart for the poor and disadvantaged.

The creation of a party-list system under the 1987 Constitution and RA 7941 was not done in a vacuum. It comprehends the reality of a Filipino nation that has been and still is struggling to come to terms with much social injustice that has been perpetrated over centuries against a majority of its people by foreign invaders and even by its own governments.

This injustice is the fertile ground for the seeds which, watered by the blood spilled during the Martial Law years, ripened to the revolution of 1986. It is from this ferment that the 1987 Constitution was born. Thus, any reading of the 1987 Constitution must be appropriately sensitive to the context from which it arose. As stated in *Civil Liberties Union v. Executive Secretary*:

A foolproof yardstick in constitutional construction is the intention underlying the provision under

consideration. Thus, it has been held that the Court in construing a Constitution should bear in mind the object sought to be accomplished by its adoption, and the evils, if any, sought to be prevented or remedied. A doubtful provision will be examined in the light of the history of the times, and the condition and circumstances under which the Constitution was framed. The object is to ascertain the reason which induced the framers of the Constitution to enact the particular provision and the purpose sought to be accomplished thereby, in order to construe the whole as to make the words consonant to that reason and calculated to effect that purpose.[1] (Emphasis supplied)

The heart of the 1987 Constitution is the Article on Social Justice. This is appropos since it is a document that not only recognizes but tries to heal the wounds of history. To harken to the words of Cecilia Muñoz-Palma, President of the 1986 Constitutional Commission:

THE PRESIDENT: My distinguished collt agues in this Assembly:

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My colleagues, in all humility, but with profoimd pride, I vote in favor of the Constitution drafted by this Constitutional Commission because I believe that the document is a worthy and inspiring legacy we can hand down to the Filipino people of today, tomorrow, and for posterity.

The reasons I will give have been given by most of the Members of this Constitutional Commission this evening. But permit me to restate them just to stress the reasons why I am voting in favor.

For the first time in the history of constitution- making in our country, we set forth in clear and positive terms in the Preamble which is the beacon light of the new Charter, the noble goal to establish a just and humane society. This must be so because at present we have to admit that there are so few with so much so many with so little. We uphold the Rule of Law where no man is above the law, and we adhere to the principles of truth, justice, freedom, equality, love and peace. Yes, for the first time and possibly this is the first Constitution where "love" is enshrined. This is most significant at this period in our national life when the nation is bleeding under the forces of hatred and violence, brothers fighting against brothers, Filipinos torturing and killing their own countrymen. Without love, there can be no peace.

The new Charter establishes a republican democratic form of government with three branches each independent and coequal of each other affording a check and balanee of powers. Sovereignty resides in the people.

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For the first time, and possibly this is the first and only Constitution which provides for the creation of a Commission on Human Rights entrusted with the grave responsibility of investigating violations of civil and political rights by any party or groups and recommending remedies therefor. The new Charter also sets forth quite lengthily provisions on economic, social and cultural rights spread out in separate articles such as the Articles on Social Justice, Education and Declaration of Principles. It is a document which in clear and in unmistakable terms reaches out to the underprivileged, the paupers, the sick, the elderly, disabled, veterans and other sectors of society. It is a document which opens an expanded improved way of life for the farmers, the workers, fishermen, the rank and file of those in service in the government. And that is why I say that the Article on Social Justice is the heart of the new Charter.[2] (Emphasis supplied)

That is why Section 1, Article XIII, provides that: "The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good." [3] As explained by this Court:

Further, the quest for a better and more "equal" world calls for the use of equal protection as a tool of effective

judicial intervention.

Equality is one ideal which cries out for bold attention and action in the Constitution. The Preamble proclaims "equality" as an ideal precisely in protest against crushing inequities in Philippine society. The command to promote social justice in Article II, Section 10, in "all phases of national development," further explicitated in Article XIII, are clear commands to the State to take affirmative action in the direction of greater equality.... [T]here is thus in the Philippine Constitution no lack of doctrinal support for a more vigorous state effort towards achieving a reasonable measure of equality.

Our present Constitution has gone further in guaranteeing vital social and economic rights to marginalized groups of society, including labor. Under the policy of social justice, the law bends over backward to accommodate the interests of the working class on the humane justification that those with less privilege in life should have more in law. And the obligation to afford protection to labor is incumbent not only on the legislative and executive branches but also on the judiciary to translate this pledge into a living reality. Social justice calls for the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated.[4] (Emphasis supplied)

That is also why the 1987 Constitution is replete with other social justice provisions, including Sections 9, 10, 13, 14, 18 and 22 of Article II, Section 2 of Article V, Section 5 (1) (2) of Article VI, Sections 1, 2, 3, 5, 6, 10, 11, 12, 13 of Article XII, and Article XIII. As aptly pointed out by Commissioner Guingona in his sponsorship speech for the approval of the entire draft of the 1987 Constitution, social justice was the underlying philosophy of the drafters when crafting the provisions of the fundamental law. Thus:

MR. GUINGONA: Thank you, Mr. Presiding Officer.

This sponsorship speech is for the entire draft of the Constitution of the Republic of the Philippines.

Today, we have completed the task of drafting a Constitution which is reflective of the spirit of our time -a spirit of nationalism, a spirit of liberation, a spirit of rising expectations.

On June 2, forty-eight men and women met in this hall-men and women from different walks of life with diverse backgrounds and orientations, even with conflicting convictions, but all sharing the same earnest desire to serve the people and to help draft a Constitution which will establish a government that the people can trust and enthusiastically support, a Constitution that guarantees individual rights and serves as a barrier against excesses of those in authority.

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A Constitution of the people and for the people derives its authenticity and authority from the sovereign will; the power of the people precedes it. As such, it should reflect the norms, the values, the modes of thought of our society, preserve its heritage, promote its orderliness and security, protect its cherished liberties and guard against the encroachments of would-be dictators. These objectives have served as the framework in the work of drafting the 1986 Constitution.

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A significant innovation, as far as the legislative department is concerned, refers to the composition of the members of the House of Representatives. Representation in the Lower House has been broadened to embrace various sectors of society; in effect, enlarging the democratic base. It will be constituted by members who shall be elected in the traditional manner, representing political districts, as well as by members who shall be elected through the party list system.

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The institutions through which the sovereign people rule themselves are essential for the effective operation of

government. But these are not enough in order that the body politic may evolve and progress. There is need for an underlying socio-economic philosophy which would direct these political structures and serve as the mainspring for development. So it is that the draft Constitution contains separate Articles on Social Justice and National Economy and Patrimony.

Talk of people's freedom and legal equality would be empty rhetoric as long as they continue to live in destitution and misery, without land, without employment, without hope. But in helping to bring about transformation, in helping the common man break away from the bondage of traditional society, in helping restore to him his dignity and worth, the right to individual initiative and to property shall be respected.

The Social Justice Article, to which our Commission President, the Honorable Cecilia Munoz Palma, refers to as the "heart of the Constitution," provides that Congress shall give highest priority to the enactment of measures that would reduce social, economic and political inequalities. The same article addresses the problems of (1) labor—local and overseas, organized and unorganized—recognizing the rights of all workers in the private as well as in the public sector, the rank and and the supervisory, to self-organization, collective bargaining and peaceful and concerted activities including the right to strike in accordance with law; (2) the farmers, the farm workers, the subsistence fishermen and the fishworkers, through agrarian and natural resources reform; (3) the underprivileged and homeless citizens in urban centers and resettlement areas, through urban land reform and housing; (4) the health of the people, through an integrated and comprehensive approach to health development; (5) the women, by ensuring the fundamental equality of women and men before the law, and (6) people's organizations, by facilitating the establishment of adequate consultation mechanisms.

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These are some of the provisions which we have constitutionalized. These are some of the innovations that we have introduced. These are the ideas, values and institutions which we have drawn and which we trust would serve as the foundation of our society, the keystone of our national transformation and development, the driving force for what we pray would be our irreversible march to progress. In brief, this is what the men and women of the 1986 Constitutional Commission have drafted under the able, firm and dedicated leadership of our President, the Honorable Cecilia Muñoz Palma.

The Constitution that we have drafted is a practical instrument suited to the circumstances of our time. It is also a Constitution that does not limit its usefulness to present needs; one which, in the words of U.S. Supreme Court Chief Justice John Marshall, and I quote, "is intended to endure for ages to come and consequently to be adapted to the various crises of human affairs."

As we present the proposed fundamental law, we pray that our efforts would pave the way towards the establishment of a renewed constitutional government which we were deprived of since 1972, that these efforts would ensure that the triumph at EDSA so deservedly won by the people shall continue to be enjoyed by us and our posterity for all time, that these efforts would result in the drafting of a democratic Constitution—a Constitution which is the repository of the people's inalienable rights; a Constitution that enshrines people's power and the rule of law; a Constitution which would seek to establish in this fair land a community characterized by moral regeneration, social progress, political stability, economic prosperity, peace, love and concern for one another; a Constitution that embodies vital living principles that seek to secure for the people a better life founded on liberty and welfare for all.

Mr. Presiding Officer, on behalf of this Commission's Sponsorship Committee, I have the honor to move for the approval of the draft Constitution of the Republic of the Philippines on Second Reading.[5]

It is within this historical and textual milieu that the party-list provisions in the 1987 Constitution should be interpreted. Every provision should be read in the context of all the other provisions so that contours of constitutional policy is made clear.[6]

The place of the party-list system in the constitutional scheme was that it provided for the realization of the ideals on social justice in the political arena.[7]

The concept is not new, as discussed by political theorist Terry MacDonald:

First, an idea that has received much attention among democratic theorists is that representatives should be selected to 'mirror' the characteristics of those being represented - in terms of gender, ethnicity, and other such characteristics judged to be socially relevant. This idea has been advocated most notably in some recent democratic debates focused on the need for special representation of disadvantaged and under-represented social groups within democratic assemblies. The applicability of this idea of 'mirror' representation is not confined to debates about representing marginalized minorities within nation-states; Iris Young further applies this model of representation to global politics, arguing that global representation should be based on representation of the various 'peoples' of the world, each of which embodies its own distinctive identity and 'perspective'. In practice, special representation for certain social groups within a 'mirror' framework can be combined with election mechanisms in various ways - such as by according quotas of elected representatives to designated social groups. But since the selection of these 'social groups' for special representation would nonetheless remain a distinct element of the process of selecting legitimate representatives, occurring prior to the electoral process, such 'mirror' representation is still recognizable as a distinct mechanism for selecting representative agents.[8] (Emphasis supplied)

Two months after their initial debates on the form and structure of government that would best promote equality, the Commission broke ground on the promotion of political equality and provided for sectoral representation in the party-list system of the legislature. Commissioner Villacorta opened the debates on the party-list system.[9]

MR. VILLACORTA: ... On this first day of August 1986, we shall, hopefully, usher in a new chapter in our national history by giving genuine power to our people in the legislature...

Commissioner Jaime Tadeo explained the circumstances the party-list system sought to address:[10]

MR. TADEO: ... Ang Cory government ay iniakyat ng people's power. Kaya kami naririto sa Con-Com ay dahil sa people's power—nasa amin ang people, wala sa amin ang power. Ganito ito kahalaga.

....

The Legislature is supposed to implement or give flesh to the needs and aspirations of the Filipino people.

Ganoon kahalaga ang National Assembly kaya't napakahalaga noong Section 5 and Section 31 ng ating Constitution. Our experience, however, has shown that legislation has tended to benefit more the propertied class who constitutes a small minority in our society than the impoverished majority, 70 percent of whom live below the poverty line. This has come about because the rich have managed to dominate and control the legislature, while the basic sectors have been left out of it. So, the critical question is, how do we ensure ample representation of basic sectors in the legislature so that laws reflect their needs and aspirations?

RA 7941 was enacted pursuant to the party-list provisions of the 1987 Constitution. Not only is it a "social justice tool", as held in *Ang Bagong Bayani*.^[11] but it is primarily so. This is not mere semantics but a matter of legal and historical accuracy with material consequences in the realm of statutory interpretation.

The ponencia gives six (6) parameters that the COMELEC should adhere to in determining who may participate in the coming 13 May 2013 and subsequent party-list elections. I shall discuss below my position in relation to the second, fourth and sixth parameter enunciated in the ponencia.

"Marginalized and underrepresented"
under Section 2 of RA 7941 qualifies

national, regional and sectoral parties or organizations.

Under the second parameter, "[n]ational parties or organizations and regional parties or organizations do not need to organize along sectoral lines and do not need to represent any "marginalized and underrepresented" sector." In a nutshell, the ponencia interprets "marginalized and underrepresented" in Section 2 of RA 7941 to qualify only sectoral parties or organizations, and not national and regional parties or organizations.

I dissent for the following reasons.

First, since the party-list system is primarily a tool for social justice, the standard of "marginalized and underrepresented" under Section 2 must be deemed to qualify national, regional and sectoral parties or organizations. To argue otherwise is to divorce national and regional parties or organizations from the primary objective of attaining social justice, which objective surrounds, permeates, imbues, and underlies the entirety of both the 1987 Constitution and RA 7941.

Second, Section 2 of RA 7941 states that the party-list system seeks to "enable Filipino citizens belonging to the marginalized and underrepresented sectors organizations and parties . . . to become members of the House of Representatives." On its face, it is apparent that "marginalized and underrepresented" qualifies "sectors", "organizations" and "parties".

Third, even assuming that it is not so apparent, in terms of statutory construction, the import of "social justice" that has developed in various decisions is that when the law is clear and valid, it simply must be applied; but when the law can be interpreted in more ways than one, an interpretation that . favors the underprivileged must be favored.[12]

Lastly, deliberations of the Constitutional Commission show that the party-list system is a countervailing means for the weaker segments of our society to overcome the preponderant advantages of the more entrenched and well-established political parties. To quote:

MR. OPLE:

So, Commissioner Monsod grants that the basic principle for a party list system is that it is a countervailing means for the weaker segments of our society, if they want to seek seats in the legislature, to overcome the preponderant advantages of the more entrenched and well-established political parties, but he is concerned that the mechanics might be inadequate at this time.

MR. MONSOD:

Not only that; talking about labor, for example -I think Commissioner Tadeo said there are 10 to 12 million laborers and I understand that organized labor is about 4.8 million or 4.5 million - if the laborers get together, they can have seats. With 4 million votes, they would have 10 seats under the party list system.

MR. OPLE:

So, the Commissioner would favor a party list system that is open to all and. would not agree to a party list system which seeks to accommodate, in particular, the so-called sectoral groups that are predominantly workers and peasants?

MR. MONSOD:

If one puts a ceiling on the number that each party can put within the 50, and I assuming that maybe there are just two major parties or three at the most, then it is already a form of opening it up for other groups to come in. All we are asking is that they produce 400,000 votes nationwide. The whole purpose of the system is

precisely to give room for those who have a national constituency who may never be able to win a seat on a legislative district basis. But they must have a constituency of at least 400,000 in order to claim a voice in the National Assembly.[13]
[emphasis supplied]

However, the second parameter would allow the more entrenched and well-established political parties and organizations to compete with the weaker segments of society, which is the very evil sought to be guarded against.

The ponencia's second parameter is premised on the following grounds, among others.

First, the ponencia explains that the text of the 1987 Constitution and RA 7941, and the proceedings of the Constitutional Commission evince an indisputable intent to allow national, regional, and sectoral parties and organizations to participate in the party-list system. To require national and regional parties and organizations to represent the marginalized and underrepresented makes them effectively sectoral parties and organizations and violates this intent.

The error here is to conclude that if the law treats national, regional and sectoral parties and organizations the same by requiring that they represent the "marginalized and underrepresented," they become the same. By analogy, people can be treated similarly but that does not make them identical.

Second, the ponencia rules that since under the Section 5 (2), Article VI of the 1987 Constitution, only 50% of the seats are allocated during the first three consecutive terms of Congress after the ratification of the 1987 Constitution to representatives from the labor, peasant, urban poor, etc., it necessarily follows that the other 50% would be allocated to representatives from sectors which are non-marginalized and underrepresented.

The error here is to conclude that the latter statement necessarily follows if the former is true. This is not so since the latter 50% can very well include representatives from other non-enumerated sectors, or even national or regional parties and organizations, all of which can be "marginalized and underrepresented."

Third, the ponencia adds that it would prevent ideology-based and cause-oriented parties, who cannot win in legislative district elections, from participating in the party-list system.

The error here is to conclude that such ideology-based or cause-oriented parties are necessarily non-marginalized or underrepresented, which would in turn depend on how "marginalization and underrepresentation" is defined. The ponencia appears to be operating under a preconceived notion that "marginalized and underrepresented" refers only to those "economically" marginalized.

However, there is no need for this Court to define the phrase "marginalized and underrepresented," primarily because it already constitutes sufficient legislative standard to guide the COMELEC as an administrative agency in the exercise of its discretion to determine the qualification of a party-list group.

As long as such discretion is not gravely abused, the determination of the COMELEC must be upheld. This is consistent with our pronouncement in *Ang Bagong Bayani* that, "the role of the COMELEC is to see to it that only those Filipinos that are 'marginalized and underrepresented' become members of the Congress under the party-list system."

For as long as the agency concerned will be able to promulgate rules and regulations to implement a given legislation and effectuate its policies, and that these regulations are germane to the objects and purposes of the law and not in contradiction to but in conformity with the standards prescribed by the law, then the standard may be deemed sufficient.[14]

We should also note that there is a time element to be considered here, for those who are marginalized and underrepresented today may no longer be one later on. Marginalization and underrepresentation is an ever evolving concept, created to address social disparities, to be able to give life to the "social justice" policy of our Constitution.[15] Confining its definition to the present context may unduly restrict the COMELEC of its quasi-legislative powers which enables it to issue rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress.[16]

Flexibility of our laws is a key factor in reinforcing the stability of our Constitution, because the Legislature is certain to find it impracticable, if not impossible, to anticipate situations that may be met in carrying laws into effect.[17] The growing complexity of modern life, the multiplication of the subjects of governmental regulations, and the increased difficulty of administering the laws, the rigidity of the theory of separation of governmental powers is largely responsible in empowering the COMELEC to not only execute election laws, but also promulgate certain rules and regulations calculated to promote public interest.[18] This is the principle of subordinate legislation discussed in *People v. Rosenthal*[19] and in *Pangasinan Transportation vs. Public Service Commission*. [20]

This is consistent with our pronouncement in *Ang Bagong Bayani* that, "the role of the COMELEC is to see to it that only those Filipinos that are 'marginalized and underrepresented' become members of the Congress under the party-list system."

Fourth, the ponencia holds that failure of national and regional parties to represent the marginalized and underrepresented is not a ground for the COMELEC to refuse or cancel registration under Section 6 of RA 7941.

The error here is that under Section 6 (5), the COMELEC may refuse or cancel if the party "violates or fails to comply with laws." Thus, before the premise can be correct, it must be first established that "marginalization and underrepresentation" is not a requirement of the law, which is exactly what is at issue here.

Fifth, the ponencia makes too much of the fact that the requirement of "marginalization and underrepresentation" appears only once in RA 7941.

The error here is to conclude that the phrase has to appear more than once to carry sufficient legal significance. "Marginalization and underrepresentation" is in the nature of a legislative standard to guide the COMELEC in the exercise of its administrative powers. This Court has held that to avoid the taint of unlawful delegation, there must be a standard, which implies at the very least that the legislature itself determines matters of principle and lays down fundamental policy. Otherwise, the charge of complete abdication may be hard to repel. A standard thus defines legislative policy, marks its limits, maps out its boundaries and specifies the public agency to apply it. The standard does not even have to be spelled out. It could be implied from the policy and purpose of the act considered as a whole.[21] Consequently, we have held that "public welfare"[22] and "public interest"[23] are examples of such sufficient standards. Therefore, that it appears only once in RA 7941 is more than sufficient, since a standard could even be an implied one.

National, regional and sectoral parties or organizations must both represent the "marginalized and underrepresented" and lack "well-defined political constituencies".

The fourth parameter in the ponencia states:

4. Sectoral parties or organizations may either be "marginalized and underrepresented" or lacking in "well-defined political constituencies." It is enough that their principal advocacy pertains to the special interest and concerns of their sector. The sectors that are "marginalized and underrepresented" include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, handicapped, veterans, and overseas workers. The

sectors that lack "well-defined political constituencies" include professionals, the elderly, women, and the youth.

I dissent for the following reasons.

First, Section 2 of RA 7941 clearly makes the "lack of a well-defined political constituency" as a requirement along with "marginalization and underrepresentation." They are cumulative requirements, not alternative. Thus, sectoral parties and organizations intending to run in the party-list elections must meet both.

Second, the ponencia appears to be operating under preconceived notions of what it means to be "marginalized and underrepresented" and to "lack a well-defined political constituency." For reasons discussed above, the exact content of these legislative standards should be left to the COMELEC. They are ever evolving concepts, created to address social disparities, to be able to give life to the "social justice" policy of our Constitution.

The disqualification of a nominee should not disqualify the party-list group provided that: (1) it meets Guideline Nos. 1-5 of Ang Bagong Bayani (alternately, on the basis of the new parameters set in the ponencia, that they validly qualify as national, regional or sectoral party-list group); and (2) one of its top three (3) nominees remains qualified.

I concur with the ponencia that an advocate may qualify as a nominee. However, I would like to explain my position with regard to the sixth parameter set forth in the ponencia with respect to nominees.

To recall, the sixth parameter in the ponencia provides:

6. National, regional and sectoral parties or organizations shall not be disqualified if some of their nominees are disqualified, provided that they have at least one nominee who remain qualified.

I propose the view that the disqualification of a party-list group due to the disqualification of its nominee is only reasonable if based on material misrepresentations regarding the nominee's qualifications. Otherwise, the disqualification of a nominee should not disqualify the party-list group provided that: (1) it meets Guideline Nos. 1-5 of Ang Bagong Bayani (alternately, on the basis of the new parameters set in the ponencia, that they validly qualify as national, regional or sectoral party-list group); and (2) one of its top three (3) nominees remains qualified, for reasons explained below.

The constitutional policy is to enable Filipinos belonging to the marginalized and underrepresented sectors to contribute legislation that would benefit them. Consistent therewith, R.A. No. 7941 provides that the State shall develop and guarantee a full, free and open party-list system that would achieve proportional representation in the House of Representatives by enhancing party-list groups' "chances to compete for and win seats in the legislature."^[24] Because of this policy, I believe that the COMELEC cannot interpret Section 6 (5) of R.A. No. 7941 as a grant of purely administrative, quasi-legislative or quasi-judicial power to ipso facto disqualify party-list groups based on the disqualification of a single nominee.

It should also be pointed out that the law itself considers a violation of election laws as a disqualifying circumstance. However, for an act or omission to be considered a violation of election laws, it must be demonstrative of gross and willful disregard of the laws or public policy. The standard cannot be less for the rules and regulations issued by the COMELEC. Thus, any disqualification of a party-list group based on the disqualification of its nominee must be based on a material misrepresentation regarding that nominee's qualifications. This also finds support in Section 6 (6) of R.A. No. 7941 which considers declaring "untruthful statements in its petition" as a ground for disqualification.

As regards the second qualification mentioned above, party-list groups should have at least one qualified nominee

among its top three nominees for it to be allowed to participate in the elections. This is because if all of its top three nominees are disqualified, even if its registration is not cancelled and is thus allowed to participate in the elections, and should it obtain the required number of votes to win a seat, it would still have no one to represent it, because the law does not allow the group to replace its disqualified nominee through substitution. This is a necessary consequence of applying Sections 13 in relation to Section 8 of R.A. No. 7941.

Section 13 provides that party-list representatives shall be proclaimed by the COMELEC based on "the list of names submitted by the respective parties x x x according to their ranking in the said list." The ranking of a party-list group's nominees is determined by the applicability or the inapplicability of Section 8, the last paragraph of which reads:

x x x No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list.

Thus, only in case of death, incapacity, or withdrawal does the law allow a party-list group to change the ranking of its nominees in the list it initially submitted. The ranking of the nominees is changed through substitution, which according to Section 8 is done by placing the name of the substitute at the end of the list. In this case, all the names that come after the now vacant slot will move up the list. After substitution takes effect, the new list with the new ranking will be used by COMELEC to determine who among the nominees of the party-list group shall be proclaimed, from the first to the last, in accordance with Section 13.

If any/some of the nominees is/are disqualified, no substitution will be allowed. Thus, their ranking remains the same and should therefore be respected by the COMELEC in determining the one/s that will represent the winning party-list group in Congress. This means that if the first nominee is disqualified, and the party-list group is able to join the elections and becomes entitled to one representative, the second cannot take the first nominee's place and represent the party-list group. If, however, the party-list group gets enough votes to be entitled to two seats, then the second nominee can represent it.

Allowing a party-list group, which has successfully passed Guideline Nos. 1-5 of Ang Bagong Bayani[25] (alternately, pursuant to the present holding of the ponencia, that it qualifies as a national, regional or sectoral party or organization) and has established the qualification of at least one (1) of its top three (3) nominees, to participate in the elections is a better interpretation of the law. It is fully consistent with the policy of developing and guaranteeing a full, free and open party-list system that would achieve proportional representation in the House of Representatives by enhancing party-list groups' "chances to compete for and win seats in the legislature"[26] while providing sufficient disincentives for party-list groups to flood the COMELEC with nominees as Section 8 of R.A. No. 7941 only requires that they submit not less than five (5).

It must be noted that this method, together with the seat-allocation system introduced in BANAT v. COMELEC,[27] will allow more party-list groups to be represented in Congress.

Let us use a hypothetical scenario to illustrate.

The table below uses the seat-allocation system introduced in BANAT. It assumes the following facts: (1) 35 party-list groups participated in the elections; (2) 20 million votes were cast for the party-list system; and (3) there are 50 seats in Congress reserved for the party-list representatives.

The succeeding paragraphs will explain how the BANAT method will operate to distribute the 50 seats reserved in the House of Representatives given the foregoing facts and the number of votes obtained by each of the 35

party-list groups.

Rank

Party-list group

Votes Garnered

%

1[st]Round (guaranteed seats)

2[nd] Round
(additional seats)

Total # of seats

1

AAA

1,466,000

7.33%

1

2

3

2

BBB

1,228,000

6.14%

1

2

3

3

CCC

1,040,000

4.74%

1

1

2

4

DDD

1,020,000

3.89%

1

1

2

5

EEE

998,000

3.88%

1

1

2

6

FFF

960,000

3.07%

1

1

2

7

GGG

942,000

2.92%

1

1

2

8

HHH

926,000

2.65%

1

1

2

9

III

910,000

2.57%

1

1

2

10

JJJ

796,000

2.57%

1

1

2

11

KKK

750,000

2.42%

1

1

2

12

LLL

738,000

2.35%

1

1

2

13

MMM

718,000

2.32%

1

1

2

14

NNN

698,000

2.13%

1

1

2

15

OOO

678,000

2.12%

1

1

2

16

PPP

658,000

2.06%

1

1

2

17

QQQ

598,000

2.02%

1

1

2

18

RRR

482,000

1.95%

1

1

19

SSS

378,000

1.89%

1

1

20

TTT

318,000

1.54%

1

1

21

UUU

294,000

1.47%

1

1

22

VVV

292,000

1.44%

1

1

23

WWW

290,000

1.43%

1

1

24

XXX

280,000

1.37%

1

1

25

YYY

274,000

1.37%

1

1

26

ZZZ

268,000

1.34%

1

1

27

1-A

256,000

1.24%

1

1

28

1-B

248,000

1.23%

1

1

29

1-C

238,000

1.18%

1

1

30

1-D

222,000

1.11%

1

1

31

1-E

214,000

1.07%

1

1

32

1-F

212,000

1.06%

33

1-G

210,000

1.05%

34

1-H

206,000

1.03%

35

1-I

194,000

1.02%

20,000,00

17

33

50

We explained in BANAT that the first clause of Section II(b) of R.A. 7941 guarantees a seat to the party-list groups "receiving at least two percent (2%) of the total votes cast for the party-list system." In our hypothetical scenario, the party-list groups ranked 1[st] to 17[th] received at least 2% of the 20 million votes cast for the party-list system. In effect, all 17 of them were given guaranteed seats. The distribution of these so-called guaranteed seats to the "two percenters" is what BANAT calls the "first round of seat allocation."

From the first round of seat allocation, the total number of guaranteed seats allocated to the two percenters will be subtracted from "20% of the members of the House of Representatives" reserved by the Constitution for party-list representatives, which in this hypothetical scenario is 50 seats. Assuming all 17 of the two percenters were able to establish the qualification of their first nominee, the remaining 33 will be distributed in what BANAT termed as the "second round of seat allocation."

These remaining 33 seats are called "additional seats." The rules followed in the distribution/allocation of these seats are fairly simple. If a party-list group's percentage is multiplied by the total number of additional seats and the product is no less than 2, then that party-list will be entitled to 2 additional seats. This is to keep in line with the 3-seat limit rule. In our hypothetical scenario as shown by the table above, only the top two party-list groups, AAA and BBB are entitled to 2 additional seats. Assuming, again, that the 2[nd] and 3[rd] nominees of both AAA and BBB are qualified, then only 29 will be left for distribution.

In distributing the remaining 29 seats, it must be kept in mind that the number of votes cast in favor of the remaining party-list groups becomes irrelevant. At this stage, the only thing that matters is the group's ranking. The party-list group that comes after BBB will be given 1 additional seat and the distribution of one seat per party-list group, per rank, continues until all 50 seats are accounted for; the second round of seat allocation stops at this point. In the table above, the 50[th] seat was awarded to I-E the party-list group that ranked 31[st] in the election.

In the foregoing discussion, all the nominees of the party-list groups are qualified. What happens if one or some of the nominees are disqualified? Following the proposed method, if one or two of the party-list groups with guaranteed seats have a disqualified first nominee, their second nominee, if qualified, can still represent them in Congress based on the second round of seat allocation.

In the event that some of the nominees of party-list groups—whether or not entitled to guaranteed seats—are disqualified, then those party-list groups, which without the disqualification of these nominees would not be entitled to a seat, would now have a higher chance to have a representative elected in Congress.

If, for example, the first nominee of BBB is disqualified, then it forfeits its guaranteed seat and the additional seats for distribution in the second round will be increased by 1. With 34 seats to be allocated, I-E will now qualify to obtain a seat in its favor, assuming that its first nominee is qualified. If I-E's first nominee is disqualified, then we will proceed to the party-list next-in-rank, which is I-G. This method is followed down the line until all 50 seats are allocated.

If we follow the proposed method, this would yield a higher number of party-list groups represented in Congress, but with fewer representatives per group.

This proposed method can be further illustrated through another example, this time using a "non-two percenter" party-list group. In the table above, RRR failed to garner at least 2% of the total votes. However, in the second round of seat allocation, it was granted 1 seat. To be able to send a representative in Congress, RRR's first nominee should be qualified to sit. Assuming that its first nominee was disqualified, its second or third nominee cannot occupy said seat; instead, it will forfeit the seat and such seat will now go to I-E. Again, this method is followed down the line until all 50 seats are allocated.

In conclusion, I submit that a party-list group should be allowed to participate in the elections despite the disqualification of some of its nominees, provided that there remains a qualified nominee out of the top three initially submitted. Not only is this the better policy, but this is also the interpretation supported by law.

Only nine of the petitions should be remanded.

Given the circumstances above-mentioned, I respectfully dissent on the remand of all petitions to the COMELEC for reasons to be discussed below.

The ponencia justifies the remand of all petitions in this wise, viz:

x x x Thus, the present petitions should be remanded to the COMELEC not because COMELEC committed grave abuse of discretion in disqualifying petitioners, but because petitioners may now possibly qualify to participate in the coming 13 May 2013 party-list elections under the new parameters prescribed by this Court. (Emphasis supplied)

The "new parameters" set forth in the ponencia's guidelines focus mainly on two (2) grounds used by the COMELEC to cancel registration: (1) the standard of marginalized and underrepresented as applied to national, regional and sectoral parties and organizations; and (2) the qualification of nominees. From such examination, we can conclude that, in relation to the other grounds used by COMELEC to cancel registration (other than those two grounds mentioned above), the doctrines remain unchanged. Thus, a remand of those petitions is unnecessary, considering that the acts of the COMELEC pertaining to their petitions are upheld. The ponencia even admits that COMELEC did not commit grave abuse of discretion in following prevailing jurisprudence in disqualifying petitioners.

Consequently, the remand should only pertain to those party-list groups whose registration was cancelled on the

basis of applying the standard of "marginalized and underrepresented" and the qualification of nominees wherein the "new parameters" apply. If other grounds were used by COMELEC other than those with "new parameters,"—say, for example, failure to prove track record, a remand would be uncalled for because the doctrine pertaining to the other grounds remain unchanged.

Despite the new doctrine set forth in the ponencia, at the very least, only nine (9) petitions should be ordered remanded to the COMELEC. In these nine (9) petitions, the COMELEC cancelled the registration of the party-list groups solely on the ground that their nominees are disqualified. In making such a pronouncement, the COMELEC merely used as yardstick whether the nominees actually belong to the marginalized and underrepresented, and not whether they could qualify as advocates, and for this reason, I recommend that the following cases be REMANDED to the COMELEC. These are:

- Alliance for Rural and Agrarian Reconstruction, Inc. (ARARQ)
- Agapay ng Indigenous Peoples Rights Alliance, Inc. (A-IPRA)
- Aangat Tayo (AT)
- A Blessed Party-List (a.k.a Blessed Federation of Farmers Fishermen International, Inc.) [A BLESSED]
- Action League of Indigenous Masses (ALIM)
- Butil Farmers Party (BUTIL)
- Adhikain at Kilusan ng Ordinaryong Tao Para sa Lupa, Pabahay, Hanapbuhay at Kaunlaran (AKO BAHAY)
- Akbay Kalusugan, Inc. (AKIN)

- I-UNITED TRANSPORT KOALISYON (1-UTAK)

Assuming for the sake of argument that we agree with the ponencia's take that the phrase "marginalized and underrepresented" qualifies only sectoral parties, still, a remand of all the petitions remain uncalled for. Out of the 52 petitions, there are only 11 party-list groups which are classified as national or regional parties.[28] Thus, if we were to strictly apply the ponencia's guidelines, only 20 petitions ought to be remanded.

The COMELEC did not violate
Section 3, Article IX-C of the
Constitution.

It bears stressing that COMELEC Resolution No. 9513 does not violate Section 3, Article IX-C of the Constitution which requires a prior motion for reconsideration before the COMELEC can decide election cases en banc. To recall, the Resolution allows the COMELEC en banc, without a motion for reconsideration, to conduct (1) an automatic review of a decision of a COMELEC division granting a petition for registration of a party-list group or organization; and (2) a summary evidentiary hearing for those already accredited and which have manifested their intent to participate in the 2013 national and local elections for the purpose of determining their continuing compliance with the requirements of RA No. 7941 and the Ang Bagong Bayani[29] guidelines.

Section 3 only applies when the COMELEC is exercising its quasi-judicial powers which can be found in Section 2 (2) of the same article. However, since the conduct of automatic review and summary evidentiary hearing is an exercise of COMELEC's administrative powers under Section 2 (5), the prior motion for reconsideration in Section 3 is not required.

It is in this light that I would like to further elucidate why the power under Section 2 (5) is not quasi-judicial but

administrative in nature in order to help clarify the true distinction between the two. In a number of cases, this Court has had the opportunity to distinguish quasi-judicial from administrative power. Thus, in *Limkaichong v COMELEC*,^[30] we held that:

The term "administrative" connotes or pertains to "administration, especially management, as by managing or conducting, directing or superintending, the execution, application, or conduct of persons or things." It does not entail an opportunity to be heard, the production and weighing of evidence, and a decision or resolution thereon. This is to be distinguished from "quasi-judicial function", a term which applies, among others, to the action or discretion of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial nature. [emphasis supplied]

However, there are administrative proceedings, such as a preliminary investigation before the public prosecutor, that also entail the "opportunity to be heard, the production and weighing of evidence, and a decision or resolution thereon," but are not considered quasi-judicial in the proper sense of the term. As held in *Bautista v CA*:^[31]

Petitioner submits that a prosecutor conducting a preliminary investigation performs a quasi-judicial function, citing *Cojuangco v. PCGG*, *Koh v. Court of Appeals*, *Andaya v. Provincial Fiscal of Surigao del Norte* and *Crespo v. Mogul*. In these cases this Court held that the power to conduct preliminary investigation is quasi-judicial in nature. But this statement holds true only in the sense that, like quasi-judicial bodies, the prosecutor is an office in the executive department exercising powers akin to those of a court. Here is where the similarity ends.

A closer scrutiny will show that preliminary investigation is very different from other quasi-judicial proceedings. A quasi-judicial body has been defined as "an organ of government other than a court and other than a legislature which affects the rights of private parties through either adjudication or rule-making."

xxxx

On the other hand, the prosecutor in a preliminary investigation does not determine the guilt or innocence of the accused. He does not exercise adjudication nor rule-making functions. Preliminary investigation is merely inquisitorial, and is often the only means of discovering the persons who may be reasonably charged with a crime and to enable the fiscal to prepare his complaint or information. It is not a trial of the case on the merits and has no purpose except that of determining whether a crime has been committed and whether there is probable cause to believe that the accused is guilty thereof. While the fiscal makes that determination, he cannot be said to be acting as a quasi-court, for it is the courts, ultimately, that pass judgment on the accused, not the fiscal.

Hence, the Office of the Prosecutor is not a quasi-judicial body; necessarily, its decisions approving the filing of a criminal complaint are not appealable to the Court of Appeals under Rule 43. Since the ORSP has the power to resolve appeals with finality only where the penalty prescribed for the offense does not exceed prison correccional, regardless of the impossible fine, the only remedy of petitioner, in the absence of grave abuse of discretion, is to present her defense in the trial of the case. (emphasis supplied)

While the exercise of quasi-judicial and administrative power may both involve an opportunity to be heard, the production and weighing of evidence, and a decision or resolution thereon, the distinction I believe is that the exercise of the former has for its purpose the adjudication of rights with finality.^[32] This makes it akin to judicial power which has for its purpose, among others, the settlement of actual controversies involving rights which are legally demandable and enforceable.^[33]

Another way to dispose of the issue of the necessity of a prior motion for reconsideration is to look at it through the lens of an election case. The phrase "all such election cases" in Section 3 has been read in relation to Section 2

(2) of Article IX-C, viz:

What is included in the phrase "all such election cases" may be seen in Section 2(2) of Article IX(C) of the Constitution which states:

Section 2. The Commission on Elections shall exercise the following powers and functions:

xxxx

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal of officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.[34]

As to the nature of "contests," the Court has already defined it under the penumbra of election as follows:

Ordinary usage would characterize a "contest" in reference to a post-election scenario. Election contests consist of either an election protest or a quo warranto which, although two distinct remedies, would have one objective in view, i.e., to dislodge the winning candidate from office.

x x x x

The rules categorically speak of the jurisdiction of the tribunal over contests relating to the election, returns and qualifications of the "President" or "Vice-President", of the Philippines, and not of "candidates" for President or Vice-President. A quo warranto proceeding is generally defined as being an action against a person who usurps, intrudes into, or unlawfully holds or exercises a public office. In such context, the election contest can only contemplate a post-election scenario. In Rule 14, only a registered candidate who would have received either the second or third highest number of votes could file an election protest. This rule again presupposes a post-election scenario.

It is fair to conclude that the jurisdiction of the Supreme Court, defined by Section 4, paragraph 7, of the 1987 Constitution, would not include cases directly brought before it, questioning the qualifications of a candidate for the presidency or vice-presidency before the elections are held. (Emphasis supplied)[35]

In *Panlilio v Commission on Elections*,[36] it was also held that the primary purpose of an election case is the ascertainment of the real candidate elected by the electorate. Thus, there must first be an election before there can be an election case. Since the national and local elections are still to be held on 13 May 2013, the conduct of automatic review and summary evidentiary hearing under the Resolution No. 9513 cannot be an election case. For this reason, a prior motion for reconsideration under Section 3 is not required.

In view of the foregoing, I vote to REMAND only the following cases: ARARO, A-IPRA, AT, A BLESSED, ALIM, BUTIL, AKO BAHAY, AKIN, and 1-UTAK. The Petitions of all the other Petitioners should be dismissed.

[1] G.R. No. 83896, 83815, 22 February 1991.

[2] Vol. V, R.C.C No. 106, 12 October 1986.

[3] Emphasis supplied.

[4] *Central Bank Employees Association v. Bangko Sentral ng Pilipinas*, G.R. No. 148208, 15 December 2004.

[5] VOL V, R.C.C No. 106, 12 October 1986.

[6] See *Chavez v. JBC*, G.R. No. 202242, 17 July 2012.

[7] CHIEF JUSTICE REYNATO PUNO, EQUAL DIGNITY & RESPECT: THE SUBSTANCE OF EQUAL PROTECTION AND SOCIAL JUSTICE (2012), 265 (hereinafter, PUNO).

[8] TERRY MACDONALD, GLOBAL STAKEHOLDER DEMOCRACY: POWER AND REPRESENTATION BEYOND LIBERAL STATES(2008), at 166-167.

[9] Puno, 265.

[10] Id.

[11] G.R. No. 1 47589, 26 June 2001.

[12] See Perez-Rosario v. CA, G.R. No. 140796, 30 Jtin 2006; BERNAS, PRIMER ON THE 1987 CONSTITUTION (2006), 488.

[13] Volume II, R.C.C., 258-259, 25 July 1986.

[14] Eastern Shipping Lines v. POEA, G.R. No. 76633, 18 October 1988.

[15] Gandara Mill Supply v. NLRC, G.R. No. 126703, 29 December 1998.

[16] Bedolv. COMELEC, G.R. No. 179830, 3 December2009.

[17] Conference of Maritime Manning Agencies v. POEA, G.R. No. 114714, 21 April 1995.

[18] Id.

[19] G.R. No. 46076, 46077, 12 June 1939.

[20] G.R. No. 47065, 26 June 1940.

[21] Trade Unions of the Philippines v. Ople, G.R. L-67573, 19 June 1985.

[22] Calalang v Williams, 70 Phil 726 (1940).

[23] People v Rosenthal, 68 Phil 328 (1939).

[24] Section 2, epublic Act No. 7941.

[25] Supra.

[26] Section 2, Republic Act. No. 7941

[27] G.R. Nos. 179271 and 179295, 21 April 2009.

[28] The national parties are Alliance for Nationalism and Democracy (ANAD), Bantay Party-List (BATAY), and Alliance of Bicolnon Party (ABP). On the other hand, the regional parties are Ako Bicol Political ftarty (AKB), Akyson Magsasaka - Partido Tining ng Masa (AKMA-PTM), Ako an Bisaya (AAB), Kalikasan Party-List (KALIKASAN), 1 Alliance Advocating Autonomy Party (1AAAP), Abyan Ilonggo Party (AI), Partio ng Bayan and Bida (PBB), and Pilipinas Para sa Pinoy (PPP).

[29] G.R. No. 147589, 26 June 2001.

[30] G.R. Nos. 178831-32, 179120, 179132-33, 1 79240-41,1 April 2009.

[31] G.R. No. 143375, 6 July 2001.

[32] Dole Philippines v. Esteva, G.R. No. 161115, 30 November 2006.

[33] 1987 CONSTITUTION, ARTICLE VIII, SECTION 1.

[34] Mendoza v. Commission on Elections, G.R. No. 191084, 25 March 2010.

[35] Tecson v. Commission on Elections, G.R. No. 161434, 3 March 2004.

[36] G.R. No. 181478, 15 July 2009.

SEPARATE CONCURRING OPINION

BRION, J.:

I submit this SEPARATE OPINION to reflect my views on the various questions submitted to the Court through consolidated petitions before us.

For ease of presentation and understanding, this Separate Opinion is laid out under the following structure:

- The Case and the Issues
- Summary of Positions: Substantive Aspect of the Petitions
- On reliance on Ang Bagong Bayani and its Guidelines.
 1. Points of Disagreement with Ang Bagong Bayani
 2. Effects on the Components of the Party-list System
- Nominees
- On the observation of the Chief Justice
- Grave abuse of discretion and Conclusion
- Preliminary Matters
- The suspension of Rule 64; the existence of jurisdictional error that warrants reviewing COMELEC's action
- COMELEC's power to register and to cancel registration of a party-list group is an exercise of its administrative powers
- Discussion: Merits of the Consolidated Petitions
- The Constitutional Provisions on the Party-list System
- The Constitutional Text.
 - Constitutional text summarized
 - Purpose Behind the Party-list Innovation
 - RA No. 7941, the Party-List System Act
 - Jurisprudential Developments
 - Ang Bagong Bayani
 - Banat
- The Party-list System of elections under the constitution and RA 7941: Revisiting Ang Bagong Bayani and

its errors

- The Aim or Objective of the Party-List System

- a.1. From the Constitutional Perspective.

- a.2. From the statutory perspective

- Party participation under the party-list system

- b.1. Impact on political parties

- The parties and their nominees

- c.1. Refusal or cancellation of registration due to nominee problems

- c.2. party nominee relationship

- Chief Justice Sereno's Reflections

- The Eleven-Point Parameters for COMELEC Action

I.A The Cases

The Court resolves fifty-three (53) consolidated petitions for certiorari/prohibition filed under Rule 64 of the Rules of Court by various party-list groups and organizations. They commonly assail the Comelec's resolutions, either cancelling their existing registrations and accreditations, or denying their new petitions for party-list registration.

Of the 53 petitions, thirteen (13) were instituted by new party-list applicants under Republic Act (RA) No. 7941 and Comelec Resolution No. 9366 (dated February 21, 2012). These petitions were denied by the Comelec En Banc upon its review of the Comelec Division's resolutions.

The other forty (40) petitions were similarly brought by previously registered and accredited party-list organizations whose registrations/accreditations have been cancelled. These petitioners participated in previous elections and cannot participate in the May 2013 election if the cancellation of their registration/accreditation would stand.

The consolidated petitions, uniformly citing grave abuse of discretion on the part of the Comelec and the disregard of the relevant provisions of the Constitution and RA No. 7941, variously questioned –

- the Comelec En Banc's authority under Comelec Resolution No. 9513 to conduct an automatic review of its Division's rulings despite the absence of motions for reconsideration, in disregard of Rule 19 of the Comelec Rules of Procedure;

- with respect to the cancellation of previous registration/accreditation of party-list groups or organizations, the denial of due process and the violation of the principle of *res adjudicata*; further, the Comelec's cancellation of their existing registration/accreditation is claimed to be an exercise of its quasi-judicial powers that the COMELEC Division, not the Comelec En Banc, can exercise at the first instance;

- the Comelec En Banc's appreciation of facts and its application of the guidelines of Ang Bagong Bayani, which either addressed defects or deficiencies on the part of the parties or of their nominees and which resulted in the refusal or cancellation of registration/accreditation.

I.B. The Issues

Based on these cited grounds, the issues for the Court's consideration may be condensed as follows:

- Whether the Comelec En Banc may automatically review the decision of the COMELEC Division without the requisite filing of a motion for reconsideration under the Comelec Rules of Procedure; and
- Whether the Comelec gravely abused its discretion in denying or cancelling the registration/accreditation of the petitioners, mainly relying on the eight point guidelines laid down by the Court in *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*.

II. SUMMARY OF POSITIONS

THE SUBSTANTIVE ASPECT OF THE PETITIONS

II.A. On reliance on *Ang Bagong Bayani* and its Guidelines.

Ang Bagong Bayani-OFW Labor Party v. COMELEC's[1] intrinsically flawed interpretation of the relevant constitutional and statutory provisions is the main source of the present controversy. Its constricted interpretation of the statutory phrase "marginalized and underrepresented" has invited more questions than answers that the framers of the 1987 Constitution in fact sought to avoid.

II.A.1. Points of Disagreement with *Ang Bagong Bayani*.

I take the position that it is time to re-visit this oft-cited ruling before the party-list system is further led astray.

First, the party-list system came into being, principally driven by the constitutional framers' intent to reform the then prevailing electoral system by giving marginal and underrepresented parties (i.e. those who cannot win in the legislative district elections and in this sense are marginalized and may lack the constituency to elect themselves there, but who – nationally – may generate votes equivalent to what a winner in the legislative district election would garner) the chance to participate in the electoral exercise and to elect themselves to the House of Representatives through a system other than the legislative district elections.

Ang Bagong Bayani glossed over the constitutional text and made a slanted reading of the intent of the framers of the Constitution. By these means, it erroneously concluded that the party-list system is primarily intended as a social justice tool, and was not principally driven by intent to reform electoral system. Thus, under its First Guideline, *Ang Bagong Bayani* solely viewed the party-list system from the prism of social justice, and not from the prism of electoral reform as the framers of the Constitution originally intended.

Second. In the constitutional deliberations, the proponents of the electoral reform concept were opposed by those who wanted a party-list system open only to sectoral representation, particularly to sectoral groups with social justice orientation.

The oppositors were defeated, but the proponents nevertheless opened the system to sectoral representation and in fact gave the social justice groups a head-start by providing for their representation through selection in the first three elections.

In the resulting approved wording, the Constitution made a textual commitment to open the party-list system to registered national, regional and sectoral parties or organizations. The Article on the Commission on Election also pointedly provided that there shall be a "free and open party system," and votes for parties, organizations or coalitions shall only be recognized in the party-list system.

II.A.2. Effects on the Components of the Party-list System

Ang Bagong Bayani admits that even political parties may run in the party-list elections but maintains under its Second Guideline that they must qualify as marginal and underrepresented as this phrase is understood in the social justice context. This is totally incorrect.

Based on the reasons discussed above and further expounded below, even major political parties can participate in party-list elections because the party-list system is open to all registered political, national, regional, sectoral organizations and parties, subject only to the limitations imposed by the Constitution and by law. Further, both political and sectoral parties have equal roles and participation in the party-list system; again, they are subject to the same limitations imposed by law (the Constitution and RA No. 7941) and are separately burdened only by the limitations intrinsic to their respective natures. To summarize:

a)

For political parties (whether national or regional): to be classified as political parties, they must advocate an ideology or platform, principles and policies, for the general conduct of government. The application of the further requirement under RA No. 7941 (that as the most immediate means of securing the adoption of their principles of governance, they must regularly nominate and support their leaders and members as candidates for public office) shall depend on the particular circumstances of the party.

The marginal and under-representation in the electoral sense (i.e., in the legislative district elections) and lack of constituency requirements fully apply, but there is no reason not to presume compliance with these requirements if political parties are not participants in any legislative district elections.

Major political parties, if they participate in the legislative district elections, cannot participate in the party-list elections, nor can they form a coalition with party-list parties and run as a coalition in the party-list elections.

A coalition is a formal party participant in the party-list system; what the party-list system forbids directly (i.e., participation in both electoral arenas), the major political parties cannot do indirectly through a coalition. No prohibition, however, exists against informal alliances that they can form with party-list parties, organizations or groups running for the party-list elections. The party-list component of these informal alliances is not prohibited from running in the party-list elections.

b)

For sectoral parties and organizations, they must belong to the sectors enumerated in Section 5(2), Article VI of the 1987 Constitution and Section 5 of RA No. 7941 that are mainly based on social justice characteristics; or must have interests, concerns or characteristics specific to their sectors although they do not require or need to identify with any social justice characteristic. In either case, they are subject to the “marginalized and under-represented” and the “constituency” requirements of the law through a showing, supported by evidence, that they belong to a sector that is actually characterized as marginal and under-represented.

These parties and organizations are additionally subject to the general overriding requirement of electoral marginalization and under-representation and the constituency requirements of the law, but there is no reason why compliance with these requirements cannot be presumed if they are not participants in any legislative district elections.

c)

Compliance with COMELEC Rules. To justify their existence, all party-list groups must comply with the requirements of law, their own internal rules on membership, and with the Comelec’s Rules of Procedure. They must submit to the Commission on Elections (COMELEC) their constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require.[2]

To sum up these Ang Bagong Bayani objections, the party-list system – as principally espoused by Commissioner Christian Monsod and duly approved by the Commission’s vote – maintained its electoral reform objectives

while significantly contributing to the social justice thrust of the Constitution.

It is not correct to say, as the Chief Justice did in her Reflections, that this Separate Opinion is not “appropriately sensitive to the context from which it [the 1987 Constitution] arose.” I recognize the social justice content of the party-list provisions in the Constitution and the law; I simply cannot give these provisions the primacy that both the framers of the Constitution and Congress did not see fit to accord.

B. On Nominees

Third. Considering the Constitution’s solicitous concern for the marginalized and under-represented sectors as understood in the social justice context, and RA 7941’s requirement of mere bona fide membership of a nominee in the party-list group, a nominee who does not actually possess the marginalized and underrepresented status represented by the party-list group but proves to be a genuine advocate of the interest and concern of the marginalized and underrepresented sector represented is still qualified to be a nominee.

This classification of nominees, however, is relevant only to sectoral parties and organizations which are marginalized and underrepresented in the social justice sense or in terms of their special interests, concerns or characteristics. To be consistent with the sectoral representation envisioned by the framers, a majority of the members of the party must actually belong to the sector represented, while nominees must be a member of the sectoral party or organization.

Since political parties are identified by their ideology or platform of government, bona fide membership, in accordance with the political party’s constitution and by-laws, would suffice.

In both political or sectoral party or group, party membership is the most tangible link of the nominees to their respective parties and to the party-list system.

Subject to the above, the disqualification of the nominee does not necessarily mean the disqualification of the party since all the grounds for cancellation or refusal of registration pertain to the party itself.

I make the qualification that the law’s[3] requirement of the submission of a list containing at least five (qualified) nominees is mandatory, and a party’s inexcusable failure to comply with this requirement warrants the refusal or cancellation of its registration under Section 6 of RA 7941.

C. On the Observations of the Chief Justice

As my fourth and final point, the “textualist” approach that the Chief Justice objects to, has been driven, and is fully justified, by the above reading of the Constitution and the law.

As a basic constitutional point, the business and principal function of this Court (and of the whole Judiciary) is not to create policy or to supplant what the Constitution and the law expressly provide. The framers of the Constitution and Congress (through RA No. 7941 in this case) provided the policy expressed through the words of the Constitution and the law, and through the intents the framers; both were considered and cited to ensure that the constitutional policy is properly read and understood. The whole Judiciary, including this Court, can only apply these policies in the course of their assigned task of adjudication without adding anything of our own; we can interpret the words only in case of ambiguity.

This Court and its Members cannot likewise act as advocates, even for social justice or for any ideology for that matter, as advocacy is not the task assigned to us by the Constitution. To play the role of advocates, or to formulate policies that fall within the role of the Legislative Branch of government, would be a violation of our sworn duty.

D. Grave Abuse of Discretion and Conclusion

As agreed upon by the Majority during the deliberations of this case, the Court suspended the Rules of Court in considering the Rule 64 petitions before us in light of the clear and patent violation of the Constitution that the Majority unanimously found.

Thus, without an explicit ruling on the grave abuse of discretion in this case, I vote to VACATE the ruling of the COMELEC pursuant to the suspended rules in light of our finding of patent violation of the Constitution after revisiting and overturning the Ang Bagong Bayani ruling.

Having said these, however, I reflect for the record my view that a grave abuse of discretion exists.

Undeniably, all the parties to these consolidated cases – namely, the petitioners and the COMELEC – relied upon and were all guided by the Ang Bagong Bayani ruling. However, my re-examination of Ang Bagong Bayani and its standards, in light of what the text and intents of the Constitution and RA No. 7491 provide, yield a result different from what Ang Bagong Bayani reached.

As will be discussed extensively in this Separate Opinion, wrong considerations were used in ruling on the consolidated petitions, resulting in gross misinterpretation and misapplication of the Constitution. This is grave abuse of discretion that taints a decision maker's action,[4] infinitely made worse in this case because the Constitution itself is involved.

An added basis for a finding of grave abuse of discretion pertains specifically to the COMELEC's refusal or cancellation of registration of the party-list group based, solely or partly, on the disqualification of the nominee. As discussed below, this action and any refusal or cancellation of registration is completely devoid of basis in fact and in law and in this sense constitutes grave abuse of discretion.

In these lights, I vote for the REMAND of ALL the petitions to the COMELEC in accordance with the terms of this Separate Opinion.

III. PRELIMINARY MATTERS

A. The existence of jurisdictional error that warrants reviewing COMELEC's action

Whether acting in the exercise of its purely administrative power, on one hand, or quasi-judicial powers, on the other hand, the judicial remedy available to an aggrieved party is the remedy of certiorari under Rule 64, in relation with Rule 65. Court action under this rule is rendered necessary by the reality that, by law, the COMELEC en banc decision is final and executory and should stand unless nullified by this Court through a writ of certiorari.

For the writ of certiorari to issue, the Rules of Court expressly require that the tribunal must have acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. The requisite grave abuse of discretion is in keeping with the office of the writ of certiorari; its function is to keep the tribunal within the bounds of its jurisdiction under the Constitution and law.

The term grave abuse of discretion, while it defies exact definition, generally refers to capricious or whimsical exercise of judgment that is equivalent to lack of jurisdiction; the abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[5]

Arguably under the above standards, it may be claimed that since the COMELEC merely complied with the prevailing jurisprudence (in particular, with the Court's pronouncement in *Ang Bagong Bayani v. COMELEC and Banat v. COMELEC*), then it could not have acted without or in excess of its jurisdiction, much less with grave abuse of discretion. Besides, the writ of certiorari only lies when the respondent is exercising judicial or quasi-judicial functions, which is not so in the present case.

This rationalization, however, is only superficially sound as the gross misinterpretation and misapplication of the Constitution cannot be allowed by this Court in its role and duty as guardian of the Constitution. Where a misinterpretation or misapplication of the Constitution occurs, the result is a constitutional violation that this Court cannot be prevented from addressing through the exercise of its powers through the available medium of review under the Rules of Court. To hold otherwise is to countenance a violation of the Constitution – a lapse that cannot and should not happen under our legal system.

Otherwise stated, if the Court were to sustain the view that the mere application of a prevailing rule or doctrine negates a finding of grave abuse of discretion, in spite of a glaring error in the doctrine's interpretation of the Constitution, then the Court would have no chance to correct the error, except by laying down a new doctrine that would operate prospectively but at the same time dismissing the petition for failure to show grave abuse of discretion. To be sure, this is a course of action the Court cannot take if it were to faithfully discharge its solemn duty to hold the Constitution inviolate. For the Court, action under these circumstances is a must; no ifs or buts can be allowed to be heard about its right and duty to act.

It should be considered, too, that in the adjudication of a case with constitutional dimensions, it is the letter and the spirit of the Constitution itself that reign supreme. The Court's previous ruling on a matter serves as a guide in the resolution of a similar matter in the future, but this prior ruling cannot inflexibly bind the Court in its future actions. As the highest Court in our judicial hierarchy, the Court cannot tie its hands through its past actions, particularly when the Constitution is involved; it is invested with the innate authority to rule according to what it sees best in its role as guardian of the Constitution.[6]

Additionally, be it remembered that the rulings of this Court are not written in stone and do not remain un-erased and applicable for all times under all circumstances. The Supreme Court's review of its rulings is in a sense a continuing one as these are made and refined in the cases before the Court, taking into account what it has said on the similar points in the past. This is the principle of stare decisis that fosters the stability of rulings and decisions. This principle, however, is not an absolute one that applies even if an incisive examination shows that a past ruling is inaccurate and is far from a faithful interpretation of the Constitution, or in fact involves a constitutional violation. In this excluded circumstance, both the rule of reason and the commands of the Constitution itself require that the past ruling be modified and, if need be, overturned.[7] Indeed, if the act done is contrary to the Constitution, then the existence of grave abuse of discretion cannot be doubted.[8]

As will be discussed extensively in this Separate Opinion, the *Ang Bagong Bayani* ruling does not rest on firm constitutional and legal grounds; its slanted reading of the text of the constitution and its myopic view of constitutional intent led it to a grave error never envisioned by the framers of our constitution.

By ordering the remand of all the petitions to the COMELEC and for the latter to act in accordance with the new ruling laid down by the Court – i.e., allowing political parties to participate in the party-list elections without need of proving that they are “marginalized and under-represented” (as this term is understood in *Ang Bagong Bayani*), and in recognizing that a genuine advocate of a sectoral party or organization may be validly included in the list of nominees – the Court would not be violating the principle of prospectivity.[9]

The rationale behind the principle of prospectivity – both in the application of law and of judicial decisions

enunciating new doctrines – is the protection of vested rights and the obligation of contracts. When a new ruling overrules a prior ruling, the prospective application of the new ruling is made in favor of parties who have relied in good faith on the prior ruling under the familiar rule of *lex prospicit, non respicit*.

Obviously, the force of this rationale finds no application in this case, for, a ruling overturning *Ang Bagong Bayani* broadens the base of participation in the party-list system of election based on the text and intent of the Constitution. Thus, no one can claim that the application of this ruling in the upcoming 2013 election would operate to the prejudice of parties who relied on the *Ang Bagong Bayani* ruling; the marginalized and under-represented sectors (as the term is understood in *Ang Bagong Bayani*) continue to be eligible to participate in the party-list elections, subject to the determination of parties' individual circumstances by the COMELEC.

B. COMELEC power to register and to cancel
registration of a party-list group is an exercise

of its administrative powers

The COMELEC En Banc's authority under COMELEC Resolution No. 9513 – i.e., to conduct summary hearings for the purpose of determining the registered parties' continuing compliance with the law and the regulations and to review the COMELEC Division's ruling granting a petition for registration – is appropriately an exercise of the COMELEC's administrative power rather than its quasi-judicial power. In the exercise of this authority, the Comelec may automatically review the decision of its Divisions, without need for a motion to reconsider the grant of a petition for registration; it may also conduct summary hearings when previously registered party-list groups file their manifestation of intent to participate in the coming elections.

The case of *Santiago, Jr., etc. v. Bautista, et al.*[10] already provides us ample guidance and insights into what distinguishes administrative and quasi-judicial powers from one another. On the issue of whether the remedy of certiorari (which can only be invoked when the respondent exercises judicial or quasi-judicial functions) would lie against a public school committee whose function was to determine the ranking of selected honor students for its graduating class, the Court gave a negative answer and said:

From the [foregoing], it will be gleaned that before a tribunal, board, or officer may exercise judicial or quasi judicial acts, it is necessary that there be a law that gives rise to some specific rights of persons or property under which adverse claims to such rights are made, and the controversy ensuing therefrom is brought, in turn, before the tribunal, board or officer clothed with power and authority to determine what that law is and thereupon adjudicate the respective rights of the contending parties. As pointed out by appellees, however, there is nothing on record about any rule of law that provides that when teachers sit down to assess the individual merits of their pupils for purposes of rating them for honors, such function involves the determination of what the law is and that they are therefore automatically vested with judicial or quasi judicial functions.[11] (citation omitted; emphases ours)

In the present case, no pretense at all is claimed or made that a petition for registration or the determination of a registered party's continuing compliance with existing laws, rules and jurisprudence entails the assertion of a right or the presence of a conflict of rights. In a registration or compliance proceeding, an applicant simply attempts to prove its possession or continued possession of the requisite qualifications for the purpose of availing the privilege of participating in an electoral exercise. Thus, no real adjudication entailing the exercise of quasi-judicial powers actually takes place.

Additionally, the inapplicability of the principle of *res judicata* in these registration proceedings necessarily weakens any claim that adjudication, done in the exercise of quasi-judicial functions, is involved. Each election period is *sui generis* - a class in itself, and any registration or accreditation by a party-list group is only for the

purpose of the coming election; it does not grant any registered party-list group any mantle of immunity from the COMELEC's power of review as an incident of its power to register. To hold otherwise would emasculate the COMELEC as an independent constitutional commission, and weaken the crucial role it plays in our republican democracy.

IV. DISCUSSION: MERITS OF THE PETITIONS

I take the firm position that this Court should now revisit its ruling in *Ang Bagong Bayani* before our party-list system drifts any farther from the text and spirit of the constitutional and statutory commands.

These Discussions shall dwell on the reasons supporting this approach and my conclusions.

A. The Constitutional Provisions on the Party-list System

a. The Constitutional Text.

The only constitutional provisions directly dealing with the party-list system of election are Section 5(1) and (2) of Article VI, and Sections 2, 6 and 7, Article IX-C of the 1987 Constitution.

The cited Article VI section reads:

Section 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 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. [emphasis, underscores and italics ours]

Article IX-C of the 1987 Constitution, on the other hand, is the article on the COMELEC, and the cited sections quoted below are its provisions related to the party-list system.

Section 2. The Commission on Elections shall exercise the following powers and functions:

x x x x

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. x x x

x x x x

Section 6. A free and open party system shall be allowed to evolve according to the free choice of the people, subject to the provisions of this Article.

Section 7. No votes cast in favor of a political party, organization, or coalition shall be valid, except for those registered under the party-list system as provided in this Constitution. [emphases and italics ours]

These provisions are specifically mentioned and shall be cited throughout this Separate Opinion as they are the essential take-off points in considering, appreciating and implementing the party-list system.

b. The Constitutional Text Summarized

Paraphrased and summarized, the terms of the Constitution relating to the party-list system essentially provide that:

- The House of Representatives shall be composed of members elected from legislative districts, and those who are elected through a party-list system.
- The members of the House of Representatives under the party-list system are those who are elected, as provided by law, thus, plainly leaving the mechanics of the system to future legislation.
- The members under the system shall be elected through registered national, regional, sectoral parties and organizations, thus, textually identifying the recognized component groupings in the party-list system; they must all register with the COMELEC to be able to participate.
- To be voted under the party-list system are the component political parties, organizations and coalitions, in contrast with the individual candidates voted upon in legislative district elections.
- The party-list representatives shall constitute twenty per centum of the total number of representatives, including those in the party-list.
- For three consecutive terms after the ratification of the 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 minorities, women, youth, and such other sectors as may be provided by law, except the religious sector.
- The Constitution allows a free and open party system that shall evolve according to the free choice of the people, within the limits of the Constitution.

c. Purpose Behind the Party-list Innovation

Unmistakably, the quoted constitutional texts are both terse and general in their terms. However, they are not, in fact, as bare as they would seem, as the words used carry meanings and intents^[12] expressed during the deliberations and the voting that took place to determine what the Constitution would exactly provide.^[13]

Basic in understanding the constitutional text is the intent that led to the modification of the system of legislative district elections that the country has used even before the 1935 Constitution.

The traditional system, incidentally, is the legislative district system that remains described in the Constitution as election by district “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.”^[14]

The proponent, Commissioner Christian Monsod, described the new party-list system in terms of its purpose, as follows:^[15]

The purpose of this is to open the system. In the past elections, we found out that there were certain groups or parties that, if we count their votes nationwide, have about 1,000,000 or 1,500,000 votes. But they were always third place or fourth place in each of the districts. So, they have no voice in the Assembly. But this way, they would have five or six representatives in the Assembly even if they would not win individually in legislative districts. So, that is essentially the mechanics, the purpose and objectives of the party list system. [italics, emphases and underscores ours]

These same purpose and objective were reiterated in the Commissioner’s subsequent statement when he said —

The whole purpose of the system is precisely to give room for those who have a national constituency who

may never be able to win a seat on a legislative district basis. But they must have a constituency of at least 400,000 in order to claim a voice in the National Assembly.[16]

thus, leaving no doubt on what the party-list system conceptually is and why it was established.

B. RA No. 7941, the Party-List System Act

Following the ratification of the 1987 Constitution, President Corazon Aquino appointed representatives of the sectors mentioned in the Constitution, namely: labor, peasant, urban poor, indigenous cultural minorities, women, and youth, who acted as the party-list representatives for the first three (3) elections under this Constitution.

In March 1995, Congress enacted RA No. 7941, the Party-List System Act, as the law that would implement the party-list election scheduled for May 1998. The law at the same time fleshed out the mechanics for party-list elections, in accordance with the terms of the Constitution. The law specifically provided for:

- a declaration of the policy behind the law;
- a definition of terms, specifically defining the terms national, political, regional, and sectoral parties, and their coalitions;
- the requisites and terms for registration; the grounds for refusal and cancellation of registration; and the certified list of registered parties;
- the nomination and qualification for party-list representatives;
- the manner of voting;
- the number and procedure for the allocation of party-list representatives; and
- the proclamation of the winning party-list representatives, their term of office; the limitation on their change of affiliation; their rights; and the provisions in case of vacancy.

Reflecting the constitutional intents, the law defined the party-list system as:

a mechanism of proportional representation in the election of representatives to the House of Representatives from national, regional and sectoral parties or organizations or coalitions thereof registered with the Commission on Elections (COMELEC). Component parties or organizations of a coalition may participate independently provided the coalition of which they form part does not participate in the party-list system.[17] (emphases and italics ours)

and clarified the State's policy, objectives and means, as follows:

- a. the promotion of 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;
- b. with the aim of enabling 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; and
- c. for the development and guarantee of 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 under the simplest scheme possible.[18]

RA No. 7941 likewise succinctly defined the component groupings recognized by law in the party-list system, as

follows:

(b) A party means either a political party or a sectoral party or a coalition of parties.

(c) A political party refers to an organized group of citizens advocating an ideology or platform, principles and policies for the general conduct of government and which, as the most immediate means of securing their adoption, regularly nominates and supports certain of its leaders and members as candidates for public office.

It is a national party when its constituency is spread over the geographical territory of at least a majority of the regions. It is a regional party when its constituency is spread over the geographical territory of at least a majority of the cities and provinces comprising the region.

(d) A sectoral party refers to an organized group of citizens belonging to any of the sectors enumerated [labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals] whose principal advocacy pertains to the special interest and concerns of their sector.

(e) A sectoral organization refers to a group of citizens or a coalition of groups of citizens who share similar physical attributes or characteristics, employment, interests or concerns.

(f) A coalition refers to an aggrupation of duly registered national, regional, sectoral parties or organizations for political and/or election purposes.[19] (emphases and italics ours)

Notably, the definitions carried no significant qualifications, preferences, exclusions or limitations by law on what the recognized party-list groupings should be, although Section 6 of RA No. 7941 specified and defined the grounds for disqualification.

C. Jurisprudential Developments

a. The Ang Bagong Bayani Case

In 2001, the first judicial test in the implementation of the party-list system came through the Ang Bagong Bayani case where the petitioners sought the disqualification of the private respondents, among whom were major political parties. The Court resolved, among others, the following issues:

1. whether political parties may participate in party-list elections; and
2. whether the party-list system is exclusive to “marginalized and underrepresented” sectors and organizations.

The majority ruling held that political parties may participate in party-list elections, provided that the requisite character of these parties or organizations must be consistent with the Constitution and RA No. 7941. The party-list organization or party must factually and truly represent the marginalized and underrepresented constituencies, identifying them, non-exclusively, as the labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals. The party-list nominees, as well, must be Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties.

Based on its conclusions, the majority provided the guidelines for the party-list system, summarized below:

First, the political party, sector, organization or coalition must represent the marginalized and underrepresented groups identified in Section 5 of RA 7941. In other words, it must show – through its constitution, articles of incorporation, bylaws, history, platform of government and track record – that it represents and seeks to uplift marginalized and underrepresented sectors. Verily, majority of its membership should belong to the marginalized and underrepresented. And it must demonstrate that in a conflict of interests, it has chosen or is likely to choose the interest of such sectors.

Second, while even major political parties are expressly allowed by RA 7941 and the Constitution to participate in the party-list system, they must comply with the declared statutory policy of enabling "Filipino citizens belonging to marginalized and underrepresented sectors x x x to be elected to the House of Representatives." In other words, while they are not disqualified merely on the ground that they are political parties, they must show, however, that they represent the interests of the marginalized and underrepresented. x x x

x x x x

Third, [by an] express constitutional provision[,] the religious sector may not be represented in the party-list system. x x x

x x x x

Fourth, a party or an organization must not be disqualified under Section 6 of RA 7941, which enumerates the grounds for disqualification[.]

x x x x

Fifth, the party or organization must not be an adjunct of, or a project organized or an entity funded or assisted by, the government. By the very nature of the party-list system, the party or organization must be a group of citizens, organized by citizens and operated by citizens. It must be independent of the government. x x x

Sixth, the party must not only comply with the requirements of the law; its nominees must likewise do so. Section 9 of RA 7941 [contains the qualifications of party-list nominees, with special age-related terms for youth sector candidates].

Seventh, not only the candidate party or organization must represent marginalized and underrepresented sectors; so also must its nominees. x x x [U]nder Section 2 of RA 7941, the nominees must be Filipino citizens "who belong to marginalized and underrepresented sectors, organizations and parties." x x x

Eighth, x x x the nominee must likewise be able to contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole.[20] (italics and emphases ours)

b. BANAT Case

Barangay Association for National Advancement and Transparency (BANAT) v. Commission on Elections[21] is essentially a case on the computation of the allocation of seats based on the party-list votes. Despite the Ang Bagong Bayani ruling, the question of whether the Constitution prohibits political parties from participating in the party-list elections remained a live issue in this case.

By a vote of 8-7, the Court decided to disallow major political parties from participating in the party-list elections, directly or indirectly; thus, effectively reversing the ruling in Ang Bagong Bayani that major political parties may participate in the party-list system, provided they represent the marginalized and underrepresented sectors. Chief Justice Reynato S. Puno cited two reasons for disallowing the participation of major political parties:

1. Limiting the party-list system to the marginalized and excluding the major political parties from participating in the election of their representatives are aligned with the constitutional mandate to reduce social, economic and political inequalities and remove cultural inequalities by equitably diffusing wealth and political power for the common good.
2. Allowing major political parties to participate in the party-list system electoral process will suffocate the voice of the marginalized, frustrate their sovereignty, and betray the democratic spirit of the Constitution.

The minority view[22] took the position that neither the Constitution nor RA No. 7941 prohibits major political

parties from participating in the party-list system. It maintained that, on the contrary, the framers of the Constitution clearly intended the major political parties to participate in party-list elections through their sectoral wings, and this Court cannot engage in socio-political engineering and judicially legislate the exclusion of major political parties from party-list elections, in patent violation of the Constitution and the law.

Moreover, the minority maintained that the Party-List System Act and the deliberations of the Constitutional Commission state that major political parties are allowed to coalesce with sectoral organizations for electoral or political purposes. The other major political parties can thus organize or affiliate with their chosen sector or sectors, provided that their nominees belong to their respective sectors. Nor is it necessary that the party-list organization's nominee "wallow in poverty, destitution, and infirmity," as there is no financial status or educational requirement in the law. It is enough that the nominee of the sectoral party belongs to the marginalized and underrepresented sectors; that is, if the nominee represents the fisherfolk, he must be a fisherfolk, if the nominee represents the senior citizens, he must be a senior citizen.

D. The Party-list System of elections under the constitution and RA 7941: Revisiting Ang Bagong Bayani and its errors

I opened these Discussions by quoting the plain terms of the Constitution and of the law to stress these terms for later comparison with Ang Bagong Bayani. In this manner, Ang Bagong Bayani's slanted reading of the Constitution and the laws can be seen in bold relief. Its main mistake is its erroneous reading of the constitutional intent, based on the statements of a constitutional commissioner that were quoted out of context, to justify its reading of the constitutional intent.[23] Specifically, it relied on the statements of Commissioner Villacorta, an advocate of sectoral representation, and glossed over those of Commissioner Monsod and the results of the deliberations, as reflected in the resulting words of the Constitution.[24] Thus, its conclusion is not truly reflective of the intent of the framers of the Constitution. This error is fatal as its conclusion was then used to justify his interpretation of the statute, leading to a bias for the social justice view.

a. The Aim or Objective of the Party-List System

a.1. From the Constitutional Perspective.

The aim of the party-list provision, Section 5, Article VI of the Constitution, is principally to reform the then existing electoral system by adding a new system of electing the members of the House of Representatives. The innovation is a party-list system that would expand opportunities for electoral participation to allow those who could not win in the legislative district elections a fair chance to enter the House of Representatives other than through the district election system.

Otherwise stated, the aim is primarily electoral reform - not to provide a social justice mechanism that would guarantee that sectors (described in social justice context by its constitutional deliberation proponents as "marginalized") would exclusively occupy, or have reserved, seats in the House of Representatives under the party-list system. This is one glaring error that is evident right from the opening statement of Ang Bagong Bayani when it described the party-list system as "a social justice tool." While the party-list system can indeed serve the ends of social justice by providing the opportunity – through an open, multi-party system – for the social justice sector groups that have no chance to win in legislative district elections, the party-list system was not established primarily for this purpose.

The best proof of this characteristic comes from the words of the Constitution itself which do not provide for exclusive or guaranteed representation for sectoral groups in the party-list system. If at all, the constitutional text only provided a guarantee of 50% participation for specified sectoral groups, but the guarantee was only for the

first three (3) elections after the ratification of the Constitution.[25]

The deliberations where the words of the Constitution were framed and adopted confirm the primacy of electoral reform as against social justice objectives. The electoral reform view was espoused by the author of the provision, Commissioner Monsod, and his proposed amendment[26] met vigorous objections from Commissioner Eulogio Lerum and Commissioner Jaime Tadeo, who then sought to have guaranteed or reserved seats for the “marginalized” sectors in order to prevent their “political massacre” should the Monsod amendment be allowed.[27]

When voting took place, those against reserved seats for the marginalized sector won. Eventually, what was conceded to the latter was what the Constitution, as worded now, provides - i.e., “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 enumerated sectors.

Indeed, if the concept of “marginalized” would be applied to the party-list system, the term should apply to the national, regional, and sectoral parties or organizations that cannot win in the traditional legislative district elections (following the explanation of Commissioner Monsod), not necessarily to those claiming marginalization in the social justice context or because of their special interests or characteristics. The term, of course, can very well be applicable to the latter if they indeed cannot win on their own in the traditional legislative district elections. These aspects of the case are further discussed and explained below.

a.2. From the Statutory Perspective.

Even from the perspective of RA No. 7941, the policy behind the party-list system innovation does not vary or depart from the basic constitutional intents. The objective continues to be electoral reform, expressed as the promotion of 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, under 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.[28]

It should be noted that it was under RA No. 7941 that the words “marginalized and underrepresented” made their formal appearance in the party-list system. It was used in the context of defining one of the aims of the system, i.e., to 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.

This entry and use of the term is admittedly an effective and formal statutory recognition that accommodates the sectoral (in the special interest or concern or social justice senses) character into the party-list system (i.e., in addition to the primary electoral reform purpose contemplated in the Constitution), but nevertheless does not render sectoral groups the exclusive participants in party-list elections. As already mentioned, this conclusion is not justified by the wording, aims and intents of the party-list system as established by the Constitution and under RA No. 9741.

Nor does the use of the term “marginalized and underrepresented” (understood in the narrow sectoral context) render it an absolute requirement to qualify a party, group or organization for participation in the party-list election, except for those in the sectoral groups or parties who by the nature of their parties or organizations necessarily are subject to this requirement. For all parties, sectors, organizations or coalition, however, the absolute overriding requirement – as justified by the principal aim of the system – remains to be a party, group or

organization's inability to participate in the legislative district elections with a fair chance of winning. To clearly express the logical implication of this statement, a party, group or organization already participating in the legislative district elections is presumed to have assessed for itself a fair chance of winning and should no longer qualify to be a participant in the party-list elections.

b. Party Participation under the Party-list System

The members of the House of Representatives under the party-list system are those who would be elected, as provided by law, thus, plainly leaving the mechanics of the system to future legislation. They are likewise constitutionally identified as the registered national, regional, sectoral parties and organizations, and are the party-list groupings to be voted under the party-list system under a free and open party system that should be allowed to evolve according to the free choice of the people within the limits of the Constitution.[29]

From the perspective of the law, this party structure and system would hopefully foster proportional representation that would lead to the election to the House of Representatives of Filipino citizens: (1) who belong to marginalized and underrepresented sectors, organizations and parties; and (2) who lack well-defined constituencies; but (3) who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole. The key words in this policy are "proportional representation," "marginalized and underrepresented," and "lack of well-defined constituencies."

The term "marginalized and underrepresented" has been partly discussed above and would merit further discussion below. *Ang Bagong Bayani-OFW Labor Party v. COMELEC*,[30] on the other hand, defined the term "proportional representation" in this manner:

[I]t refers to the representation of the "marginalized and underrepresented" as exemplified by the enumeration in Section 5 of the law; namely, "labor, peasant, fisherfolk, urban poor, indigenous cultural, communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.[31]

As well, the case defined the phrase "who lack well-defined political constituency" to mean:

refers to the absence of a traditionally identifiable electoral group, like voters of a congressional district or territorial unit of government. Rather, it points again to those with disparate interests identified with the "marginalized or underrepresented.[32]

Thus, in both instances, *Ang Bagong Bayani* harked back to the term "marginalized and underrepresented," clearly showing how, in its view, the party-list system is bound to this descriptive term. As discussed above, *Ang Bagong Bayani*'s use of the term is not exactly correct on the basis of the primary aim of the party-list system. This error becomes more glaring as the case applies it to the phrases "proportional representation" and "lack of political constituency."

For clarity, Section 2 – the only provision where the term "marginalized and underrepresented" appears – reads in full:

Section 2. Declaration of Policy. – The State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to the marginalized and under-represented 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.

As defined in the law, a party refers to any of the three: a political party, a sectoral party, or a coalition of parties (Section 3[b] of RA No. 7941). As distinguished from sectoral parties or organizations – which generally advocate “interests or concerns” – a political party is one which advocates “an ideology or platform, principles and policies” of the government. In short, its identification is with or through its program of governance.

Under the verba legis or plain terms rule of statutory interpretation[33] and the maxim *ut magis valeat quam pereat*,[34] a combined reading of Section 2 and Section 3 shows that the status of being “marginalized and underrepresented” is not limited merely to sectors, particularly to those enumerated in Section 5 of the law. The law itself recognizes that the same status can apply as well to “political parties.”

Again, the explanation of Commissioner Monsod on the principal objective of the party-list system comes to mind as it provides a ready and very useful answer dealing with the relationship and inter-action between sectoral representation and the party-list system as a whole:

We sought to avoid these problems by presenting a party list system. Under the party list system, there are no reserved seats for sectors. Let us say, laborers and farmers can form a sectoral party or a sectoral organization that will then register and present candidates of their party. How do the mechanics go? Essentially, under the party list system, every voter has two votes, so there is no discrimination. First, he will vote for the representative of his legislative district. That is one vote. In that same ballot, he will be asked: What party or organization or coalition do you wish to be represented in the Assembly? And here will be attached a list of the parties, organizations or coalitions that have been registered with the COMELEC and are entitled to be put in that list. This can be a regional party, a sectoral party, a national party, UNIDO, Magsasaka or a regional party in Mindanao. One need not be a farmer to say that he wants the farmers' party to be represented in the Assembly. Any citizen can vote for any party. At the end of the day, the COMELEC will then tabulate the votes that had been garnered by each party or each organization — one does not have to be a political party and register in order to participate as a party — and count the votes and from there derive the percentage of the votes that had been cast in favor of a party, organization or coalition.

x x x x

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. It also means that, let us say, there are three or four labor groups, they all register as a party or as a group. 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. These sectors or these groups may not have the constituency to win a seat on a legislative district basis. They may not be able to win a seat on a district basis but surely, they will have votes on a nationwide basis.

x x x x

BISHOP BACANI: Madam President, am I right in interpreting that when we speak now of party list system though we refer to sectors, we would be referring to sectoral party list rather than sectors and party list?

MR. MONSOD: As a matter of fact, if this body accepts the party list system, we do not even have to mention sectors because the sectors would be included in the party list system. They can be sectoral parties within the party list system.

BISHOP BACANI: Thank you very much.[35] (emphases and underscores supplied)

These exchanges took place on July 22, 1986. When the discussion on the party-list system of election resumed on July 25, 1986, Commissioner Monsod proposed an amendment[36] (that substantially became Section 5[1], Article VI of 1987 Constitution) that further clarified what this innovative system is.

Thus, the words “marginalized” and “underrepresented” should be understood in the electoral sense,[37] i.e., those who cannot win in the traditional district elections and who, while they may have a national presence, lacked “well-defined political constituency” within a district sufficient for them to win. For emphasis, sectoral representation of those perceived in the narrow sectoral (including social justice) sense as “marginalized” in society is encapsulated within the broader multiparty (party-list system) envisioned by the framers.

This broader multiparty (party-list system) seeks to address not only the concerns of the marginalized sector (in the narrow sectoral sense) but also the concerns of those “underrepresented” (in the legislative district) as a result of the winner-take-all system prevailing in district elections – a system that ineluctably “disenfranchises” those groups or mass of people who voted for the second, third or fourth placer in the district elections and even those who are passive holders of Filipino citizenship.

RA No. 7941 itself amply supports this idea of “underrepresented” when it used a broad qualitative requirement in defining “political parties” as ideology or policy-based groups and, “sectoral parties” as those whose principal advocacy pertains to the special interest and concerns of identified sectors.

Based on these considerations, it becomes vividly clear that – contrary once again to what Ang Bagong Bayani holds – proportional representation refers to the representation of different political parties, sectoral parties and organizations in the House of Representatives in proportion to the number of their national constituency or voters, consistent with the constitutional policy to allow an “open and free party system” to evolve.

In this regard, the second sentence of Section 2 of RA No. 7941 is itself notably anchored on the “open and free party system” mandated by Article IX-C of the Constitution. For some reason, Ang Bagong Bayani never noted this part of Section 2 and its significance, and is utterly silent as well on the constitutional anchor provided by Section 6, Article IX-C of the Constitution. It appears to have simply and conveniently focused on the first sentence of the Section and its constricted view of the term “marginalized and underrepresented,” while wholly fixated on a social justice orientation. Thus, it opened its ruling, as follows:

The party-list system is a social justice tool designed not only to give more law to the great masses of our people who have less in life, but also to enable them to become veritable lawmakers themselves, empowered to participate directly in the enactment of laws designed to benefit them. It intends to make the marginalized and the underrepresented not merely passive recipients of the State's benevolence, but active participants in the mainstream of representative democracy.[38] (emphasis supplied)

Reliance on the concept of social justice, to be sure, involves a motherhood statement that offers little opportunity for error, yet relying on the concept solely and exclusively can be misleading. To begin with, the creation of an avenue by which “sectoral parties or organizations” can meaningfully join an electoral exercise is, in and by itself, a social justice mechanism but it served other purposes that the framers of the Constitution were addressing. Looking back, the appeal to the social justice concept to make the party-list elections an exclusive affair of the “marginalized and underrepresented sector” (as defined in Ang Bagong Bayani) proceeds from the premise that a multiparty-system is antithetical to sectoral representation. This was effectively the argument of the proponents of the exclusive sectoral representation view in the constitutional party-list debates; to allow political parties to join a multiparty election is a pre-determination of the sectors’ political massacre. This issue, however, has been laid to rest in the constitutional debates and should not now be revived and resurrected by coursing it through the

Judiciary.

As the constitutional debates and voting show, what the framers envisioned was a multiparty system that already includes sectoral representation. Both sectoral representation and multiparty-system under our party-list system are concepts that comfortably fall within this vision of a Filipino-style party-list system. Thus, both the text and spirit of the Constitution do not support an interpretation of exclusive sectoral representation under the party-list system; what was provided was an avenue for the marginalized and underrepresented sectors to participate in the electoral system – it is an invitation for these sectors to join and take a chance on what democracy and republicanism can offer.

Indeed, our democracy becomes more vibrant when we allow the interaction and exchange of ideas, philosophies and interests within a broader context. By allowing the marginalized and underrepresented sectors who have the numbers, to participate together with other political parties and interest groups that we have characterized, under the simple and relatively inexpensive mechanism of party-list we have today, the framers clearly aimed to enrich principled discourse among the greater portion of the society and hoped to create a better citizenry and nation.

b.1. Impact on Political Parties

To summarize the above discussions and to put them in operation, political parties are not only “not excluded” from the party-list system; they are, in fact, expressly allowed by law to participate. This participation is not impaired by any “marginalized and underrepresented” limitation understood in the Ang Bagong Bayani sense.

As applied to political parties, this limitation must be understood in the electoral sense, i.e., they are parties espousing their unique and “marginalized” principles of governance and who must operate in the party-list system because they only have a “marginal” chance of winning in the legislative district elections. This definition assumes that the political party is not also a participant in the legislative district elections as the basic concept and purpose of the party-list innovation negate the possibility of playing in both legislative district and party-list arenas.

Thus, parties – whether national, regional or sectoral – with legislative district election presence anywhere in the country can no longer participate as the party-list system is national in scope and no overlap between the two electoral systems can be allowed anywhere.

c. The Parties and Their Nominees

c.1. Refusal and/or Cancellation of Party Registration Due to Nominee Problems

The COMELEC’s refusal and cancellation of registration or accreditation of parties based on Section 6 of RA No. 7941 is a sore point when applied to parties based on the defects or deficiencies attributable to the nominees. On this point, I maintain the view that essential distinctions exist between the parties and their nominees that cannot be disregarded. As quoted in the Summary of Positions, however, the need to make a distinction between the two types of nominees is relevant only to sectoral parties and organizations.

The cancellation of registration or the refusal to register some of the petitioners on the ground that their nominees are not qualified implies that the COMELEC viewed the nominees and their party-list groups as one and the same entity; hence, the disqualification of the nominee necessarily results in the disqualification of his/her party.

Sadly, this interpretation ignores the factual and legal reality that the party-list group, not the nominee, is the candidate in the party-list election, and at the same time blurs the distinction between a party-list representative and a district representative.

c.2. The Party-Nominee Relationship

That the party-list group, rather than the nominee, is voted for in the elections is not a disputed point. Our essential holding, however, is that a party-list group, in order to be entitled to participate in the elections, must satisfy the following express statutory requirements:

- must be composed of Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties;
- has no well-defined political constituencies; and
- must be capable of contributing to the formulation and enactment of appropriate legislation that will benefit the nation as a whole.

The Constitution requires, too, that the members of the House of Representatives are those who are elected from legislative districts, and those who are elected through a party-list system (Section 5[1], Article VI) where the votes are in favor of a political party, organization or coalition (Section 6, Article IX-C).

These requirements embody the concept behind the party-list system and demonstrate that it is a system completely different from the legislative district representation. From the point of view of the nominee, he or she is not the candidate, the party is the entity voted for. This is in far contrast from the legislative district system where the candidate is directly voted for in a personal electoral struggle among candidates in a district. Thus, the nominee in the party-list system is effectively merely an agent of the party.[39] It is the party-list group for whom the right of suffrage[40] is exercised by the national electorate with the divined intent of casting a vote for a party-list group in order that the particular ideology, advocacy and concern represented by the group may be heard and given attention in the halls of the legislature.

This concept and its purpose negate the idea that the infirmities of the nominee that do not go into the qualifications of the party itself should prejudice the party. In fact, the law does not expressly provide that the disqualification of the nominee results in the disqualification of a party-list group from participating in the elections. In this regard, Section 6 of RA No. 7941 reads:

Section 6. Removal and/or Cancellation of Registration. The COMELEC may motu proprio or upon verified complaint of any interested party, remove or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition on any of the following grounds:

(1)

It is a religious sect or denomination, organization or association organized for religious purposes;

(2)

It advocates violence or unlawful means to seek its goal;

(3)

It is a foreign party or organization;

(4)

It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through third parties for partisan election purposes;

(5)

It violates or fails to comply with laws, rules or regulations relating to elections;

(6)

It declares untruthful statements in its petition;

(7)

It has ceased to exist for at least one (1) year; or

(8)

It fails to participate in the last two (2) preceding elections or fails to obtain at least two percentum (2%) of the votes cast under the party-list system in the two (2) preceding elections for the constituency in which it has registered. [*italics supplied*]

Notably, all these grounds pertain to the party itself. Thus, if the law were to be correctly applied, the law, rules and regulations that the party violated under Section 6(5) of RA No. 7941 must affect the party itself to warrant refusal or cancellation of registration.

To take one of the presented issues as an example, it is only after a party's failure to submit its list of five qualified candidates, after being notified of its nominees' disqualification, that refusal or cancellation of registration may be warranted. Indeed, if the party-list group inexcusably fails to comply with this simple requirement of the law (Section 8 of RA No. 7941), then its registration deserves to be denied or an existing one cancelled as this omission, by itself, demonstrates that it cannot then be expected to "contribute to the formulation and enactment of appropriate legislation."^[41]

The nominee is supposed to carry out the ideals and concerns of the party-list group to which he/she belongs; to the electorate, he/she embodies the causes and ideals of the party-list group. However, unlike the political parties' official candidates - who can, for whatever reason, disaffiliate from his party and run as an independent candidate - the linkage between a nominee and his party-list group is actually a one-way mirror relationship. The nominee can only see (and therefore run) through the party-list group^[42] but the party-list group can see beyond the nominee-member.

While the nominee is the entity "elected" to Congress, a companion idea that cannot be glossed over is that he only carried this out because of the nomination made by the party to which he belongs and only through the unique party-list system. Note in this regard that the registration with the COMELEC confers personality (for purposes of election) on the party-list group itself – and to no other. Note, too, that what the Constitution and the law envision is proportional representation through the group and the latter, not the nominee, is the one voted for in the elections. Even the manner of his nomination and the duties his official relation to his party entails are matters that are primarily determined by the party's governing constitution and by-laws. To be sure, political dynamics take place within the party itself prior to or after the period of registration that transcend the nominee's status as a representative. These realities render indisputable that a party has the right (in fact, the duty) to replace a nominee who fails to keep his bona fide membership in the party – i.e., keeping true to the causes of the party - even while the nominee is serving in Congress.

The preceding discussions show that the COMELEC's action of apparently treating the nominee and his party as one and the same is clearly and plainly unwarranted and could only proceed from its commission of grave abuse of discretion, correctible under Rule 65.

These distinctions do not discount at all the position or the role of the party-list nominee; it is from the list of nominees submitted by the party that party-list representatives are chosen should the party obtain the required

number of votes. In fact, once the party-list group submits the list of its nominees, the law provides specific grounds for the change of nominees or for the alteration of their order of nomination. While the nominee may withdraw his nomination, we ruled it invalid to allow the party to withdraw the nomination it made^[43] in order “to save the nominee from falling under the whim of the party-list organization once his name has been submitted to the COMELEC, and to spare the electorate from the capriciousness of the party-list organizations.”^[44]

We also recognize the importance of informing the public who the nominees of the party-list groups are as these nominees may eventually be in Congress.^[45] For the nominees themselves, the law requires that:

- he has given his written consent to be a nominee;
- he must be a natural-born citizen of the Philippines;
- he must be a registered voter, a resident of the Philippines for a period of not less than one (1) year immediately preceding the day of the election;
- he must be able to read and to write;
- he must be a bona fide member of the party or organization which he seeks to represent for at least ninety (90) days preceding the day of the election; and
- he must be at least twenty-five (25) years of age on the day of the election.

From this list, what clearly serves as the legal link between the party and its nominee is only the latter’s bona fide membership in the party that wishes to participate in the party-list system of election. Because of this relationship, membership is a fact that the COMELEC must be able to confirm as it is the link between the party the electorate votes for and the representation that the nominee subsequently undertakes in the House of Representatives. To illustrate, if a sectoral party’s nominee, who does not “actually share the attribute or characteristic” of the sector he seeks to represent, fails to prove that he is a genuine advocate of this sector, then the presence of bona fide membership cannot be maintained.

To automatically disqualify a party without affording it opportunity to meet the challenge on the eligibility of its nominee or to undertake rectifications deprives the party itself of the legal recognition of its own personality that registration actually seeks.

The qualifications of a nominee at the same time that it determines whether registration shall be granted.^[46] When under the COMELEC’s lights, the shadow cast by the party-list nominee is not truly reflective of the group he/she is supposed to represent, what the COMELEC must do is to give the party the opportunity to field in the five qualified candidates. The COMELEC acts with grave abuse of discretion when it immediately cancels or refuses the registration of a party without affording it the opportunity to comply.

In line with the idea of proportional and sectoral representation, the law provides that a nominee-representative who changes his affiliation during his term forfeits his seat. Likewise, in providing for the rule in case of vacancy for seats reserved for party-list representatives, the reason for the vacancy is broad enough to include not only the valid causes provided for in the party’s constitution and by-laws (such as the non-possession of the necessary qualifications), but likewise includes the situation where the House of Representatives Electoral Tribunal finds that the nominee-representative unqualified for failure to measure up to the necessary statutory and other legal requirements.^[47] If these can be remedied without affecting the status of the party itself, no reason exists why the registration of a party-list group should automatically be cancelled or refused by reason of individual failures imputable and affecting only the nominee.

Based on these considerations and premises, the party-list group and its nominees cannot be wholly considered as

one identifiable entity, with the fault attributable and affecting only the nominee, producing disastrous effects on the otherwise qualified collective merit of the party. If their identification with one another can be considered at all, it is in the ideal constitutional sense that one ought to be a reflection of the other – i.e., the party-list group acts in Congress through its nominee/s and the nominee in so acting represents the causes of the party in whose behalf it is there for.

E. Observations on Chief Justice Sereno's Reflections.

Essentially, the Reflections defend the Ang Bagong Bayani ruling and do not need to be further discussed at this point lest this Opinion be unduly repetitious. One point, however, that needs to be answered squarely is the statement that this Separate Opinion is not “appropriately sensitive to the context from which it [the 1987 Constitution] arose.” The Reflections asserted that the heart of the 1987 Constitution is the Article on Social Justice,” citing, in justification, the statements endorsing the approval of the 1987 Constitution, particularly those of Commissioner Cecilia Munoz Palma, the President of the 1986 Constitutional Commission; President Munoz Palma described the Constitution as reaching out to the social justice sectors.

These cited statements, however, were endorsements of the Constitution as a whole and did not focus solely on the electoral reform provisions. As must be evident in the discussions above, I have no problem in accepting the social justice thrust of the 1987 Constitution as it indeed, on the whole, shows special concern for social justice compared with the 1935 and the 1973 Constitution. The Reflections, however, apparently misunderstood the thrust of my Separate Opinion as already fully explained above.

This Separate Opinion simply explains that the provisions under consideration in the present case are the Constitution's electoral provisions, specifically the elections for the House of Representatives and the nation's basic electoral policies (expressed in the Article on the Commission on Elections) that the constitutional framers wanted to reform.

What the 1987 constitutional framers simply wanted, by way of electoral reform, was to “open up” the electoral system by giving more participation to those who could not otherwise participate under the then existing system – those who were marginalized in the legislative district elections because they could not be elected in the past for lack of the required votes and specific constituency in the winner-take-all legislative district contest, and who, by the number of votes they garnered as 3rd or 4th placer in the district elections, showed that nationally, they had the equivalent of what the winner in the legislative district would garner. This was the concept of “marginalized and underrepresented” and the “lack of political constituency” that came out in the constitutional deliberations and led to the present wordings of the Constitution. RA No. 7941 subsequently faithfully reflected these intents.

Despite this overriding intent, the framers recognized as well that those belonging to specifically-named sectors (i.e., the marginalized and underrepresented in the social justice sense) should be given a head-start – a “push” so to speak – in the first three (3) elections so that their representatives were simply to be selected as party-list representatives in these initial elections.

Read in this manner, the party-list system as defined in the Constitution cannot but be one that is “primarily” grounded on electoral reform and one that was principally driven by electoral objectives. As written, it admits of national and regional political parties (which may be based on ideology, e.g. the Socialist Party of the Philippines), with or without social justice orientation. At the same time, the system shows its open embrace of social justice through the preference it gave to the social justice sectors (labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector) in the first three elections after ratification of the Constitution, and to the labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and

professionals, in the RA No. 7941 definition of sectoral party.

The objection regarding the “textualist” approach has been fully discussed in the Summary of Positions and need not be repeated here.

F. The Eleven-Point Parameters for the COMELEC

I close this Opinion by outlining the eleven-point parameters that should guide the COMELEC in the exercise of its power to register parties under the party-list system of elections. For ease of application, these parameters refer back to the Ang Bagong Bayani guidelines, particularly on what points in these guidelines should be discarded and what remains intact and effective.

In view of our prior ruling in *BANAT v. Commission on Elections* (disqualifying political parties from participating in the party-list elections), the petitioners understandably attempted to demonstrate, in one way or another, that they represent the marginalized and underrepresented sectors, as the term is understood in Bagong Bayani. As discussed in this Separate Opinion, however, the requirement of being marginalized and underrepresented should be understood, not only in the narrow sectoral sense, but also in the broader electoral sense.

We likewise take note of the fact that this is the first time that the Court ever attempted to make a categorical definition and characterization of the term “marginalized and under-represented,” a phrase that, correctly understood, must primarily be interpreted in the electoral sense and, in case of sectoral parties and organizations, also partly in the special interests and social justice contexts. The COMELEC understandably has not been given parameters under the present pronouncements either in evaluating the petitions for registration filed before it, on one hand, or in determining whether existing party-list groups should be allowed to participate in the party-list elections. Hence, the need for the following parameters as we order a remand of all these consolidated petitions to the COMELEC.

- Purpose and Objective of Party-list System. The primary objective and purpose of the party-list system (established under the Constitution and RA 7941 is electoral reform by giving marginalized and under-represented parties (i.e. those who cannot win in the legislative district elections and in this sense are marginalized and may lack the constituency to elect themselves there, but who – nationally – may generate the following and votes equivalent to what a winner in the legislative district election would garner), the chance to participate in the electoral exercise and to elect themselves to the House of Representatives through a system other than the legislative district elections.

At the same time, the party-list system recognizes sectoral representation through sectoral organizations (that, as defined did not require or identify any social justice characteristic but were still subject to the “marginalized and underrepresented” and the “constituency” requirements of the law), and through sectors identified by their common “social justice” characteristics (but which must likewise comply with the “marginalized and underrepresented” and “constituency” requirements of the law).

- For political parties (whether national or regional): a) to be classified as political parties, they must advocate an ideology or platform, principles and policies, for the general conduct of government. The application of the further requirement under RA No. 7941 (that as the most immediate means of securing the adoption of their principles of governance, they must regularly nominate and support their leaders and members as candidates for public office) shall depend on the particular circumstances of the party.

b) The marginal and under-representation in the electoral sense (i.e., in the legislative district elections) and the lack of constituency requirements fully apply to political parties, but there is no reason not to presume compliance

with these requirements if political parties are not participants in any legislative district elections.

c) Role of Major Political Parties in Party-list Elections. Major political parties, if they participate in the legislative district elections, cannot participate in the party-list elections, nor can they form a coalition with party-list parties and run as a coalition in the party-list elections.

A coalition is a formal party participant in the party-list system; what the party-list system forbids directly (i.e., participation in both electoral arenas), the major political parties cannot do indirectly through a coalition.

No prohibition, however, exists against informal alliances that they can form with party-list parties, organizations or groups running for the party-list elections. The party-list component of these informal alliances is not prohibited from running in the party-list elections.

The plain requirements intrinsic to the nature of the political party evidently render the first and second Ang Bagong Bayani guideline invalid, and significantly affects the fourth guideline. To stress, political parties are not only “not excluded” from the party-list system; they are, in fact, expressly allowed by law to participate without being limited by the “marginalized and underrepresented” requirement, as narrowly understood in Ang Bagong Bayani

- Sectoral parties, groups and organizations must belong to the sectors enumerated in Section 5(2), Article VI of the 1987 Constitution and Section 5 of RA No. 7941 that are mainly based on social justice characteristics; or must have interests, concerns or characteristics specific to their sectors although they do not require or need to identify with any social justice characteristic.

In either case, they are subject to the “marginalized and under-represented” and the “constituency” requirements of the law through a showing, supported by evidence, that they belong to a sector that is actually characterized as marginal and under-represented.

Sectoral parties, groups and organizations are additionally subject to the general overriding requirement of electoral marginalization and under-representation and the constituency requirements of the law, but there is no reason why compliance with these requirements cannot be presumed if they are not participants in any legislative district elections.

- Registration with the COMELEC.

Political parties (whether national or regional, already registered with the COMELEC as regular political parties but not under the party-list system) must register under the party-list system to participate in the party-list elections. For party-list registration purposes, they must submit to the COMELEC their constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information that the COMELEC may require.[48]

Similarly, sectoral parties, groups or organizations already registered under the general COMELEC rules for registration of political parties (but not under the party-list system), must register under the party-list system to be eligible to participate in the party-list elections, and must likewise submit relevant documentation that the COMELEC shall require.

Political and sectoral parties, groups or organizations already previously registered and/or accredited under the party-list system, shall maintain their previous registration and/or accreditation and shall be allowed to participate in the party-list elections unless there are grounds for cancellation of their registration and/or accreditation under Section 6, RA 7941.

- Submission of Relevant Documents. The statutory requirement on the submission of relevant documentary

evidence to the COMELEC is not an empty and formal ceremony. The eighth (8th) Ang Bagong Bayani guideline relating to the ability of the party-list group (not just the nominee but directly through the nominee or indirectly through the group) to contribute to the formulation and enactment of appropriate legislation that will benefit the nation remains wholly relevant and should be complied with through the required submissions the COMELEC shall require.

The platform or program of government, among others, is very important considering the significant role the party-list group itself, as a collective body, plays in the party-list system dynamics even as its nominee or nominees is the one who is considered “Member” of the House of Representatives. The statutory recognition of an “appropriate legislation” beneficial to the nation injects the meaningful democracy that the party-list system seeks to add stimulus into.

- Party Disqualification. Political parties and sectoral parties and organizations alike must not possess any of the disqualifying grounds under Section 6, RA 7941 to be able to participate in the party-list elections.

Insofar as the third Ang Bagong Bayani guideline merely reiterates the first ground for cancellation or refusal of registration under Section 6, RA 7941 – that the party-list group is a religious sect or denomination, organization or association, organized for religious purpose – and the same ground is retained under these parameters.

- Compliance with Substantive Requirements. To justify their existence, all party-list groups must comply with the substantive requirements of the law specific to their own group, their own internal rules on membership, and with the Comelec’s Rules of Procedure.

- Prohibited Assistance from Government. The party or organization must not be an adjunct of, or a project organized or an entity funded or assisted by the government. It must be independent of the government. This is the fifth Ang Bagong Bayani guideline. While this requirement only contemplated of the marginalized and underrepresented sector in the narrow sense in Ang Bagong Bayani, no reason exists not to extend this requirement even to political parties participating in the party-list elections.

To emphasize, the general overriding requirement in the party-list elections is inability to participate in the legislative district elections with a fair chance of winning. If a political party at the very least obtains the assistance of the government, whether financially or otherwise, then its participation in the party-list system defeats the broad electoral sense in which the term “marginalized” and “underrepresented” is understood as applied to political parties.

- Qualification of Party-list Nominee. The sixth Ang Bagong Bayani guideline, being a mere faithful reiteration of Section 9 of RA 7941 (qualification of a party-list nominee), should remain. In addition, the party-list nominee must comply with the proviso in Section 15 of RA 7941.

- Party and Nominee Membership. For sectoral parties and organizations, the seventh Ang Bagong Bayani guideline – i.e., that the nominees must also represent the marginalized and underrepresented sectors – refers not only to the actual possession of the marginalized and underrepresented status represented by the sectoral party or organization but also to one who genuinely advocates the interest or concern of the marginalized and underrepresented sector represented by the sectoral party or organization.

To be consistent with the sectoral representation envisioned by the framers, majority of the members of the sectoral party or organization must actually belong to the sector represented.

For political parties, it is enough that their nominees are bona fide member of the group they represent.

- Effects of Disqualification of Nominee. The disqualification of a nominee (on the ground that he is not a bona

fide member of the political party; or that he does not possess the actual status or characteristic or that he is not a genuine advocate of the sector represented) does not automatically result in the disqualification of the party since all the grounds for cancellation or refusal of registration pertain to the party itself.

The party-list group should be given opportunity either to refute the finding of disqualification of its nominee or to fill in a qualified nominee before cancellation or refusal of registration is ordered. Consistent with Section 6 (5) and Section 8 of RA 7941, the party-list group must submit a list containing at least five nominees to the COMELEC. If a party-list group endeavors to participate in the party-list elections on the theoretical assumption that it has a national constituency (as against district constituency), then compliance with the clear requirement of the law on the number of nominees must all the more be strictly complied with by the party-list group.

Considering that the thirteen petitioners, who are new applicants, only secured a Status Quo Ante Order (instead of mandatory injunction that would secure their inclusion in the ballots now being printed by the COMELEC), the remand of their petitions is only for the academic purpose of determining their entitlement to registration under the party-list system but not anymore for the purpose of participating in the 2013 elections.

Any of the remaining party-list groups involved in the remaining 40 petitions[49] that obtain the number of votes required to obtain a seat in the House of Representatives would still be subject to the determination by the COMELEC of their qualifications based on the parameters and rationale expressed in this Separate Opinion.

[1] 412 Phil. 308, 342 (2001).

[2] RA No. 7941, Section 5.

[3] RA No. 7941, Section 8.

[4] *Varias v. COMELEC*, G.R. No. 189078, Feb. 11, 2010.

[5] *Mitra v. Commission on Elections*, G.R. No. 191938, July 2, 2010.

[6] See: *De Castro v. Judicial and Bar Council*, G.R. No. 191002, March 17, 2010.

[7] See: Justice Arturo Brion's Concurring and Dissenting Opinion in *De Castro v. Judicial and Bar Council*. See also Justice Reynato Puno's Dissenting Opinion in *Lambino v. Commission on Elections*, G.R. No. 174153, October 25, 2006, where he stated:

“...Two strains of stare decisis have been isolated by legal scholars. The first, known as vertical stare decisis deals with the duty of lower courts to apply the decisions of the higher courts to cases involving the same facts. The second, known as horizontal stare decisis requires that high courts must follow its own precedents. Prof. Consovoy correctly observes that vertical stare decisis has been viewed as an obligation, while horizontal stare decisis, has been viewed as a policy, imposing choice but not a command. Indeed, stare decisis is not one of the precepts set in stone in our Constitution.”

It is also instructive to distinguish the two kinds of horizontal stare decisis — constitutional stare decisis and statutory stare decisis. Constitutional stare decisis involves judicial interpretations of the Constitution while statutory stare decisis involves interpretations of statutes. The distinction is important for courts enjoy more flexibility in refusing to apply stare decisis in constitutional litigations. Justice Brandeis' view on the binding effect of the doctrine in constitutional litigations still holds sway today. In soothing prose, Brandeis stated: “Stare decisis is not . . . a universal and inexorable command. The rule of stare decisis is not inflexible. Whether it shall be followed or departed from, is a question entirely within the discretion of the court, which is again called upon to consider a question once decided.” In the same vein, the venerable Justice Frankfurter opined: “the ultimate touchstone of constitutionality is the Constitution itself and not what we have said about

it.” In contrast, the application of stare decisis on judicial interpretation of statutes is more inflexible. As Justice Stevens explains: “after a statute has been construed, either by this Court or by a consistent course of decision by other federal judges and agencies, it acquires a meaning that should be as clear as if the judicial gloss had been drafted by the Congress itself.” This stance reflects both respect for Congress’ role and the need to preserve the courts’ limited resources.

[8] G.R. No. 159139, January 13, 2004.

[9] Articles 4 and 8 of the Civil Code reads:

Art. 4. Laws shall have no retroactive effect, unless the contrary is provided.

Art. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.

[10] 143 Phil. 209 (1970).

[11] *Id.* at 219.

[12] In *Francisco, Jr. v. The House of Representatives* (460 Phil. 830, 885-886), the Court held: “where there is ambiguity, ratio legis est anima. x x x

x x x x

x x x The ascertainment of that intent is but in keeping with the fundamental principle of constitutional construction that the intent of the framers of the organic law and of the people adopting it should be given effect. The primary task in constitutional construction is to ascertain and thereafter assure the realization of the purpose of the framers and of the people in the adoption of the Constitution. It may also be safely assumed that the people in ratifying the Constitution were guided mainly by the explanation offered by the framers. [italics, emphasis and underscore supplied]

[13] The deliberations, together with voting on the various issues raised and the wording of the constitutional text of the party-list provision, took place on July 22, 1986, July 25, 1986 and August 1, 1986.

[14] 1987 Constitution, Article VI, Section 5(1).

[15] II RECORD of the CONSTITUTIONAL COMMISSION, p. 86.

[16] *Id.* at 259.

[17] RA No. 7941, Section 3(a).

[18] RA No. 7941, Section 2.

[19] RA No. 7941, Section 3(b) to (f).

[20] *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, supra note 4, at 342-345.

[21] G.R. Nos. 179271 and 179295, April 21, 2009, 586 SCRA 210.

[22] See ponencia of Justice Antonio T. Carpio.

[23] II RECORD of the Constitutional Commission, p. 561. Stated by Commissioner Villacorta prior to the approval of the amendment that became Section 5(1), Article VI of the 1987 Constitution:

Mr. Villacorta. I would like to report that the proponents of sectoral representation and of the party list system met to thoroughly discuss the issues and have arrived at a compromise formula.

On this first day of August 1986, we shall, hopefully, usher in a new chapter in our national history by giving genuine power to our people in the legislature. Commissioner Monsod will present to the Committee on the Legislative the amendment to Section 5 which we have agreed upon. [emphasis and underscore ours]

The underlined and boldfaced portion was lifted out of context in *Ang Bagong Bayani*.

[24] See Dissent of J. Vicente V. Mendoza which discussed the Villacorta and Monsod positions, as well as the statements of Commissioners Jaime Tadeo and Blas Ople, based on the record of the Constitutional Commission.

[25] 1987 Constitution, Article VI, Section 5(2).

[26] On July 25, 1986.

[27] II RECORD of the Constitutional Commission, pp. 255, 561-562. See also the Dissents of Justice Jose C. Vitug and Justice Vicente Mendoza in *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, supra note 4.

[28] See Section 2 of RA No. 7941.

[29] Pages 19-23 of this Separate Opinion.

[30] Supra note 4.

[31] Id. at 333.

[32] *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, supra note 4, at 334.

[33] Per Francisco, Jr. v. The House of Representatives (supra note 7, at 884-885): *verba legis* signifies that “wherever possible, the words used in the Constitution must be given their ordinary meaning except where technical terms are employed. x x x We look to the language of the document itself in our search for its meaning. We do not of course stop there, but that is where we begin. It is to be assumed that the words in which constitutional provisions are couched express the objective sought to be attained. They are to be given their ordinary meaning except where technical terms are employed in which case the significance thus attached to them prevails. As the Constitution is not primarily a lawyer’s document, it being essential for the rule of law to obtain that it should ever be present in the people’s consciousness, its language as much as possible should be understood in the sense they have in common use. What it says according to the text of the provision to be construed compels acceptance and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say. Thus these are the cases where the need for construction is reduced to a minimum.” (emphasis, underscore and italics ours)

[34] Id. at 887, “*ut magis valeat quam pereat*” - the Constitution is to be interpreted as a whole. “It is a well-established rule in constitutional construction that no one provision of the Constitution is to be separated from all the others, to be considered alone, but that all the provisions bearing upon a particular subject are to be brought into view and to be so interpreted as to effectuate the great purposes of the instrument. Sections bearing on a particular subject should be considered and interpreted together as to effectuate the whole purpose of the Constitution and one section is not to be allowed to defeat another, if by any reasonable construction, the two can be made to stand together.” (Citing *Civil Liberties Union v. Executive Secretary*, G.R. Nos. 83896 & 83815, February 22, 1991, 194 SCRA 317.)

In other words, the Court must harmonize them, if practicable, and must lean in favor of a construction which will render every word operative, rather than one which may make the words idle and nugatory.

If, however, the plain meaning of the word is not found to be clear, resort to other aids is available.

While it is permissible in this jurisdiction to consult the debates and proceedings of the constitutional convention in order to arrive at the reason and purpose of the resulting Constitution, resort thereto may be had only when other guides fail as said proceedings are powerless to vary the terms of the Constitution when the meaning is clear. Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give us no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave that instrument the force of fundamental law. We think it safer to construe the constitution from what appears upon its face." The proper interpretation therefore depends more on how it was understood by the people adopting it than in the framers' understanding thereof. (Id.)

[35] II RECORD of the Constitutional Commission, pp. 85-86.

[36] Id. at 252.

[37] See Justice Vicente Mendoza's Dissent in *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, supra note 4, at 369-370.

[38] 412 Phil. 322 (2001).

[39] Separate Dissenting Opinion of Justice Jose C. Vitug in *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, supra note 4, at 354.

[40] 1987 Constitution, Article V. In *Akbayan-Youth v. COMELEC* (407 Phil. 618, 636 [2001]), the Court characterized the requirement of registration as an "indispensable precondition" to the exercise of the right of suffrage. The Court said: "Proceeding from the significance of registration as a necessary requisite to the right to vote, the State undoubtedly, in the exercise of its inherent police power, may then enact laws to safeguard and regulate the act of voter's registration for the ultimate purpose of conducting honest, orderly and peaceful election, to the incidental yet generally important end, that even pre-election activities could be performed by the duly constituted authorities in a realistic and orderly manner – one which is not indifferent and so far removed from the pressing order of the day and the prevalent circumstances of the times."

[41] See Section 2 of RA No. 7941.

[42] In fact, a nominee's change of party affiliation during his term results in the forfeiture of his seat in Congress (see Section 15 of RA No. 7941). If the party-list group fails to obtain a seat in Congress, the law nevertheless requires a nominee to be a bona fide member of the party-list group.

[43] *Lokin, Jr. v. Commission on Elections*, G.R. Nos. 179431-32 and 180443, June 22, 2010, 621 SCRA 385, 412.

[44] Ibid.

[45] *Bantay Republic Act or BA-RA 7941 v. Commission on Elections*, G.R. Nos. 177271 and 177314, May 4, 2007, 523 SCRA 1, 16-17.

[46] For party-list groups already previously registered, the COMELEC can determine the qualifications of their nominees once they file a Manifestation of Intent to participate.

[47] See *Abayon v. House of Representatives Electoral Tribunal*, supra note 42; and *Lokin, Jr. v. Commission on Elections*, supra note 45.

[48] RA No. 7941, Section 5.

[49] The petitioners in GR Nos. 204421 and 204425 refer to one and the same party-list group, only that they are represented by different personalities, claiming to be the legitimate officers of the party.

CONCURRING AND DISSENTING OPINION

REYES, J.:

In its noblest sense, the party-list system truly empowers the masses and ushers a new hope for genuine change. Verily, it invites those marginalized and underrepresented in the past — the farm hands, the fisher folk, the urban poor, even those in the underground movement — to come out and participate, as indeed many of them came out and participated during the last elections. The State cannot now disappoint and frustrate them by disabling and desecrating this social justice vehicle.[1]

The Court is tasked to resolve the fifty-three (53) consolidated Petitions for Certiorari and Petitions for Certiorari and Prohibition filed under Rule 64, in relation to Rule 65, of the Rules of Court by various party-list groups and organizations. The petitions assail the resolutions issued by the respondent Commission on Elections (COMELEC) that either cancelled their existing registration and accreditation, or denied their new petitions for registration under the party-list system.[2]

Of the fifty-three (53) petitions, thirteen (13) are instituted by new applicants to the party-list system, whose respective applications for registration and/or accreditation filed under Republic Act No. 7941[3] (RA 7941) and COMELEC Resolution No. 9366[4] dated February 21, 2012 were denied by the COMELEC En Banc upon its review of the resolutions of a division of the Commission.

The forty (40) other petitions are instituted by party-list groups or organizations that have been previously registered and accredited by the COMELEC, with most of them having been allowed to participate under the party-list system in the past elections. These 40 petitions involve the COMELEC's recent cancellation of their groups' registration and accreditation, which effectively denied them of the chance to participate under the party-list system in the May 2013 National and Local Elections.

The Antecedents

All petitions stem from the petitioners' desire and intent to participate as candidates in the party-list system of representation, which takes its core from Section 5, Article VI of the 1987 Constitution which reads:

Article VI

THE LEGISLATIVE DEPARTMENT

Section 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 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.

x x x x (Emphasis ours)

In 1995, RA 7941 was enacted to provide for the matters that shall govern the party-list system, including the registration of party-list groups, the qualifications of party-list nominees, and the election of party-list

representatives. In 1998, the country's first party-list election was held. Since then, the Court has been called upon on several instances to resolve controversies on the system, oftentimes on questions involving the qualifications of party-list groups and their nominees. Among the landmark cases on these issues is *Ang Bagong Bayani-OFW Labor Party v. COMELEC*[5] decided by the Court in 2001, wherein the Court laid down the eight-point guidelines[6] in the determination of the qualifications of party-list participants.

Pursuant to its specific mandate under Section 18 of RA 7941 to "promulgate the necessary rules and regulations as may be necessary to carry out the purposes of [the] Act," the COMELEC issued on February 21, 2012 Resolution No. 9366. About 280[7] groups, comprised of new applicants and previously-registered party-list groups, formally signified their intent to join the party-list system in the May 13, 2013 elections.

As required in Rule 1, Resolution No. 9366 on the registration of organized groups that are not yet registered under the party-list system, among the groups that filed with the COMELEC their respective petitions for registration were: (1) *Alab ng Mamamahayag (ALAM)*, petitioner in G.R. No. 204139; (2) *Akbay Kalusugan (AKIN)*, petitioner in G.R. No. 204367; (3) *Ako An Bisaya (AAB)*, petitioner in G.R. 204370; (4) *Alagad ng Sining (ASIN)*, petitioner in G.R. No. 204379; (5) *Association of Guard, Utility Helper, Aider, Rider, Driver/Domestic Helper, Janitor, Agent and Nanny of the Philippines, Inc. (GUARDJAN)*, petitioner in G.R. No. 204394; (6) *Kalikasan Party-List (KALIKASAN)*, petitioner in G.R. No. 204402; (7) *Association of Local Athletics Entrepreneurs and Hobbyists, Inc. (ALA-EH)*, petitioner in G.R. No. 204426; (8) *1 Alliance Advocating Autonomy Party (1AAAP)*, herein petitioner in G.R. No. 204435; (9) *Manila Teachers Savings and Loan Association, Inc. (Manila Teachers)*, petitioner in G.R. No. 204455; (10) *Alliance of Organizations, Networks and Associations of the Philippines, Inc. (ALONA)*, petitioner in G.R. No. 204485; and (11) *Pilipinas Para sa Pinoy (PPP)*, petitioner in G.R. No. 204490. The political parties *Abyan Ilonggo Party (AI)*, petitioner in G.R. No. 204436, and *Partido ng Bida (PBB)*, petitioner in G.R. No. 204484, also sought to participate for the first time in the party-list elections, although their petitions for registration were not filed under Rule 1 of Resolution No. 9366.

Party-list groups that were previously registered and accredited merely filed their Manifestations of Intent to Participate in the Party-List System of Representation in the May 13, 2013 Elections, as provided in Rule 3 of Resolution No. 9366. Among these parties were: (1) *Atong Paglaum, Inc. (Atong Paglaum)*, petitioner in G.R. No. 203766; (2) *AKO Bicol Political Party (AKB)*, petitioner in G.R. Nos. 203818-19; (3) *Association of Philippine Electric Cooperatives (APEC)*, petitioner in G.R. No. 203922; (4) *Aksyon Magsasaka-Partido Tinig ng Masa (AKMA-PTM)*, petitioner in G.R. No. 203936; (5) *Kapatiran ng mga Nakulong na Walang Sala, Inc. (KAKUSA)*, petitioner in G.R. No. 203958; (6) *1[st] Consumers Alliance for Rural Energy, Inc. (1-CARE)*, petitioner in G.R. No. 203960; (7) *Alliance for Rural and Agrarian Reconstruction, Inc. (ARARO)*, petitioner in G.R. No. 203976; (8) *Association for Righteousness Advocacy on Leadership (ARAL)*, petitioner in G.R. No. 203981; (9) *Alliance for Rural Concerns (ARC)*, petitioner in G.R. No. 204002; (10) *Alliance for Nationalism and Democracy (ANAD)*, petitioner in G.R. No. 204094; (11) *1-Bro Philippine Guardians Brotherhood, Inc. (1BRO-PGBI)*, petitioner in G.R. No. 204100; (12) *1 Guardians Nationalist Philippines, Inc. (1GANAP/GUARDIANS)*, petitioner in G.R. No. 204122; (13) *Agapay ng Indigenous Peoples Rights Alliance, Inc. (A-IPRA)*, petitioner in G.R. No. 204125; (14) *Kaagapay ng Nagkakaisang Agilang Pilipinong Magsasaka (KAP)*, petitioner in G.R. No. 204126; (15) *The True Marcos Loyalist (for God, Country, and People) Association of the Philippines, Inc. (BANTAY)*, petitioner in G.R. No. 204141; (16) *Pasang Masda Nationwide Party (PASANG MASDA)*, petitioner in G.R. No. 204153; (17) *Action Brotherhood for Active Dreamer, Inc. (ABROAD)*, petitioner in G.R. No. 204158; (18) *Aangat Tayo Party-List Party (AT)*, petitioner in G.R. No. 204174; (19) *Philippine Coconut Producers Federation, Inc (COCOFED)*, petitioner in G.R. No. 204216; (20) *Abang Lingkod Party-List (ABANG LINGKOD)*, petitioner in G.R. No. 204220; (21) *Firm 24-K Association, Inc. (FIRM 24-K)*, petitioner in G.R.

No. 204236; (22) Alliance of Bicolnon Party (ABP), petitioner in G.R. No. 204238; (23) Green Force for the Environment Sons and Daughters of Mother Earth (GREENFORCE), petitioner in G.R. No. 204239; (24) Agri-Agra na Reporma Para sa Magsasaka ng Pilipinas Movement (AGRI), petitioner in G.R. No. 204240; (25) Blessed Federation of Farmers and Fishermen International, Inc. (A BLESSED Party-List), petitioner in G.R. No. 204263; (26) United Movement Against Drugs Foundation (UNIMAD), petitioner in G.R. No. 204318; (27) Ang Agrikultura Natin Isulong (AANI), petitioner in G.R. No. 204321; (28) Bayani Party List (BAYANI), petitioner in G.R. No. 204323; (29) Action League of Indigenous Masses (ALIM), petitioner in G.R. No. 204341; (30) Butil Farmers Party (BUTIL), petitioner in G.R. No. 204356; (31) Alliance of Advocates in Mining Advancement for National Progress (AAMA), petitioner in G.R. No. 204358; (32) Social Movement for Active Reform and Transparency (SMART), petitioner in G.R. No. 204359; (33) Adhikain at Kilusan ng Ordinaryong Tao Para sa Lupa, Pabahay, Hanapbuhay at Kaunlaran (AKO-BAHAY), petitioner in G.R. No. 204364; (34) Binhi – Partido ng mga Magsasaka Para sa mga Magsasaka (BINHI), petitioner in G.R. No. 204374; (35) Pilipino Association for Country – Urban Poor Youth Advancement and Welfare (PACYAW), petitioner in G.R. No. 204408; (36) 1-United Transport Koalisyon (1-UTAK), petitioner in G.R. No. 204410; (37) Coalition of Associations of Senior Citizens in the Philippines, Inc. (SENIOR CITIZENS), petitioner in G.R. No. 204421 and G.R. No. 204425; (38) Ang Galing Pinoy (AG), petitioner in G.R. No. 204428; and (39) 1[st] Kabalikatang Bayan Ginawang Sangkatauhan (1[st] KABAGIS), petitioner in G.R. No. 204486.

On August 2, 2012, the COMELEC issued Resolution No. 9513, which provides for additional rules on the Commission's disposition of the new petitions and manifestations of intent that were filed with it under Resolution No. 9366. Resolution No. 9513, entitled In the Matter of: (1) The Automatic Review by the Commission En Banc of Pending Petitions for Registration of Party-List Groups; and (2) Setting for Hearing the Accredited Party-List Groups or Organizations which are Existing and which have Filed Manifestations of Intent to Participate in the 2013 National Elections, reads in part:

WHEREAS, it is necessary and indispensable for the Commission En Banc to review and affirm the grant of registration and accreditation to party-list groups and organizations in view of its role in ensuring that only those parties, groups, or organizations with the requisite character consistent with the purpose of the party-list system is registered and accredited to participate in the party-list system of representation;

WHEREAS, Section 4, Rule 1 of the Commission's Rules of Procedure authorize[s] the suspension of the Rules or any portion thereof in the interest of justice and in order to obtain the speedy disposition of all matters pending before it; and

WHEREAS, Section 19 of the Commission's Rules of Procedure on Motions for Reconsideration should be suspended in order for the Commission En Banc to fulfill its role as stated in the Ang Bagong Bayani case.

NOW THEREFORE, in view of the foregoing, the Commission on Elections, by virtue of the powers vested in it by the Constitution, the Omnibus Election Code, and Republic Act No. 7941 or the "Party List System Act", hereby RESOLVES to promulgate the following:

- In all pending cases where a Division grants the Petition for Registration of a party-list group or organization, the records shall be forwarded to the Commission En Banc for automatic review within five (5) days from the promulgation of the Resolution without need of a motion for reconsideration. It shall be understood that a party-list group shall not be deemed accredited without affirmation from the Commission En Banc of the Division's ruling. For this purpose, the provisions of Rule 19 of the 1993 COMELEC Rules of Procedure shall be suspended.
- To set for summary evidentiary hearings by the Commission En Banc, for purposes of determining their continuing compliance with the requirements of R.A. No. 7941 and the guidelines in the Ang Bagong Bayani

case, and, if non-compliant, cancel the registration of the following:

(a)

Party-list groups or organizations which are already registered and accredited and will participate in the May 13, 2013 Elections, provided that the Commission En Banc has not passed upon the grant of their respective Petitions for Registration; and

(b)

Party-list groups or organizations which are existing and retained in the list of Registered Party-List Parties per Resolution No. 9412, promulgated on 27 April 2012, and which have filed their respective Manifestations of Intent to Participate in the Party-List System of Representation in the May 13, 2013 Elections.

With the provision in Resolution No. 9513 on the COMELEC'S determination of the continuing compliance of registered/accredited parties that have filed their manifestations of intent, the Commission En Banc scheduled summary hearings on various dates, and allowed the party-list groups to present their witnesses and submit their evidence.[8] After due proceedings, the COMELEC En Banc issued the following resolutions:

1. Resolution[9] dated October 10, 2012 in SPP No. 12-154 (PLM) and SPP No. 12-177 (PLM)

The COMELEC retained the registration and accreditation of AKB[10] as a political party, but denied its participation in the May 2013 party-list elections. The COMELEC's ruling is founded on several grounds. First, the party does not represent or seek to uplift any marginalized and underrepresented sector. From its constitution and by-laws, the party seeks to represent and uplift the lives of Bicolanos, who, for the COMELEC, cannot be considered or even associated with persons who are marginalized and underrepresented. Second, the provinces in the Bicol Region already have their respective representatives in Congress. To allow more representatives for the Bicolanos and the Bicol Region would violate the rule on proportional representation of "provinces, cities and the Metropolitan Manila in accordance with the number of their inhabitants, and on the basis of a uniform and progressive ratio." [11] Third, AKB's nominees, a businessman, three lawyers and an ophthalmologist, are not marginalized and underrepresented; thus, they fail to satisfy the seventh guideline in Ang Bagong Bayani.

2. Omnibus Resolution[12] dated October 11, 2012, which covers SPP No. 12-161 (PLM), SPP No. 12-187 (PLM), SPP No. 12-188 (PLM) and SPP No. 12-220 (PLM)

The COMELEC cancelled the registration and accreditation of Atong Paglaum, ARAL, ARC and UNIMAD.

The COMELEC held that Atong Paglaum's [13] nominees do not belong to the sectors which the party represents, i.e., the urban poor, consumer, women and youth. While these include the women and youth sectors, five of the party's six nominees are all male, and all of its nominees are above 30 years[14] of age. Further, the COMELEC ruled that the personal circumstances of the nominees belie the claim that they belong to the urban poor sector: (1) its first nominee[15] served as vice-president in a multinational corporation; (2) its second nominee[16] is the owner of a corporation engaged in the business of pineapple contract growing with Del Monte Philippines; (3) its third nominee[17] is the owner and manager of two business establishments; and (4) its sixth nominee[18] is an electrical engineer and three-term member of the Sangguniang Panglungsod of Malaybalay City, Bukidnon. Finally, the COMELEC cited the party's failure to file its Statement of Contributions and Expenditures when it participated in the 2010 Elections, despite having been ordered to do so during the summary evidentiary hearing.

In ruling against ARAL,[19] the COMELEC cited the party's "failure to comply, and for violation of election laws, rules and regulations pursuant to Section 6(5) of RA No. 7941, in connection with the fourth, sixth, and

seventh guidelines in Ang Bagong Bayani.”[20] The Commission explained that while the party seeks to represent the women and youth sectors, only the first of its seven nominees is a woman, and only its second nominee is below 30 years of age. The Commission further took note that: first, some of its activities were jointly conducted with religious organizations, and second, its fifth nominee is a pastor. “Although these circumstances are not sufficient proof that the organization is itself a religious sect, denomination or association and/or is organized for religious purposes, one nevertheless cannot but hold doubt.”[21]

The registration of ARC[22] was cancelled for the failure of its nominees to qualify. The party claims to represent landless farmers, agrarian reform beneficiaries, fisherfolk, upland dwellers, indigenous people and Bangsa Moro people.[23] However, none of its nominees belongs to any of these sectors. In addition, the party failed to prove that a majority of its members belong to the sectors that it seeks to represent. The party’s advocacy for the “development of the rural sectors” is also not limited to the cited sectors, as it may even include sectors that are not marginalized and underrepresented.

UNIMAD[24] claims to represent “the marginalized and underrepresented sectors which include young professionals like drug counsellors and lecturers, veterans and the youth, among others.”[25] For the COMELEC, however, such sectors are not marginalized and underrepresented. The fight against illegal drugs is an issue that interests the general public, and not just particular sectors of the society. There are also existing laws, such as the Dangerous Drugs Act, and various specialized government agencies, such as the Philippine Drug Enforcement Agency (PDEA) and the Dangerous Drugs Board (DDB), that already address the problem of illegal drugs. In cancelling UNIMAD’s registration, the COMELEC also cited the party’s failure to establish its track record as an organization. Furthermore, while the party claims to represent the youth and young professionals, none of its nominees is aged below thirty years.

3. Omnibus Resolution[26] dated October 16, 2012, which covers SPP No. 12-196 (PLM), SPP No. 12-223 (PLM) and SPP No. 12-257 (PLM)

The main reason for the cancellation of 1BRO-PGBI’s[27] registration was its failure to define the sector that it seeks to represent. An affidavit executed by its second nominee indicates that the party represents professionals, while its Manifestation of Intent indicates that it is multi-sectoral. For the COMELEC, such differing statements from the party reveal that 1BRO-PGBI does not really intend to represent any marginalized and underrepresented sector. Instead, it only seeks to represent its members, and that it is more of a “fraternity/brotherhood composed mostly of military men with esoteric learnings.”[28] The party’s nominees also did not appear to belong to a marginalized and underrepresented sector, being a barangay captain, consultant, guidance counselor, lawyer and retired captain/security consultant.

The registration of 1GANAP/GUARDIANS[29] was also cancelled, following the COMELEC’s finding that it is a military fraternity. The Commission also cited the following grounds: first, there is a “glaring similarity between 1GANAP/GUARDIANS and 1BRO-PGBI;”[30] second, “it wishes to protect the interests of its members; however, it failed to establish x x x the group’s service outside the walls of its ‘brotherhood’;”[31] third, the “community volunteer workers” sector which it seeks to represent is too broad to allow for meaningful representation; and fourth, its nominees do not appear to belong to the said sector.

A BLESSED Party-List[32] claims to represent farmers and fishermen in Region XI. The COMELEC resolved to cancel its registration after finding that three of its seven nominees are “not themselves farmers and fishermen, [and] none of its nominees are registered voters of Region XI, the particular region which they seek to represent.”[33]

4. Resolution[34] dated October 16, 2012 in SPP No. 12-260

The COMELEC cancelled the registration of 1-CARE[35] on the following grounds: (1) rural energy consumers, the sector which 1-CARE intends to represent, is not marginalized and underrepresented; (2) the party's track record and activities are almost exclusively related to electric cooperatives and not to rural energy consumers; and (3) its nominees, all of whom are/were high-level officials of various electric cooperatives in the country, do not belong to the sector of rural energy consumers.

5. Resolution[36] dated October 16, 2012 in SPP Case No. 12-201 (PLM)

The COMELEC cancelled the registration and accreditation of APEC[37] on the following grounds: (1) a review of its constitution and by-laws shows that it does not represent a marginalized and underrepresented sector, as it is merely an economic lobby group for the electric power industry; and (2) all of its nominees, being an employee, electrical engineer, sugar planter and retired government employee, do not appear to belong to the sector that the party claims to represent.

6. Resolution[38] dated October 23, 2012 in SPP No. 12-232 (PLM)

In cancelling AT's[39] registration and accreditation, the COMELEC ruled that: first, the party, which represents the sectors of women, elderly, youth, labor and urban poor, does not appear to have a bona fide intention to represent all these sectors, as it has, in fact, failed to uplift the welfare of all these sectors through the authorship or sponsorship by its incumbent representative in Congress of house bills that are beneficial to the elderly, youth and urban poor; and second, its nominees, being all professionals, do not belong to any of the marginalized sectors that the party seeks to represent.

7. Omnibus Resolution[40] dated October 24, 2012, which covers SPP Case No. 12-288 (PLM)

The COMELEC's resolution to cancel ARARO's[41] registration and accreditation was founded on the following: (1) the separate interests of the peasant and urban poor sectors, which the party both represents, differ and even oftentimes conflict; (2) most of its nominees cannot be considered members of any of these sectors, as they reside "in the gated subdivisions of Metro Manila"[42]; hence, such nominees can be considered more as landowners, and not farmers as they claim themselves to be; (3) the party failed to show that three of its nominees[43] are among its bona fide members; (4) Its nominee Quirino De La Torre (De La Torre) appeared to be a farmland owner, rather than an actual farmer; and (5) It failed to present any document to show that its Board had resolved to participate in the May 2013 elections, and that De La Torre was authorized to sign and file with the COMELEC the documents that are required for the said purpose.

8. Omnibus Resolution[44] dated October 24, 2012, which covers SPP Case No. 12-279 (PLM), SPP No. 12-248 (PLM), SPP No. 12-263 (PLM), SPP No. 12-180 (PLM), SPP No. 12-229 (PLM), SPP No. 12-217 (PLM), SPP No. 12-277 (PLM) and SPP No. 12-015 (PLM)

The COMELEC cancelled the registration of AGRI, AKMA-PTM, KAP, AKO BAHAY, BANTAY, PACYAW, PASANG MASDA and KAKUSA.

In AGRI's[45] case, the COMELEC ruled that: (1) for more than a year immediately after the May 2010 elections, AGRI stopped existing as an organization, and this constitutes as a ground to cancel registration under Section 6 of RA 7941; (2) its nominees did not appear to actually belong to the marginalized and underrepresented sectors of peasants and farmers, which the party seeks to represent; (3) it submitted a list of only four nominees, instead of five as mandated by Section 8 of RA 7941; and (4) there is no showing that it undertook meaningful activities for the upliftment of its constituency.

AKMA-PTM's[46] registration as a party to represent the farmers sector was cancelled for its failure to show that

majority of its members and officers belonged to the marginalized and underrepresented. There was also no proof that its first to fourth nominees,[47] who were an educator and persons engaged in business, actually belonged to a marginalized and underrepresented sector. Its fifth to ninth nominees, although all farmers, had not been shown to work on uplifting the lives of the members of their sector.

The COMELEC cancelled the registration of KAP[48] (formerly Ako Agila ng Nagkakaisang Magsasaka, Inc. – Ako Agila) on the following grounds: (1) its Manifestation of Intent and Certificate of Nomination were not signed by an appropriate officer of the party, as required by Section 3, Rule 2 of Resolution No. 9366; (2) it failed to show that it has continued to work for the betterment of the lives of the members of the sectors it represents, i.e. farmers and peasants; and (3) it failed to show that its nominees actually belong to the sectors which the party represents, or that they have undertaken meaningful activities which address the concerns of said sectors.

The COMELEC cancelled the registration of AKO BAHAY[49] for its failure to prove that its nominees actually belong to the marginalized and underrepresented sector that the party seeks to represent, i.e., the urban poor, or to have engaged in meaningful activities that tend to uplift and enrich the lives of the members of said sector.

BANTAY[50] claims to represent the “peasants, urban poor, workers and nationalistic individuals who have stakes in promoting security of the country against insurgency, criminality and their roots in economic poverty.”[51] The COMELEC held that the party failed to prove that the majority of its members belonged to the marginalized and underrepresented. In addition, there was no proof that its first and third nominees, a dentist and private sector employee/businesswoman, respectively, actually belonged to the marginalized and underrepresented sectors which BANTAY seeks to represent.

The registration of PACYAW[52] was cancelled on the following grounds: first, since the party desired to change the sector to represent, i.e., from the “urban poor youth” sector to the “urban poor” sector, it needed to file a new application for registration; second, it failed to show a credible track record of working for the interests of the marginalized and underrepresented; third, it failed to prove that majority of its officers and members were from the urban poor sector; and fourth, its nominees are also not members of the urban poor sector.

PASANG MASDA’s[53] registration was cancelled on two grounds. First, it represents both drivers and operators, who may have conflicting interests that may adversely affect the party’s mandate to represent both sectors. Second, its nominees are all operators or former operators, making the COMELEC question the party’s capacity to represent the interests of drivers.

The registration of KAKUSA,[54] a party “organized to represent persons imprisoned without proof of guilt beyond reasonable doubt,”[55] was cancelled by the COMELEC for lack of proof that majority of its officers and members belong to the marginalized and underrepresented. The Commission also took note of its failure to show that its incumbent representative has been working on any legislation in Congress to uplift the lives of those whom the group allegedly represents. The party showed no credible track record, and its nominees, being persons engaged in business, did not appear to be marginalized and underrepresented.

9. Resolution[56] dated October 30, 2012 in SPP Case No. 12-256 (PLM)

The COMELEC cancelled AG’s[57] registration and accreditation on three grounds. First, the party failed to appear during the summary hearing scheduled by the COMELEC. For the Commission, such failure shows the party’s “wanton disregard for the rules and regulations of [the] Commission”[58] and constitutes a sufficient ground to cancel its registration under Rule 2, Section 2 (f)[59] of Resolution No. 9366. Second, the party does not intend to represent any marginalized and underrepresented sector, as evidenced by its lack of track record. In addition, nowhere in its constitution, by-laws and platform of government does it state the marginalized and

underrepresented sector that it seeks to represent. It is only in its Memorandum later submitted to the COMELEC that it mentions aiding the marginalized sectors of security guards, drivers, vendors, tanods, small-scale businesses and the jobless. Third, its nominees do not belong to any of the mentioned sectors.

10 Resolution[60] dated November 7, 2012 in SPP Case No. 12-185 (PLM)

ANAD's[61] registration and accreditation were cancelled by the COMELEC on several grounds. First, it does not represent an identifiable marginalized and underrepresented sector, judging from the party's declared "advocacies to publicly oppose, denounce and counter, communism in all its form in the Filipino society, in industries, in the academe and in the labor sector; to publicly oppose, denounce and counter all acts of terrorism and insurgency; to preserve, protect and promote the democratic principles of good government and governance by peaceful and democratic means under a regime of law and order; to generate and provide avenues for the development of skills of its members as aide in providing income opportunities; develop and implement livelihood programs for its members." [62] Second, the party submitted a list of only three nominees, in violation of Section 4, Rule 3 of Resolution No. 9366 that requires the submission of a list of at least five nominees. Third, its nominees do not belong to the marginalized and underrepresented. Fourth, it failed to submit its Statement of Contributions and Expenditures for the 2007 National and Local Elections.

11. Omnibus Resolution[63] dated November 7, 2012, which covers SPP No. 12-060 (PLM), SPP No. 12-254 (PLM) and SPP 12-269 (PLM)

The COMELEC cancelled the registration and accreditation of GREENFORCE, FIRM 24-K and ALIM.

The ruling against GREENFORCE[64] was based on the following grounds: (1) the party is only an advocacy group composed of environmental enthusiasts intending to take care of, protect and save Mother Earth and the country's natural reserves from destruction or degradation; (2) even if a liberal stance is adopted on the meaning of sectoral representation, the accreditation of GREENFORCE still merits cancellation for the party's failure to prove its continuing compliance with the track record requirement; (3) based on their certificates of acceptance, the personal circumstances of GREENFORCE's nominees demonstrate that they cannot be classified as marginalized citizens. The first and second nominees are businessmen, the third and fourth nominees are lawyers, leaving only the fifth nominee, a fish farmer, as the only marginalized citizen among the nominees.

The COMELEC cancelled the registration of FIRM 24-K[65] after finding that its nominees do not belong to the sectors which the party represents. It pointed out that while FIRM 24-K supposedly represents the urban poor and peasants in the National Capital Region, only two of its nominees actually reside therein. Also, the COMELEC held that FIRM 24-K failed to prove its track record as an organization; that the photographs it submitted, showing its tree-planting activities, are self-serving and incapable of exhibiting an organized program for the urban poor.

ALIM's[66] registration was cancelled for its failure to establish that its nominees, or at least a majority of them, are members of the indigenous people sector which the party seeks to represent. Only its first nominee submitted a certificate from the National Commission on Indigenous Peoples (NCIP), which confirmed his membership with the Itawes Indigenous Cultural Communities. In addition, the COMELEC explained that while ALIM's president, Fatani Abdul Malik, testified that their party specifically represents the indigenous masses from Mindanao and the Cordilleras, only two of the party's five nominees hailed from those areas. Finally, the party had nominees who did not appear to belong to a "marginalized class," being a businessman, lawyer and real estate developer.

12. Resolution[67] dated November 7, 2012 in SPP No. 12-204 (PLM)

In cancelling the registration of AAMA,[68] the COMELEC held that the sectors it represents, namely,

employees, either skilled or ordinary labor, professionals directly engaged in mining activities or occupation incidental thereto and non-government groups advocating advancement of responsible mining for national progress, is a specifically defined group which may not be allowed registration under the party-list system. In addition, AAMA failed to establish that its nominees actually represent and belong to said sectors, that they have actively participated in the activities of AAMA, that they truly adhere to its advocacies, and are bona fide members of the party.

13. Resolution[69] dated November 7, 2012 in SPP No. 12-272 (PLM)

The COMELEC cancelled the registration of SMART[70] after finding that its nominees are disqualified from representing the sectors which the party represents, i.e., workers, peasants, youth, students, women, professionals and those belonging to sectors such as domestic helpers, vendors, drivers and construction workers, since: first, the party claims to represent the youth sector, yet four of its five nominees are more than 30 years of age while its fifth nominee would be more than 30 years of age on May 13, 2013; second, the party claims to represent the women sector, yet four out of its five nominees are male; and third, its nominees are composed of businessmen, a doctor, an executive chef and a computer programmer, who are thus not marginalized. Also, the COMELEC observed that the party's activities do not specifically cater to the interest and needs of the sectors which it represents. Lastly, the lack of restrictions in the class of persons who may join SMART casts doubt as to whether a majority its members are indeed marginalized and underrepresented.

14. Resolution[71] dated November 7, 2012 in SPP No. 12-173 (PLM)

The COMELEC held that the registration and accreditation in 2010 of ABP[72] as a party-list group was defective. The party was initially accredited by the COMELEC in 2009 as a regional political party. In November 2009, it only filed a Manifestation of Intent to participate in the May 2010 elections, instead of a petition for registration under Section 5 of RA 7941. Acting on the recommendation of its Law Department, the COMELEC accredited ABP as a party-list group on January 15, 2010. The COMELEC then ruled that ABP could not be accredited for the May 2013 Elections as a party-list group sans the filing of a petition for registration. Also, the COMELEC held that ABP does not represent any sector. While it claimed during the summary evidentiary hearing that it represents construction workers and professionals, its constitution and by-laws indicate that its membership is composed of men and women in Region V. Lastly, none of ABP's nominees are employed in the construction industry.

15. Resolution[73] dated November 7, 2012 in SPP Case No. 12-210 (PLM)

BAYANI[74] claims to represent "the marginalized and underrepresented professional sector [comprised] of millions of jobless and underemployed professionals such as the registered nurses, midwives, engineers, lawyers, [certified public accountants], among others." [75] Its registration and accreditation were cancelled by the COMELEC on the ground of its failure to prove a track record of trying to uplift the marginalized and underrepresented sector of professionals. In addition, the party's second nominee, [76] being a businessman, was declared unqualified to represent the sector of professionals.

16. Resolution[77] dated November 7, 2012 in SPP Case No. 12-252 (PLM)

The registration and accreditation of AANI[78] were cancelled on several grounds. First, the party has failed to establish a track record of enhancing the lives of the marginalized and underrepresented farmers which it claims to represent. Its activities that include relief operations and consultative meetings did not appear to primarily benefit the said sector. Second, more than majority of the party's nominees are not farmers, contrary to the seventh guideline in Ang Bagong Bayani that a party's nominees must belong to the marginalized and

underrepresented sector to be represented.

17. Resolution[79] dated November 7, 2012 in SPP Case No. 12-292 (PLM)

The registration and accreditation of A-IPRA,[80] which claims to represent and advance the interests of indigenous peoples, were cancelled on the ground of its failure to prove that its five nominees are “indeed indigenous people; have actively participated in the undertakings of A-IPRA; truly adhere to its advocacies; and most of all, that the said nominees are its bona fide members.”[81]

18. Resolution[82] dated November 7, 2012 in SPP Case No. 12-202 (PLM)

The COMELEC cancelled the registration and accreditation of COCOFED[83] on several grounds. First, the party is already affiliated with a number of coconut agencies, both private and government. COCOFED admits that it sits in the board of the United Coconut Association of the Philippines (UCAP), the Philippine Coconut Research and Development Foundation (PCRDF), Coconut Investment Co. (CIC), Cocofed Marketing Corporation (CMC) and the Quezon Coconut Planters Savings and Loan Bank (QCPSLB). Such circumstance negates the claim that it is still marginalized. Second, a party-list group must not be an adjunct of, or a project organized or an entity funded by the government. Contrary to this guideline, COCOFED openly admits that it is assisted by the Philippine Coconut Authority (PCA) in various farmer-oriented projects. Third, COCOFED’s nominees are not members of the marginalized sector of coconut farmers and producers, which the party claims to represent.

19. Resolution[84] dated November 7, 2012 in SPP No. 12-238 (PLM)

ABANG LINGKOD’s[85] registration was cancelled for its failure to establish a track record of continuously representing marginalized and underrepresented peasant farmers. Further, the party failed to show that its members actually belong to the sector which it claims to represent. As regards the qualification of ABANG LINGKOD’s nominees, there was a failure to show that they are themselves marginalized and underrepresented, that they have actively participated in programs for the advancement of peasant farmers, and that they truly adhere to the advocacies of ABANG LINGKOD.

20. Resolution[86] dated November 14, 2012 in SPP Case No. 12-158 (PLM)

The registration and accreditation of ABROAD[87] were cancelled on several grounds. First, the party was accredited as a regional multi-sectoral party to represent the sectors of labor, overseas workers, professionals, urban poor and peasants. However, the documents submitted by the party indicate that it only advances the welfare of the labor, overseas workers and professionals sectors, and fails to champion the causes of the urban poor and peasants sectors. In addition, while the party was registered way back in September 2009, the documents presented to prove its track record only show its activities beginning January 15, 2011. The COMELEC held, “(w)hat transpired from September 4, 2009 to December 2010 is a puzzle to us. ABROAD could have already carried out its purposes and platform of government in this period of time to promote the interests of its members, but it did not.”[88] Third, ABROAD’s nominees do not fall under any of the sectors which the party seeks to represent.

21. Resolution[89] dated November 28, 2012 in SPP Case No. 12-228 (PLM)

The COMELEC cancelled the registration and accreditation of BINHI[90] on the following grounds: (1) the party’s component organization, the Cabanatuan City Seed Growers Multi-Purpose Cooperative (CCSGMPC), being a cooperative duly registered with the Cooperative Development Authority (CDA), cannot be considered as a marginalized or underrepresented sectoral organization as it already receives ample assistance, attention and protection from the State through the CDA; (2) being a cooperative, the party receives assistance from the

government through the Department of Agriculture, in violation of the fifth guideline in Ang Bagong Bayani; and (3) while it may appear from the documents submitted during the summary evidentiary hearing that BINHI/CCSGMPC indeed promotes the interests and concerns of peasants, farmers and farm tillers, there is no proof, however, that the group, as a whole, is marginalized and underrepresented.

22. Resolution[91] dated November 28, 2012 in SPP Case No. 12-136 (PLM)

The registration and accreditation of BUTIL[92] were cancelled on two grounds. First, in the Judicial Affidavit submitted by its Secretary General to the Comelec, it is stated that the party represents “members of the agriculture and cooperative sector.” For the COMELEC, BUTIL failed to establish that the “agricultural and cooperative sectors” are marginalized and underrepresented. Second, the party’s nominees neither appear to belong to the sectors which they seek to represent, nor to have actively participated in the undertakings of the party.

23. Resolution[93] dated December 3, 2012 in SPP No. 12-194 (PLM)

1[st] KABAGIS[94] was found by the COMELEC to have ceased to exist after the 2010 elections. The documents which it submitted to prove its continued existence were substantially the same as those it presented to support its petition for registration in 2009. Furthermore, 1[st] KABAGIS appeared to have “recycled the documentation of its activities in 2009 to deliberately mislead the Commission to believe that it has existed continuously.”[95] For the COMELEC, these circumstances constitute sufficient grounds for the cancellation of the party’s registration, as provided in Section 6 (6) and (7) of RA 7941 on a party’s declaration of untruthful statements in the petition and failure to exist for at least one year. Finally, the COMELEC took note that while 1[st] KABAGIS intends to represent the labor, fisherfolks and the urban poor indigenous cultural communities sectors, none of its five nominees belong to any of these sectors.

24. Resolution[96] dated December 4, 2012 in SPP No. 12-198 (PLM)

The COMELEC cancelled 1-UTAK’s[97] accreditation, holding that: First, the party does not factually and truly represent a marginalized sector considering that drivers and operators, which 1-UTAK seeks to both represent, have diametrically opposing interests. The advocacy of drivers pertains to wages and benefits while operators are mainly concerned with their profits. Second, the party’s nominees do not belong to any marginalized and underrepresented sector. The party did not even include among its nominees a representative from the drivers’ sector.

25. Resolution[98] dated December 4, 2012 in SPP No. 12-157 (PLM) and SPP No. 12-191 (PLM)

In cancelling the registration of SENIOR CITIZENS,[99] the COMELEC explained that, first, its nominees during the May 2010 elections had agreed on a term-sharing agreement, which circumvented Section 7, Article VI of the 1987 Constitution that mandates a three-year term for members of the House of Representatives. The term-sharing agreement was also declared contrary to public policy since a given term of public office cannot be made subject to any agreement of the parties; it is not a commodity that can be shared, apportioned or be made subject of any private agreement. The Commission further cited Section 7, Rule 4 of COMELEC Resolution No. 9366, and emphasized that a violation or failure to comply with laws, rules and regulations relating to elections is, pursuant to Section 6 (5) of RA 7941, a ground for the cancellation of a party’s registration.

26. Resolution[100] dated December 5, 2012 in SPP No. 11-002

The COMELEC En Banc affirmed the COMELEC Second Division’s resolution to grant the registration and accreditation of PBB[101] as an NCR Political Party, but prohibited it from participating in the 2013 party-list

elections based on the following grounds: (1) the party does not represent any marginalized and underrepresented sector, as it is composed of businessmen, civil society groups, politicians and ordinary citizens advocating genuine people empowerment, social justice, and environmental protection and utilization for sustainable development; (2) it failed to apply for registration as a party-list group; and (3) it failed to establish its track record as an organization that seeks to uplift the lives of the marginalized and underrepresented.

The COMELEC En Banc's authority under Resolution No. 9513 to conduct an automatic review of the COMELEC divisions' resolutions favoring new registrants also resulted in the COMELEC En Banc's issuance of several resolutions. It reversed the rulings of the Commission's divisions through the issuance of the following:

1. Resolution[102] dated November 23, 2012 in SPP No. 12-099 (PLM)

ASIN's[103] petition for registration was denied by the COMELEC En Banc on the following grounds: first, the "artists" sector, which is among the sectors which ASIN seeks to represent, is not considered marginalized and underrepresented under RA 7941 and relevant jurisprudence; second, ASIN failed to prove its track record as an organization, there being no sufficient evidence to show that it had performed acts that tend to advance the interest of the sectors which it seeks to represent; and third, ASIN failed to show that its nominees are qualified under the provisions of RA 7941 and the guidelines laid down in Ang Bagong Bayani.

2. Omnibus Resolution[104] dated November 27, 2012, which covers SPP No. 12-041 (PLM) and SPP No. 12-011 (PLM)

The COMELEC En Banc denied the registration of Manila Teachers and ALA-EH.

In denying Manila Teachers'[105] petition, the COMELEC En Banc reasoned that a non-stock savings and loan association cannot be considered a marginalized and underrepresented sector under the party-list system of representation, for being neither a part of the "working class," "service class," "economically deprived," "social outcasts," "vulnerable" and "work impaired." [106] Furthermore, the COMELEC held that a non-stock savings and loan association is mandated to engage, exclusively, in the legitimate business of a non-stock savings and loan association; thus, the very foundation of its organization would be forfeited should it pursue its party-list campaign.[107] Even granting that Manila Teachers may seek registration under the party-list system as a group representing public school teachers, the fact that its first and second nominees are not teachers by profession adversely affects the party's application.

The denial of ALA-EH's[108] petition was based on its failure to show that its members, particularly businessmen, sports enthusiasts, donors and hobbyists, belong to an identifiable group of persons which the law considers as marginalized. Further, the COMELEC En Banc ruled that the group's nominees did not appear to be qualified, as they were individuals doing financially well in their respective businesses that do not contribute to the welfare of Filipino athletes and sports enthusiasts.[109]

3. Resolution[110] dated November 27, 2012 in SPP No. 12-057 (PLM)

The COMELEC En Banc denied 1AAAP's[111] petition on the ground of the failure of the party's nominees to qualify. While the group seeks registration as a regional political party under Region XI, its third and fourth nominees[112] are not residents of the said region. For the COMELEC En Banc, such circumstance disqualifies them as nominees, for "it would be difficult for the said nominees to represent the interest of 1AAAP's supposed constituency who are residents and voters of Region XI." [113] In addition, the group failed to satisfy the second guideline in Ang Bagong Bayani, with the Comelec En Banc taking note that four[114] of its five nominees do not belong to any marginalized and underrepresented sector.

4. Resolution[115] dated November 27, 2012 in SPP No. 12-104 (PL)

AKIN[116] claims to be an organization of health workers and social workers from urban poor communities. The denial of its petition is founded on the group's failure to show that its nominees belong to the urban poor sector. Its first and second nominees[117] are lawyers, its second nominee[118] is a retired government employee, its fourth nominee[119] is an accountant/social volunteer worker, and its fifth nominee[120] is a secretary.

5. Resolution[121] dated November 29, 2012 in SPP No. 12-011 (PP)

AAB[122] applied for registration as a regional political party in Region VIII, allegedly with "constituencies [composed of] the men and women (registered voters) of Region VIII, its provinces, cities, municipalities and all other Bisayans from the other parts of the Philippines whose roots can be traced to the Bisayan Regions of Region VIII x x x." [123] In denying AAB's petition, the COMELEC En Banc cited the following grounds: first, the records do not show that the group represents a marginalized sector of the society, other than by its claim to have formed a sectoral wing, the Association of Bisayan Farmers-R8 (ABF-R8), registered with the Securities and Exchange Commission (SEC) on May 4, 2012 and aiming to pursue legislation and programs for the benefit of the Bisayan farmers in Region VIII; second, AAB's alleged constituencies in Region VIII are not underrepresented because they already have their district representatives in Congress; third, granting that ABF-R8 is a legitimate sectoral group of AAB, it has been in existence only since May 4, 2012, putting into question its track record of representing peasants and farmers; and fourth, its nominees are neither farmers nor peasants – three are lawyers, and the two others are company employees.

6. Resolution[124] dated December 4, 2012 in SPP Case Nos. 12-009 (PP) and 12-165 (PLM)

Although the COMELEC En Banc affirmed AI's[125] registration as a regional political party in Region VI, it denied the party's registration under the party-list system on several grounds. First, the party failed to show that it represents a marginalized and underrepresented sector, considering that the Province of Iloilo already has "no less than five (5) incumbent district representatives in Congress." [126] Second, the party made untruthful statements in the Memorandum it filed with the COMELEC, when it claimed that some of its nominees are members of its sectoral wings Patlad-Cayos Farmers' Association (Patlad-Cayos) and Alyansa ng Industriya ng Bigas (ANIB), composed of farmers and NFA-accredited retailers, respectively. The COMELEC En Banc took note that none of its nominees are farmers and food retailers, judging from their occupations or professions as declared in the certificates of acceptance to their nominations. Third, AI's fourth nominee[127] has withdrawn his acceptance to his nomination, while its first[128] and fifth[129] nominees have filed their certificates of candidacy for local elective positions in Iloilo.

7. Resolution[130] dated December 4, 2012 in SPP No. 12-175 (PL)

ALONA[131] claims to be an aggrupation of citizen groups composed of homeowners' associations, urban poor, elderly organizations, young professionals, overseas Filipino workers, women, entrepreneurs, cooperatives, fisherfolk, farmers, labor, transport, vendors and youth groups. In ruling against the party's petition, the COMELEC En Banc cited: first, the group's failure to establish how it can represent all these fourteen (14) sectors which have different, even conflicting, causes and needs; second, the sectors of homeowners associations, entrepreneurs and cooperatives are not marginalized and underrepresented; and third, three of the party's nominees, a businessman and two lawyers, do not belong to any marginalized and underrepresented sector.

Among the petitioners, only the petitions for registration of ALAM, KALIKASAN, PPP and GUARDJAN were denied by a division of the COMELEC in the first instance. The divisions' rulings were elevated to the COMELEC En Banc by virtue of motions for reconsideration, which were resolved via the following Resolutions:

1. Resolution[132] dated November 7, 2012 in SPP 12-127 (PL)

The COMELEC En Banc affirmed the COMELEC Second Division's finding that ALAM[133] failed to sufficiently prove its track record as an organization, and to show that it actually represents and seeks to uplift the marginalized and the underrepresented. Further, the COMELEC En Banc ruled that the myriad of sectors which ALAM seeks to represent, i.e., community print journalists, news dealers, news sellers, newsboys, tribesmen who learned to love the liberty of the press, B'laan tribesmen who cry for ancestral lands, urban poor or informal settlers, drivers and small-time operators of transport units, poor residents in urban barangays, and labor and jury system advocates, is too broad and unrelated to one another. Although there is no prohibition against multi-sectoral representation in the party-list system, a party, organization or coalition which seeks registration must be capable of serving fully all the sectors which it seeks to represent.

2. Resolution[134] dated November 7, 2012 in SPP Case No. 12-061 (PP)

KALIKASAN,[135] a group which claims to be a pro-environment political party representing the sectors of workers, informal settlers, women, youth, elderly, fisherfolks, handicapped, overseas workers and ordinary professionals who are most vulnerable to the effects of climate change and environmental degradation,[136] was denied registration, on the following grounds: (1) the principles and objectives stated in its constitution and by-laws reflect an advocacy for the protection of the environment rather than for the causes of the marginalized and underrepresented sectors it seeks to represent; (2) there is no proof that majority of its membership belong to the marginalized and underrepresented; (3) it seeks to represent sectors with conflicting interests; and (4) its nominees do not belong to any of the sectors which the party claims to represent.

3. Resolution[137] dated November 14, 2012 in SPP No. 12-145 (PL)

GUARDJAN's[138] petition for registration was denied on the ground of its failure to prove its membership base and solid track record. The group failed to present the activities that sufficiently benefited its intended constituency of guards, utility helpers, aiders, riders, drivers, domestic helpers, janitors, agents and nannies. Its nominees were also found to be unqualified, as they do not belong to any of the sectors which GUARDJAN seeks to represent; rather, they are the owner, consultant or manager of agencies which employ security guards. For the COMELEC En Banc, such circumstance will only result in a conflict of interest between the owners or managers of security agencies on one hand, and the security guards on the other.

4. Resolution[139] dated December 5, 2012 in SPP No. 12-073 (PLM)

The COMELEC En Banc affirmed the findings of the COMELEC First Division, which cited in its Resolution[140] the failure of PPP[141] to show a constituency of marginalized and underrepresented sectors. The group claims to represent the entire four provinces and five cities of Region XII, all already belonging to eight congressional districts, and already represented by eight district congressmen. Furthermore, the group has failed to show a track record of undertaking programs that are aimed at promoting the welfare of the group or any sector that it claims to represent.

The issuance by the COMELEC En Banc of the foregoing resolutions prompted the filing of the present petitions, which delve primarily on the following contentions:

First, the COMELEC En Banc committed grave abuse of discretion, amounting to lack or excess of jurisdiction, in issuing Resolution No. 9513. The petitioners challenge the COMELEC En Banc's authority under the Resolution to conduct an automatic review of its division's resolutions notwithstanding the absence of a motion for reconsideration. For the petitioners, the COMELEC En Banc cannot dismiss with the procedural requirement on the filing of motions for reconsideration under Rule 19 of the 1993 COMELEC Rules of Procedure before it

can review a decision or resolution rendered by any of its divisions in quasi-judicial proceedings.

As regards the COMELEC's resolve to determine, after summary evidentiary hearings, the continuing compliance of previously-registered and accredited party-list groups, the COMELEC En Banc denied the parties of their right to due process and has violated the principle of *res judicata* that should have otherwise worked in the petitioners' favor. Further, the COMELEC's exercise of its quasi-judicial powers, which they claim to include the cancellation of existing registration and accreditation, could not have been exercised at the first instance by the COMELEC En Banc, but should have been first decided by a division of the Commission.

Second, the COMELEC En Banc committed grave abuse of discretion, amounting to lack or excess of jurisdiction, in refusing or cancelling the petitioners' registration and accreditation under the party-list system. The petitioners assail the COMELEC En Banc's appreciation of facts and application of pertinent laws and jurisprudence, especially the eight-point guidelines in *Ang Bagong Bayani*, in determining their sectors', groups' and nominees' respective qualifications.

Given the common questions and the similarity in the issues that are raised in the 53 subject petitions, the Court has resolved, through its Resolutions of November 13, 2012, November 20, 2012, November 27, 2012, December 4, 2012, December 11, 2012 and February 19, 2013 to consolidate the petitions, and require the COMELEC to comment thereon.

With the petitioners' inclusion in their respective petitions of prayers for the issuance of temporary restraining order and/or writ of preliminary injunction, the Court also ordered, via the afore-mentioned resolutions, the issuance of Status Quo Ante Orders (SQAOs) in all the petitions.

The Office of the Solicitor General (OSG), as counsel for the respondent COMELEC, filed its Consolidated Comments on the petitions. In refuting the petitioners' claim of grave abuse of discretion against the COMELEC, the OSG submitted the following arguments:[142]

First, the COMELEC has the power to review existing party-list groups' or organizations' compliance with the requirements provided by law and the guidelines set by jurisprudence on the party-list system. The OSG cites Section 2, Article IX-C of the 1987 Constitution which enumerates the powers and functions of the COMELEC, giving emphasis on paragraph 1 thereof that gives the Commission the power to enforce and administer all laws and regulations relative to the conduct of an election, and paragraph 5 that cites the Commission's power to register political parties, organizations or coalitions.

Second, the COMELEC's review of the parties' qualifications was a valid exercise by the COMELEC of its administrative powers; hence, the COMELEC En Banc could have, even at the first instance, ruled on it.

Third, the requirements of due process were satisfied because the petitioners were given a fair and reasonable opportunity to be heard. The COMELEC's resolve to suspend its own rules was sanctioned by law, as it was aimed for a speedy disposition of matters before the Commission. Furthermore, no petitioner had previously questioned the procedure that was adopted by the COMELEC on the review of the parties' registration; instead, the groups voluntarily submitted to the Commission's jurisdiction and actively participated in its proceedings.

Fourth, the COMELEC faithfully applied the grounds for denial and cancellation of a group's registration, as provided by statute and prevailing jurisprudence. The OSG specifically cites Sections 5 to 9 of RA 7941 and the eight-point guidelines in *Ang Bagong Bayani*.

Fifth, the COMELEC's findings of fact in each petitioner's case are supported by substantial evidence; thus, are final and non-reviewable as provided in Section 5, Rule 64 of the 1997 Rules of Civil Procedure.

In précis, the fifty-three (53) consolidated petitions concern two main issues: the procedural issue as to the COMELEC En Banc's power to automatically review a decision of its division without the requisite filing of a motion for reconsideration, and the substantive issue as to the COMELEC's alleged grave abuse of discretion in denying or cancelling the registration and/or accreditation under the party-list system of the petitioners.

I signify my assent to the ponencia's rulings on the procedural issue; however, consistent with afore-quoted pronouncement of the Court in *Ang Bagong Bayani*,^[143] I signify my strong dissent on major points in the ponencia's resolution of the substantive issue, including its discussions on the nature of the party-list system and its disposition on the qualifications of political parties which seek to participate under the party-list system of representation. Furthermore, notwithstanding the new standards that the ponencia now provides for party-list groups, the remand of all 53 petitions to the COMELEC is unnecessary.

Procedural Aspect

The Powers and Functions of the COMELEC

Under the present Constitution, the COMELEC is recognized as the sole authority in the enforcement and administration of election laws. This grant of power retraces its history in the 1935 Constitution. From then, the powers and functions of the COMELEC had continuously been expounded to respond to the call of contemporary times. In *Mendoza v. Commission on Elections*,^[144] the Court briefly noted:

Historically, the COMELEC has always been an administrative agency whose powers have been increased from the 1935 Constitution to the present one, to reflect the country's awareness of the need to provide greater regulation and protection to our electoral processes to ensure their integrity. In the 1935 Constitution, the powers and functions of the COMELEC were defined as follows:

SECTION 2. The Commission on Elections shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and shall exercise all other functions which may be conferred upon it by law. It shall decide, save those involving the right to vote, all administrative questions affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and of other election officials. All law enforcement agencies and instrumentalities of the Government, when so required by the Commission, shall act as its deputies for the purpose of insuring free, orderly, and honest election. The decisions, orders, and rulings of the Commission shall be subject to review by the Supreme Court. x x x

These evolved into the following powers and functions under the 1973 Constitution:

- (1) Enforce and administer all laws relative to the conduct of elections.
- (2) Be the sole judge of all contests relating to the elections, returns, and qualifications of all members of the National Assembly and elective provincial and city officials.
- (3) Decide, save those involving the right to vote, administrative questions affecting elections, including the determination of the number and location of polling places, the appointment of election officials and inspectors, and the registration of voters.

These powers have been enhanced in scope and details under the 1987 Constitution, x x x^[145]

Under the 1987 Constitution, the intent to reinforce the authority of the COMELEC is evident in the grant of several other powers upon the Commission, specifically under Section 2, Article IX-C thereof which reads:

Section 2. The Commission on Elections shall exercise the following powers and functions:

1. Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

2. Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.

3. Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.

4. Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.

5. Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections, constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.

6. File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.

7. Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies.

8. Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to, its directive, order, or decision.

9. Submit to the President and the Congress, a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

Essentially, the COMELEC has general and specific powers. Section 2(1) of Article IX-C partakes of the general grant of the power to the COMELEC to “enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall.” The authority given to the COMELEC under this provision encapsulates all the other powers granted to it under the Constitution. The intention in providing this general grant of power is to give the COMELEC a wide latitude in dealing with matters under its jurisdiction so as not to unduly delimit the performance of its functions. Undoubtedly, the text and intent of this constitutional provision is to give COMELEC all the necessary and incidental powers for it to achieve the objective of holding free, orderly, honest, peaceful and credible elections.[146] The rest of the enumeration in the mentioned provision constitutes the COMELEC’s specific powers.

As to the nature of the power exercised, the COMELEC's powers can further be classified into administrative, quasi-legislative, quasi-judicial, and, in limited instances, judicial. The quasi-judicial power of the Commission embraces the power to resolve controversies arising in the enforcement of election laws and to be the sole judge of all pre-proclamation controversies and of all contests relating to the elections, returns, and qualifications. Its quasi-legislative power refers to the issuance of rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress. Its administrative function refers to the enforcement and administration of election laws. [147]

In *Baytan v. COMELEC*, [148] the Court had the occasion to pass upon the classification of the powers being exercised by the COMELEC, thus:

The COMELEC's administrative powers are found in Section 2 (1), (3), (4), (5), (6), (7), (8), and (9) of Article IX-C. The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether en banc or in division. The Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit en banc or in two divisions." Clearly, the COMELEC en banc can act directly on matters falling within its administrative powers. Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions.

On the other hand, the COMELEC's quasi-judicial powers are found in Section 2 (2) of Article IX-C, to wit: "Section 2. The Commission on Elections shall exercise the following powers and functions:

x x x x

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.[149] (Emphasis supplied)

The distinction on the nature of the power being exercised by the COMELEC is crucial to the procedure which has to be observed so as to stamp an official action with validity. In the exercise of its adjudicatory or quasi-judicial powers, the Constitution mandates the COMELEC to hear and decide cases first by division and upon motion for reconsideration, by the COMELEC En Banc.[150] Section 3 of Article IX-C states:

Section 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc.

On the other hand, matters within the administrative jurisdiction of the COMELEC may be acted upon directly by the COMELEC En Banc without having to pass through any of its divisions.[151]

The Issuance of Resolution No. 9513
as an Implement of the Power to Register
Political Parties, Organizations and
Coalitions

One of the specific powers granted to the COMELEC is the power to register political parties, organizations and coalitions articulated in Section 2(5) of Article IX-C of the Constitution, thus:

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or

which are supported by any foreign government shall likewise be refused registration.

x x x x

The essence of registration cannot be overemphasized. Registration and the formal recognition that accompanies it are required because of the Constitution's concern about the character of the organizations officially participating in the elections.[152] Specifically, the process of registration serves to filter the applicants for electoral seats and segregate the qualified from the ineligible. The purity of this exercise is crucial to the achievement of orderly, honest and peaceful elections which the Constitution envisions.

The power to register political parties, however, is not a mere clerical exercise. The COMELEC does not simply register every party, organization or coalition that comes to its office and manifests its intent to participate in the elections. Registration entails the possession of qualifications. The party seeking registration must first present its qualifications before registration will follow as a matter of course.

Similar with all the specific powers of the COMELEC, the power to register political parties, organizations and coalitions must be understood as an implement by which its general power to enforce and administer election laws is being realized. The exercise of this power must thus be construed in a manner that will aid the COMELEC in fulfilling its duty of ensuring that the electoral exercise is held exclusive to those who possess the qualifications set by the law.

It is pursuant to this duty that the COMELEC found it imperative to promulgate Resolution No. 9513. The said Resolution seeks to manage the registration of party-list groups, organizations and coalitions that are aspiring to participate in the 2013 National and Local Elections, with the objective of ensuring that only those parties, groups or organizations with the requisite character consistent with the purpose of the party-list system are registered and accredited to participate in the party-list system of representation.

Plainly, the resolution authorized the COMELEC En Banc to automatically review all pending registration of party-list groups, organizations and coalitions and to set for summary evidentiary hearings all those that were previously registered to determine continuing compliance. To effectively carry out the purpose of the Resolution, the COMELEC suspended Rule 19 of the 1993 COMELEC Rules of Procedure, specifically the requirement for a motion for reconsideration.

In the implementation of Resolution No. 9513, a number of applicants for registration as party-list group, organization or coalition were denied registration by the COMELEC En Banc, while several others that were previously registered and/or accredited were stripped of their status as registered and/or accredited party-list groups, organizations or coalitions.

Given the circumstances, I agree with the majority that the action of the COMELEC En Banc was well-within its authority.

The arguments of the petitioners proceed from a feeble understanding of the nature of the powers being exercised by the COMELEC in which the procedure to be observed depends. Indeed, in a quasi-judicial proceeding, the COMELEC En Banc does not have the authority to assume jurisdiction without the filing of a motion for reconsideration. The filing of a motion for reconsideration presupposes that the case had been heard, passed upon and disposed by the COMELEC Division before the same is subjected to review of the COMELEC En Banc.

In *Dole Philippines Inc. v. Esteva*,[153] the Court defined quasi-judicial power, to wit:

Quasi-judicial or administrative adjudicatory power on the other hand is the power of the administrative agency to adjudicate the rights of persons before it. It is the power to hear and determine questions of fact to

which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law. The administrative body exercises its quasi-judicial power when it performs in a judicial manner an act which is essentially of an executive or administrative nature, where the power to act in such manner is incidental to or reasonably necessary for the performance of the executive or administrative duty entrusted to it. In carrying out their quasi-judicial functions the administrative officers or bodies are required to investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature. Since rights of specific persons are affected, it is elementary that in the proper exercise of quasi-judicial power due process must be observed in the conduct of the proceedings.[154]

To be clear, the COMELEC exercises quasi-judicial powers in deciding election contests where, in the course of the exercise of its jurisdiction, it holds hearings and exercises discretion of a judicial nature; it receives evidence, ascertains the facts from the parties' submissions, determines the law and the legal rights of the parties, and on the basis of all these, decides on the merits of the case and renders judgment.[155]

However, the registration of political parties, organizations and coalitions stated in Section 2(5) of Article IX-C of the Constitution involves the exercise of administrative power. The Court has earlier declared in *Baytan* that Sections 2 (1), (3), (4), (5), (6), (7), (8) and (9) of Article IX-C pertain to the administrative powers of the COMELEC.[156] It reiterated this pronouncement in *Bautista v. COMELEC*[157] where it further deliberated on the distinctions between the administrative and quasi-judicial powers of the COMELEC. And recently, in *Magdalo v. COMELEC*,[158] it made a categorical pronouncement that the power of the COMELEC to register political parties and ascertain the eligibility of groups to participate in the elections is purely administrative in character.[159]

Distinguishing the nature of the power being exercised by the COMELEC is relevant because of the different set of rules that applies to each. For instance, in *Canicosa v. COMELEC*,[160] the Court stressed that matters falling under the administrative jurisdiction of the COMELEC may be acted upon directly by the COMELEC En Banc. On the other hand, Section 3, Article IX-C of the Constitution underscores the requirement for a motion for reconsideration before the COMELEC En Banc may take action in quasi-judicial proceedings.

The COMELEC's determination as to whether a party is a political party entitled to registration is an exercise of its constitutional power of administering the laws relative to the conduct of elections.[161] The same principle applies in the registration of party-list groups, organizations and coalitions. In the process of registration, the COMELEC determines whether the applicant possesses all the qualifications required under the law. There are no contending parties or actual controversy. It is merely the applicant proving his qualifications to participate in the elections.

The foregoing ratiocination, however, does not suggest that the COMELEC En Banc can forthwith act on pending petitions for registration and subject previously-registered party list groups, organizations and coalitions to summary evidentiary hearings to determine continuing compliance simply because it is administrative in nature. Indeed, it may do so, but only with respect to the latter group.

I distinguish between (1) new or pending petitions for registration (referred to as the first group), and; (2) previously registered and/or accredited party-list groups, organizations and coalitions (referred to as the second group).

As regards the first group, the COMELEC En Banc cannot directly act on new petitions for registration as there is a specific procedure governing the performance of this function. It bears noting that pursuant to the authority vested in the COMELEC to promulgate rules of procedure in order to expedite the disposition of cases, [162] it drafted the 1993 COMELEC Rules of Procedure which will govern pleadings, practice and procedure before the

Commission. Under Section 32 of the said Rules, the registration of political parties or organizations is classified under Special Proceedings, together with annulment of permanent list of voters and accreditation of citizen's arms of the Commission. In relation to this, Section 3 of Rule 3 states:

Section 3. The Commission Sitting in Divisions - The Commission shall sit in two (2) Divisions to hear and decide protests or petitions in ordinary actions, special actions, special cases, provisional remedies, contempt, and special proceedings except in accreditation of citizens' arm of the Commission. (Emphasis ours)

The same rule applies to the registration of party-list groups, organizations or coalitions. Thus, petitions for registration of party-list groups, organizations and coalitions are first heard by the COMELEC Division before they are elevated to the En Banc on motion for reconsideration. It is this requirement for a motion for reconsideration of the resolutions of the COMELEC Division granting new petitions for registration that the COMELEC suspended in Resolution No. 9513. In doing so, the COMELEC resorted to Section 4, Rule 1 of the 1993 COMELEC Rules of Procedure which reads:

Section 4. Suspension of the Rules. - In the interest of justice and in order to obtain speedy disposition of all matters pending before the Commission, these rules or any portion thereof may be suspended by the Commission.

Surely, the suspension of the rule will serve the greater interest of justice and public good since the objective is to purge the list of registrants of those who are not qualified to participate in the elections of party-list representatives in Congress. Ultimately, it will help secure the electoral seats to the intended beneficiaries of RA 7941 and, at the same time, guard against fly-by-night groups and organizations that are seeking for the opportune time to snatch a chance. By virtue of the suspension of the requirement for motion for reconsideration, the COMELEC En Banc may then automatically review pending petitions for registration and determine if the qualifications under the law are truly met. It is a measure that was pursued in order that the COMELEC may fulfill its duty to ensure the purity of elections. And, as the rules of procedure are designed to facilitate the COMELEC's performance of its duties, it must never be a stumbling block in achieving the very purpose of its creation.

With respect to the second group, the COMELEC En Banc may directly order the conduct of summary evidentiary hearings to determine continuing compliance considering that there is no specific procedure on this matter. The petitioners cannot invoke Section 3, Rule 3 of the 1993 COMELEC Rules of Procedure since this provision relates only to new petitions for registration. Absent a special rule or procedure, the COMELEC En Banc may directly act or perform an otherwise administrative function, consistent with our pronouncement in *Canicosa*.

The authority of the COMELEC En Banc to subject previously-registered and/or accredited party-list groups, organizations and coalitions to summary evidentiary hearing emanates from its general power to enforce and administer all laws and regulations relative to the conduct of an election^[163] and duty to ensure "free, orderly, honest, peaceful and credible elections."^[164] Part and parcel of this duty is the maintenance of a list of qualified candidates. Correlative to this duty of the COMELEC is the duty of the candidate or, in this case, the registered party-list groups, organizations or coalitions to maintain their qualifications.

Consistent with the principle that the right to hold public office is a privilege, it is incumbent upon aspiring participants in the party-list system of representation to satisfactorily show that they have the required qualifications stated in the law and prevailing jurisprudence. Specifically, a party-list group or organization applying for registration in the first instance must present sufficient evidence to establish its qualifications. It is only upon proof of possession of qualifications that registration follows.

The process, however, does not end with registration. Party-list groups and organizations that are previously allowed registration and/or accreditation are duty-bound to maintain their qualifications.

In *Amores v. House of Representatives Electoral Tribunal*,^[165] the Court emphasized:

Qualifications for public office are continuing requirements and must be possessed not only at the time of appointment or election or assumption of office but during the officer's entire tenure. Once any of the required qualifications is lost, his title may be seasonably challenged.^[166]

It can be gathered from the foregoing that the fact that a candidate who was allowed to participate in the elections and hold office does not give him a vested right to retain his position notwithstanding loss of qualification. The elective official must maintain his qualifications lest he loses the right to the office he is holding.

Further, the fact that a candidate was previously allowed to run or hold public office does not exempt him from establishing his qualifications once again in case he bids for reelection. He must maintain and attest to his qualifications every time he is minded to join the electoral race. Thus, he is required to file a certificate of candidacy even if he is an incumbent elective official or previously a candidate in the immediately preceding elections.

Similar to individual candidates, registered party-list groups, organizations and coalitions must also establish their continuing compliance with the requirements of the law which are specific to those running under the party-list system of representation. Registration does not vest them the perpetual right to participate in the election. The basis of the right to participate in the elections remains to be the possession of qualifications. Resolution No. 9513 is a formal recognition of the COMELEC's duty to ensure that only those who are qualified must be allowed to run as party-list representative. It cannot be defeated by a claim of previous registration.

Therefore, it is my view that the COMELEC cannot be estopped from cancelling existing registration and/or accreditation in case the concerned party-list group or organization failed to maintain its qualifications. Being the authority which permits registration and/or accreditation, it also has the power to cancel the same in the event that the basis of the grant no longer exists.

Inapplicability of the Doctrine of Res Judicata

Similarly, the COMELEC cannot be precluded from reviewing pending registration and existing registration and/or accreditation of party-list groups, organizations and coalitions on the ground of res judicata. It has been repeatedly cited in a long line of jurisprudence that the doctrine of res judicata applies only to judicial or quasi-judicial proceedings, not to the exercise of administrative powers.^[167]

Moreover, the application of the doctrine of res judicata requires the concurrence of four (4) elements, viz.: (1) the former judgment or order must be final; (2) it must be a judgment or order on the merits, that is, it was rendered after a consideration of the evidence or stipulations submitted by the parties during the trial of the case; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and (4) there must be, between the first and second actions, identity of parties, subject matter and causes of action.^[168]

Here, the resolutions of the COMELEC Division, allowing the registration of the applicant party-list groups and organizations do not partake of a final judgment or order. A final judgment or order is one that finally disposes of a case, leaving nothing more to be done by the Court in respect thereto, e.g. an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is right. Once rendered, the task of the Court is ended, as far as deciding the controversy or determining the rights and liabilities of the litigants is concerned.^[169]

The resolutions of the COMELEC Division cannot be considered an adjudication on the merits since they do not involve a determination of the rights and liabilities of the parties based on the ultimate facts disclosed in the pleadings or in the issues presented during the trial.[170] They are simply recognition by the COMELEC that the applicant party-list or organization possesses the qualifications for registration. They do not involve the settlement of conflicting claims; it is merely an initiatory procedure for the conduct of elections. On the other hand, previous registration and/or accreditation only attests to the fact that the concerned party-list group, organization or coalition satisfactorily proved its qualifications to run as party-list representative in the immediately preceding elections. It does not, however, create a vested right in favor of the registered party-list group, organization or coalition to participate in the succeeding elections.

The resolutions of the COMELEC Division cannot also become final as to exempt the party-list group or organization from proving his qualifications in the succeeding elections. As in individual candidate, a party-list group, organization or coalition desiring to participate in the elections must possess the required qualifications every time it manifests its intent to participate in the elections. It must prove and attest to its possession of the required qualifications every time it bids for election.

The inapplicability of the doctrine of *res judicata* is even made more apparent by the fact that the group, organization or coalition which was denied registration may still apply for registration in succeeding elections and even be allowed registration provided that the qualifications are met. The same holds true with previously registered and/or accredited party-list group, organization or coalition which was stripped of its registration and/or accreditation.

Procedural due process was properly observed.

There is even no merit in the petitioners' claim that their right to procedural due process was violated by the COMELEC's automatic review and conduct of summary evidentiary hearings under Resolution No. 9513.

As regards the first group, I have explained why I deem the COMELEC's suspension of its own rules on motions for reconsideration justified, given its duty to ensure that votes cast by the electorate in the party-list elections will only count for qualified party-list groups, in the end that the system's ideals will be realized.

Equally important, the settled rule in administrative proceedings is that a fair and reasonable opportunity to explain one's side satisfies the requirements of due process. Its essence is embodied in the basic requirements of notice and the real opportunity to be heard.[171]

Consistent with the foregoing, Section 6 of RA 7941 only commands the minimum requirements of due notice and hearing to satisfy procedural due process in the refusal and/or cancellation of a party, organization or coalition's registration under the party-list system. It reads:

Section 6. Refusal and/or Cancellation of Registration. 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, organization or coalition on any of the following grounds:

x x x (Emphasis ours)

The petitioners then cannot validly claim that they were denied of their right to procedural process. We shall not disregard the proceedings that ensued before the COMELEC's divisions, before whom the groups were given due notice and the ample opportunity to present and substantiate their plea for registration. The COMELEC En Banc's resolution to later review the resolutions of its divisions did not render insignificant such due process already accorded to the groups, especially as we consider that the En Banc decided on the basis of the evidence submitted by the groups before the divisions, only that it arrived at factual findings and conclusions that differed

from those of the latter.

The second group's right to procedural process was also unimpaired, notwithstanding the COMELEC's conduct of the summary evidentiary hearings for the purpose of determining the parties' continuing compliance with rules on party-list groups. The notice requirement was satisfied by the COMELEC through its issuance of the Order dated August 2, 2012[172], which notified the party-list groups of the Commission's resolve to conduct summary evidentiary hearings, the dates thereof, and the purpose for which the hearings shall be conducted. The specific matters that are expected from them by the Commission are also identified in the Order, as it provides:

To simplify the proceedings[,] the party-list groups or organizations thru counsel/s shall submit the following:

1. The names of witness/es who shall be the Chairperson, President or Secretary General of the party-list groups, organization or coalition;
2. Judicial Affidavit/s of the witness/es to be submitted at prior to the scheduled hearing; and
3. Other documents to prove their continuing compliance with the requirements of R.A. No. 7941 and the guidelines in the Ang Bagong Bayani case.[173] (Emphasis supplied)

There is then no merit in most petitioners' claim that they were not informed of the grounds for which their existing registration and/or accreditation shall be tested, considering that the parameters by which the parties' qualifications were to be assessed by the COMELEC were explained in the Order.

That the parties were duly notified is further supported by their actual participation in the scheduled hearings and their submission of evidence they deemed sufficient which, in turn, satisfied the requirement on the opportunity to be heard.

Substantive Aspect

The common contention raised in the consolidated petitions is that the COMELEC erred in assessing their qualifications which eventually led to the denial of their petitions for registration and cancellation of their registration and/or accreditation.

A deliberation on the purpose and contemplation of the relevant laws and prevailing jurisprudence is imperative.

The Party-List System of Representation

Contrary to the view of the majority, it is my staunch position that the party-list system, being a complement of the social justice provisions in the Constitution, is primarily intended to benefit the marginalized and underrepresented; the ideals of social justice permeates every provision in the Constitution, including Section 5(2), Article VI on the party-list system.

The party-list system is a social justice tool designed not only to give more law to the great masses of our people who have less in life, but also to enable them to become veritable lawmakers themselves, empowered to participate directly in the enactment of laws designed to benefit them.[174] It is not simply a mechanism for electoral reform. To simply regard it as a mere procedure for reforming the already working and existing electoral system is a superficial reading of RA 7941 and the Constitution, from which the law breathed life. The idea is that by promoting the advancement of the underprivileged and allowing them an opportunity to grow, they can rise to become partners of the State in pursuing greater causes.

The ideals of social justice cannot be more emphatically underscored in the 1987 Constitution. The strong desire to incorporate and utilize social justice as one of the pillars of the present Constitution was brought forth by the intent to perpetually safeguard democracy against social injustices, desecration of human rights and disrespect of

the laws which characterized the dark pages of our history. It is reminiscent of the unified and selfless movement of the people in EDSA who, minuscule in power and resources, braved the streets and reclaimed their freedom from the leash of dictatorship. The gallantry and patriotism of the masses and their non-negotiable demand to reclaim democracy are the inspirations in the drafting of our Constitution.

The ambition of the framers of the Constitution for a state which recognizes social justice at the forefront of its policies brought them to propose a separate article on social justice and human rights. Initially, the proposed provision defined social justice as follows:

SOCIAL JUSTICE

SECTION 1. Social Justice, as a social, economic, political, moral imperative, shall be the primary consideration of the State in the pursuit of national development. To this end, Congress shall give the highest priority to the formulation and implementation of measures designed to reduce economic and political inequalities found among citizens, and to promote the material structural conditions which promote and enhance human dignity, protect the inalienable rights of persons and sectors to health, welfare and security, and put the material wealth and power of the community at the disposal of the common good.

SECTION 2. Towards these ends, the State shall regulate the acquisition, ownership, use and disposition of property and its fruits, promote the establishment of self-reliant, socio-political and economic structures determined by the people themselves, protect labor, rationalize the use and disposition of land, and ensure the satisfaction of the basic material needs of all.[175] (Emphasis supplied)

In her sponsorship speech, Commissioner Nieva delved into the primacy of the promotion of social justice in the ideals that the Constitution will carry. She explained:

Our Committee hopes that social justice will be the centerpiece of the 1986 Constitution. The rationale for this is that social justice provides the material and social infrastructure for the realization of basic human rights the enhancement of human dignity and effective participation in democratic processes. Rights, dignity and participation remain illusory without social justice.

Our February 1986 Revolution was not merely against the dictatorship nor was it merely a fight for the restoration of human rights; rather, this popular revolution was also a clamor for a more equitable share of the nation's resources and power, a clamor which reverberated in the many public hearings which the Constitutional Commission conducted throughout the country.

If our 1986 Constitution would enshrine the people's aspirations as dramatically expressed in the revolution and ensure the stability, peace and progress of our nation, it must provide for social justice in a stronger and more comprehensive manner than did the previous Constitutions.

x x x x

In Sections 1 and 2, the provisions mandate the State to give social justice the highest priority to promote equality in the social, economic and political life of the nation through the redistribution of our resources, wealth and power for the greater good. [176]

Further in the deliberations, Commissioner Bennagen remarked on the aspects of social justice, viz:

MR. BENNAGEN: x x x x

We did not fail to incorporate aspects of attitudinal change, as well as structural change, and these are fairly evident in the first two sections. As indicated in Section 1, we did emphasize that social justice should be a social, economic, political and moral imperative. The moral component is important because we feel that a justice provision should be on the side of the poor, the disadvantaged, the so-called deprived and the

oppressed. This is a point that has been raised a number of times especially by social scientists. Specifically, I would like to mention Dr. Mahar Mangahas who, in his extensive studies on social justice, feels that the State itself has been a major source of injustice and that, therefore, the State should be able to correct that and must assume a moral stance in relation to the poor, the deprived and the oppressed, a moral stance that we feel should also permeate the bureaucracy, the technocracy and eventually, with the changes in structures, also the whole of our Philippine society.[177] (Emphasis ours)

Pursuant to the ends discussed by the framers of the Constitution, they came up with Article XIII which specifically deals with Social Justice and Human Rights. Section 1, Article XIII of the Constitution carries the positive command to the Congress to uphold social justice. It reads:

Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic and political inequities by equitably diffusing wealth and political power for the common good.

x x x x

One of the modes by which the Constitution seeks to achieve social justice is through the introduction of the party-list system. Sections 5(1) and (2), Article VI thereof provide:

Section 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 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. (Emphasis ours)

Considering that the provisions on party-list system of representation are not self-executing, the Congress enacted RA 7941. The said law defined the parameters of the party-list system, the procedural guidelines and the qualifications of those intending to participate in the exercise. In enacting RA 7941, the legislature did not mean to depart from the impetus which impelled the members of the Constitutional Commission to provide for this scheme of representation -- social justice. The underlying principle remains to be the reduction of political inequality by equitably diffusing wealth and political power. Certainly, there could be no other intended beneficiaries for this provision than the powerless and underprivileged. It could not have been intended for those who already have the power and resources who may be lesser in number but are in command of the machinery of the government.

As so fervently declared in the case of *Ang Bagong Bayani*, the party-list system of is a social justice mechanism, designed to distribute political power. In the said case, the Court held:

The party-list system is a social justice tool designed not only to give more law to the great masses of our people who have less in life, but also to enable them to become veritable lawmakers themselves, empowered to participate directly in the enactment of laws designed to benefit them. It intends to make the marginalized and the underrepresented not merely passive recipients of the State's benevolence, but active participants in the mainstream of representative democracy.[178]

The objective to hold the party-list system for the benefit of the marginalized and underrepresented is expressed in

clear language of Section 2 of RA 7941. It reads:

Section 2. Declaration of policy. 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 under-represented 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. (Emphasis ours)

A reading of Section 2 shows that the participation of registered national, regional and sectoral parties, organizations and coalitions in the party-list elections are qualified by three (3) limiting characteristics: (1) they must consist of Filipino citizens belonging to the marginalized and underrepresented sectors, organizations or coalitions; (2) who lack well-defined political constituencies, (3) but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole. The term "marginalized and underrepresented" effectively limits the party-list system to sectors which directly need support and representation. The law could not have deemed to benefit even those who are already represented in the House of Representatives lest it results to a wider gap between the powerful and the underprivileged. In empowering the powerless, the law must necessarily tilt its partiality in favor of the marginalized and underrepresented if genuine social justice must be achieved.

The favor of the law towards the marginalized and underrepresented, which was first articulated by former Chief Justice Artemio Panganiban in *Ang Bagong Bayani*, was later affirmed and reiterated by no less than another former Chief Justice of this Court, Reynato S. Puno, in his erudite separate opinion in *BANAT v. COMELEC*.^[179] He forcefully articulated:

History has borne witness to the struggle of the faceless masses to find their voice, even as they are relegated to the sidelines as genuine functional representation systemically evades them. It is by reason of this underlying premise that the party-list system was espoused and embedded in the Constitution, and it is within this context that I register my dissent to the entry of major political parties to the party-list system.

x x x x

x x x With all due respect, I cannot join this submission. We stand on solid grounds when we interpret the Constitution to give utmost deference to the democratic sympathies, ideals and aspirations of the people. More than the deliberations in the Constitutional Commission, these are expressed in the text of the Constitution which the people ratified. Indeed, it is the intent of the sovereign people that matters in interpreting the Constitution. x x x

x x x x

Everybody agrees that the best way to interpret the Constitution is to harmonize the whole instrument, its every section and clause. We should strive to make every word of the fundamental law operative and avoid rendering some words idle and nugatory. The harmonization of Article VI, Section 5 with related constitutional provisions will better reveal the intent of the people as regards the party-list system. Thus, under Section 7 of the Transitory Provisions, the President was permitted to fill by appointment the seats reserved for sectoral representation under the party-list system from a list of nominees submitted by the respective sectors. This was the result of historical precedents that saw how the elected Members of the interim Batasang Pambansa and the regular Batasang Pambansa tried to torpedo sectoral representation and delay the seating of sectoral

representatives on the ground that they could not rise to the same levelled status of dignity as those elected by the people. To avoid this bias against sectoral representatives, the President was given all the leeway to "break new ground and precisely plant the seeds for sectoral representation so that the sectoral representatives will take roots and be part and parcel exactly of the process of drafting the law which will stipulate and provide for the concept of sectoral representation." Similarly, limiting the party-list system to the marginalized and excluding the major political parties from participating in the election of their representatives is aligned with the constitutional mandate to "reduce social, economic, and political inequalities, and remove cultural inequalities by equitably diffusing wealth and political power for the common good"; the right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making; the right of women to opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation; the right of labor to participate in policy and decision-making processes affecting their rights and benefits in keeping with its role as a primary social economic force; the right of teachers to professional advancement; the rights of indigenous cultural communities to the consideration of their cultures, traditions and institutions in the formulation of national plans and policies, and the indispensable role of the private sector in the national economy.

x x x x

In sum, the evils that faced our marginalized and underrepresented people at the time of the framing of the 1987 Constitution still haunt them today. It is through the party-list system that the Constitution sought to address this systemic dilemma. In ratifying the Constitution, our people recognized how the interests of our poor and powerless sectoral groups can be frustrated by the traditional political parties who have the machinery and chicanery to dominate our political institutions. If we allow major political parties to participate in the party-list system electoral process, we will surely suffocate the voice of the marginalized, frustrate their sovereignty and betray the democratic spirit of the Constitution. That opinion will serve as the graveyard of the party-list system.

The intent of the Constitution to keep the party-list system exclusive to the marginalized and underrepresented sectors is then crystal clear. To hold otherwise is to frustrate the spirit of the law and the sacred intention to hold inviolable the safeguards of social justice embedded in the Constitution.

In the same line, RA 7941 must not be interpreted as merely a mode for electoral reform. It could not have been that too simplistic. Far from being merely an electoral reform, the party-list system is one concrete expression of the primacy of social justice in the Constitution. It is well to remember that RA 7941 was only implementing the specific mandate of the Constitution in Section 5, Article VI. It should not be disengaged from the purpose of its enactment. The purpose of the mentioned provision was not simply to reform the electoral system but to initiate the equitable distribution of political power. It aims to empower the larger portion of the populace who sulk in poverty and injustice by giving them a chance to participate in legislation and advance their causes.

The parameters under RA 7941 were also further elaborated by the Court in *Ang Bagong Bayani*, which outlined the eight-point guidelines for screening party-list participants. Succinctly, the guidelines pertain to the qualifications of the (1) sector, (2) party-list group, organization or coalition, and (3) nominee. These key considerations determine the eligibility of the party-list group, organization or coalition to participate in the party-list system of representation. Thus, for purposes of registration and continuing compliance, three (3) basic questions must be addressed:

- (1) Is the sector sought to be represented marginalized and underrepresented?
- (2) Is the party, organization or coalition qualified to represent the marginalized and underrepresented sector?
- (3) Are the nominees qualified to represent the marginalized and underrepresented party, organization or coalition?

In seriatim, I shall expound on what I deem should be the key considerations for qualifying as a party-list group, organization or coalition.

The sector must be marginalized
and underrepresented.

Section 2 of RA 7941 underscored the policy of the State in enacting the law. Tersely, the state aims to promote proportional representation by means of a Filipino-style party-list system, which will enable the election to the House of Representatives of Filipino citizens,

- 1) who belong to the marginalized and underrepresented sectors, organizations and parties; and
- 2) who lack well-defined constituencies; but
- 3) who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole.[180]

RA 7941 gives emphasis on the requirement that the party, organization or coalition must represent a marginalized and underrepresented sector. A marginalized and underrepresented sector is a group of individuals who, by reason of status or condition, are drawn towards the bottom of the social strata. Remote from the core of institutional power, their necessities are often neglected and relegated to the least of the government's priorities. They endure inadequacies in provisions and social services and are oftentimes victims of economic, social and political inequalities.

Section 5 of RA 7941 enumerates the sectors that are subsumed under the term "marginalized and underrepresented" and may register as a party-list group, organization or coalition. It states:

SEC. 5. Registration. Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not later than ninety (90) days before the election a petition verified by its president or secretary stating its desire to participate in the party-list system as a national, regional or sectoral party or organization or a coalition of such parties or organizations, attaching thereto its constitution, bylaws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require: Provided, That the sectors shall include labor peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals. (Emphasis ours)

Based on the provision, there are at least twelve (12) sectors that are considered marginalized and underrepresented: labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals. The enumeration is, however, not exclusive. During the drafting of our Constitution, the members of the Commission expressed reluctance to provide an enumeration of the marginalized and underrepresented sectors because of their apprehension that the longer the enumeration, the more limiting the law becomes.[181] Instead of an enumeration, then Commissioner Jaime Tadeo suggested the criteria by which the determination of which sectors are marginalized can be based, viz:

- The number of people belonging to the sector;
- The extent of marginalization, exploitation and deprivation of social and economic rights suffered by the sector;
- The absence of representation in the government, particularly in the legislature, through the years;
- The sector's decisive role in production and in bringing about the basic social services needed by the people.[182]

The Constitutional Commission saw it fit to provide a set of standards which will approximate the sectors that the Constitution regards as marginalized and underrepresented and evaded a definite enumeration. The reason is that a specific enumeration is antithetical to the purpose of the party-list system. The party-list system of representation endeavors to empower the underprivileged sectors, tap their innate potentials and hone them to become productive and self-sustaining segments of the society. Sooner, they are expected to graduate from their status as marginalized and underrepresented. During the process, some formerly self-sufficient sectors may drift to the bottom and regress to become the new marginalized sectors. The resilience in the enumeration of the sectors accommodates this eventuality.

Qualifications of the Party-List Group, Organization or Coalition

Among the eight (8) points mentioned in the guidelines for screening party-list participants in Ang Bagong Bayani, five (5) pertain to the qualifications of the party-list group, organization or coalition. The first point in the enumeration reads:

First, the political party, sector, organization or coalition must represent the marginalized and underrepresented groups identified in Section 5 of RA 7941. In other words, it must show — through its constitution, articles of incorporation, by laws, history, platform of government and track record — that it represents and seeks to uplift marginalized and underrepresented sectors. Verily, majority of its membership should belong to the marginalized and underrepresented. And it must demonstrate that in a conflict of interests, it has chosen or is likely to choose the interest of such sectors.[183]

Certainly, it takes more than a mere claim or desire to represent the marginalized and underrepresented to qualify as a party-list group. There must be proof, credible and convincing, to demonstrate the group's advocacy to alleviate the condition of the sector.

The rigid requirement for the presentation of evidence showing the party's relation to the causes of the sector goes to the uniqueness of the party-list system of representation. In the party-list system of representation, the candidates are parties, organizations and coalitions and not individuals. And while an individual candidate seeks to represent a district or particular constituency, a party-list group vying for seats in the House of Representatives must aim to represent a sector. It is thus important to ascertain that the party-list group, organization or coalition reflects the ideals of the sector in its constitution and by-laws. It must have an outline of concrete measures it wishes to undertake in its platform of government. Moreover, its track record must speak of its firm advocacy towards uplifting the marginalized and underrepresented by undertaking activities or projects directly addressing the concerns of the sector.

It is likewise imperative for the party-list group to show that it effectively represents the marginalized and underrepresented. While a party-list group is allowed to represent various sectors, it must prove, however, that it is able to address the multifarious interests and concerns of all the sectors it represents. That a multi-sectoral party-list group undertakes projects and activities that only address the interests of some of the sectors, neglecting the concerns of the other marginalized and underrepresented sectors it supposedly represents, is nugatory to the objective of giving a meaningful and effective representation to the marginalized and underrepresented.

Equally important is that the majority of the membership of the party-list group, organization or coalition belong to the marginalized and underrepresented sector. This means that a majority of the members of the sector must actually possess the attribute which makes the sector marginalized. This is so because the primary reason why party-list groups are even allowed to participate in the elections of the members of the House of Representatives, who are normally elected by district, is to give a collective voice to the members of the sectors who are oftentimes

unheard or neglected. This intention is put to naught if at least the majority of the members of the party-list do not belong to the same class or sector. Thus, it is incumbent upon the party-list applicant to present all the evidence necessary to establish this fact. Without a convincing proof of legitimate membership of a majority of the marginalized, the COMELEC has no reason to believe otherwise and may thus deny a petition for registration or cancel an existing registration.

The second guideline in *Ang Bagong Bayani* underscores the policy of the state to hold the party-list system of representation exclusive to the marginalized and underrepresented, a distinguishing feature which sets our system apart from systems of party-list representation in other jurisdictions. The guideline states:

Second, while even major political parties are expressly allowed by RA 7941 and the Constitution to participate in the party-list system, they must comply with the declared statutory policy of enabling "Filipino citizens belonging to marginalized and underrepresented sectors . . . to be elected to the House of Representatives." x x x[184]

The second guideline was an offshoot of the declaration of policy in RA 7941. Specifically, Section 2 of the statute emphasized the state's policy of promoting proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to the marginalized and underrepresented sectors, organizations and parties, x x x to become members of the House of Representatives. As it is exclusively for the marginalized and underrepresented, it is an inflexible requirement that the group applying for registration must represent a sector. The rationale behind this qualification was highlighted in *Ang Bagong Bayani*, thus:

It is ironic, therefore, that the marginalized and underrepresented in our midst are the majority who wallow in poverty, destitution and infirmity. It was for them that the party-list system was enacted — to give them not only genuine hope, but genuine power; to give them the opportunity to be elected and to represent the specific concerns of their constituencies; and simply to give them a direct voice in Congress and in the larger affairs of the State. In its noblest sense, the party-list system truly empowers the masses and ushers a new hope for genuine change. Verily, it invites those marginalized and underrepresented in the past — the farm hands, the fisher folk, the urban poor, even those in the underground movement — to come out and participate, as indeed many of them came out and participated during the last elections. The State cannot now disappoint and frustrate them by disabling and desecrating this social justice vehicle.[185]

RA 7941 also provides that a party desiring to register and participate in the party-list elections must represent a marginalized and underrepresented sector. While the law did not restrict the sectors that may be subsumed under the term "marginalized and underrepresented", it must be construed in relation to the sectors enumerated in RA 7941, the enabling law of Section 5, Article VI of the Constitution, to wit: labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals. Based on the foregoing, a mere association of individuals espousing shared "beliefs" and "advocacies" cannot qualify as a marginalized and underrepresented sector.

The term "marginalized and underrepresented" is descriptive of the sector that may join the party-list elections. A sector pertains to a "sociological, economic or political subdivision of the society"[186] which consists of individuals identified by the activity, status or condition, or attribute that specifically pertains to them. It is identified by a common characteristic pertaining to the individuals composing the same.

On the other hand, an association of individuals espousing a common belief or advocacy is aptly called a group, not a sector. Specifically, advocacy groups consist of individuals engaged in the "act of pleading for, supporting, or recommending active espousal"[187] of a cause. Contrary to a sector which is identified by a common

characteristic of the members, advocacy groups are identified by the causes that they promote. The members coalesced to pursue causes or fulfil patriotic ends that do not specifically pertain to them, but even to those who are not part of their circle.

Certainly, it takes far more than beliefs and advocacies before a group of individuals can constitute a sector. There are underlying sociological and economic considerations in the enumeration of the sectors in the Constitution and RA 7941. These considerations must be strictly observed lest we deviate from the objectives of RA 7941 of providing a meaningful and effective representation to the marginalized and underrepresented. To relegate the contemplation of the law of what is a “marginalized and underrepresented sector” to a mere association of individuals espousing a shared belief or advocacy, is to disregard the essence of the party-list system of representation and the intent of the law to hold the system exclusive for the marginalized and underrepresented.

Consistent with the purpose of the law, political parties may apply for registration and/or accreditation as a party-list provided that they are organized along sectoral lines.[188] This pronouncement in *Ang Bagong Bayani* was expounded in *BANAT* by referring to the exchange between the members of the Constitutional Commission, thus:

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. x x x 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. x x x.

x x x

MR. MONSOD. Madam President, the candidacy for the 198 seats is not limited to political parties. My question is this: Are we going to classify for example Christian Democrats and Social Democrats as political parties? Can they run under the party list concept or must they be under the district legislation side of it only?

MR. VILLACORTA. In reply to that query, I think these parties that the Commissioner mentioned can field candidates for the Senate as well as for the House of Representatives. Likewise, they can also field sectoral candidates for the 20 percent or 30 percent, whichever is adopted, of the seats that we are allocating under the party list system.

MR. MONSOD. In other words, the Christian Democrats can field district candidates and can also participate in the party list system?

MR. VILLACORTA. Why not? When they come to the party list system, they will be fielding only sectoral candidates.

MR. MONSOD. May I be clarified on that? Can UNIDO participate in the party list system?

MR. VILLACORTA. Yes, why not? For as long as they field candidates who come from the different marginalized sectors that we shall designate in this Constitution.

MR. MONSOD. Suppose Senator Tañada wants to run under BAYAN group and says that he represents the farmers, would he qualify?

MR. VILLACORTA. No, Senator Tañada would not qualify.

MR. MONSOD. But UNIDO can field candidates under the party list system and say Juan dela Cruz is a farmer. Who would pass on whether he is a farmer or not?

MR. TADEO. Kay Commissioner Monsod, gusto ko lamang linawin ito. Political parties, particularly minority

political parties, are not prohibited to participate in the party list election if they can prove that they are also organized along sectoral lines.

MR. MONSOD. What the Commissioner is saying is that all political parties can participate because it is precisely the contention of political parties that they represent the broad base of citizens and that all sectors are represented in them. Would the Commissioner agree?

MR. TADEO. Ang punto lamang namin, pag pinayagan mo ang UNIDO na isang political party, it will dominate the party list at mawawalang saysay din yung sector. Lalamunin mismo ng political parties ang party list system. Gusto ko lamang bigyan ng diin ang “reserve.” Hindi ito reserve seat sa marginalized sectors. Kung titingnan natin itong 198 seats, reserved din ito sa political parties.

MR. MONSOD. Hindi po reserved iyon kasi anybody can run there. But my question to Commissioner Villacorta and probably also to Commissioner Tadeo is that under this system, would UNIDO be banned from running under the party list system?

MR. VILLACORTA. No, as I said, UNIDO may field sectoral candidates. On that condition alone, UNIDO may be allowed to register for the party list system.

MR. MONSOD. May I inquire from Commissioner Tadeo if he shares that answer?

MR. TADEO. The same.

MR. VILLACORTA. Puwede po ang UNIDO, pero sa sectoral lines.[189] (Emphasis supplied)

In his erudite separate opinion in *BANAT*, former Chief Justice Reynato S. Puno expressed his approval of keeping the party-list system of representation exclusive to the marginalized and underrepresented sectors. To further safeguard the sanctity of the purpose of the law, he conveyed his vehement objection to the participation of major political parties in the party-list system of representation because of the likelihood that they will easily trump the organizations of the marginalized. He opined:

Similarly, limiting the party-list system to the marginalized and excluding the major political parties from participating in the election of their representatives is aligned with the constitutional mandate to “reduce social, economic, and political inequalities, and remove cultural inequalities by equitably diffusing wealth and political power for the common good”; the right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making; the right of women to opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation; the right of labor to participate in policy and decision-making processes affecting their rights and benefits in keeping with its role as a primary social economic force; the right of teachers to professional advancement; the rights of indigenous cultural communities to the consideration of their cultures, traditions and institutions in the formulation of national plans and policies, and the indispensable role of the private sector in the national economy.

x x x x

There is no gainsaying the fact that the party-list parties are no match to our traditional political parties in the political arena. This is borne out in the party-list elections held in 2001 where major political parties were initially allowed to campaign and be voted for. The results confirmed the fear expressed by some commissioners in the Constitutional Commission that major political parties would figure in the disproportionate distribution of votes: of the 162 parties which participated, the seven major political parties made it to the top 50.[190] (Citations omitted)

By a vote of 8-7, the Court decided in *BANAT* to revert to its ruling in the 2000 case *Veterans Federation Party v. Comelec*[191] that major political parties are barred from participating in the party-list elections, directly or

indirectly.

Consistent with our pronouncement in BANAT, I maintain that major political parties have advantages over minority political parties and sectoral parties in the party-list elections. By their broad constituency and full resources, it is easier for these major political parties to obtain the required percentage of votes for party-list seats, a circumstance which, in turn, only weakens the minority parties' chance to be elected.

I, however, agree with the view of the majority that it is unjustified to absolutely disqualify from the party-list system the major political parties solely by reason of their classification as such. Nonetheless, the privilege to be accorded to them shall not be without reasonable restrictions. Political parties shall only be allowed to participate in the party-list system if they do not field candidates in the election of legislative district representatives. The justification therefor is reasonable. The party-list system was adopted by the state purposely to enable parties which, by their limited resources and citizens base per district, find difficulty in placing representatives in Congress. Major political parties that field candidates for district representatives can do so with ease, given that they satisfy the standards set by Republic Act No. 7166, as amended by Republic Act No. 9369, for their classification, to wit: (a) the established record of the said parties, coalition of groups that now compose them, taking into account, among other things, their showing in past elections; (b) the number of incumbent elective officials belonging to them ninety (90) days before the election; (c) their identifiable political organizations and strengths as evidenced by their organized chapters; (d) the ability to fill a complete slate of candidates from the municipal level to the position of the President; and (e) other analogous circumstances that may determine their relative organizations and strengths. As the Court explained in *Ang Bagong Bayani*:

(T)he purpose of the party-list provision is to open up the system, in order to enhance chance of sectoral groups and organizations to gain representation in the House of Representatives through the simplest scheme possible. Logic shows that the system has been opened to those who have never gotten a foothold within it – those who cannot otherwise win in regular elections and who therefore need the “simplest scheme possible” to do so. Conversely, it would be illogical to open the system to those who have long been within it – those privileged sectors that have long dominated the congressional district elections.

The import of the open party-list system may be more vividly understood when compared to a student dormitory "open house," which by its nature allows outsiders to enter the facilities. Obviously, the "open house" is for the benefit of outsiders only, not the dormers themselves who can enter the dormitory even without such special privilege. In the same vein, the open party-list system is only for the "outsiders" who cannot get elected through regular elections otherwise; it is not for the non-marginalized or overrepresented who already fill the ranks of Congress.[192]

The contemplated limitation against the major political parties who wish to participate may then allay the fear contemplated by the justification given in BANAT for the disqualification.

Nonetheless, a guiding principle remains the same: the party-list system must be held exclusive for the marginalized and underrepresented. Regardless of the structure or organization of the group, it is imperative that it represents a marginalized and underrepresented sector. Thus, it is my submission that political parties which seek to participate in the party-list system must observe two rules: (1) they must be organized along sectoral lines; and (2) they must not field in candidates for district representatives.

The importance of the requirement for representation of marginalized and underrepresented sector cannot be overemphasized. The very essence of the party-list system of representation is to give representation to the voiceless sectors of the society. It is the characteristic which distinguishes party-list representatives from the regular district representatives in Congress.

That a party-list group must represent a marginalized and underrepresented sector is the only hurdle which keeps all other organizations from joining the party-list elections. If this lone filter we have against fly-by-night organizations will be junked, then the COMELEC will be flooded with petitions for registration from organizations created to pursue selfish ends and not to the benefit of the voiceless and neglected sectors of the society.

The move to open the party-list system free-for-all will create a dangerous precedent as it will open the doors even to illegitimate organizations. Organizations aspiring to join the party-list election can simply skirt the law and organize themselves as a political party to take advantage of the more lenient entrance. The organization need only to register as a political party to dispense with the stringent requirement of representing a sector. It will automatically be off the hook from the danger of being disqualified on the ground that it is not representing a marginalized and underrepresented sector. Other organizations, even those organized as sectoral parties, may follow through and may even disrobe themselves as sectoral parties and opt to become political parties instead because it is the easier way to be allowed participation in the party-list elections. Thus, once again, the causes of the marginalized and underrepresented are lagged behind.

The second requirement for political parties is that they must not field in candidates for district representatives. The reason is that the party-list system is solely for the marginalized and underrepresented. Certainly, political parties which are able to field in candidates for the regular seats in the House of Representatives cannot be classified as such.

The third guideline in Ang Bagong Bayani expresses the proscription against the registration of religious groups as party-list groups. The idea is that the government acts for secular purposes and in ways that have primarily secular effects.[193] Despite the prohibition, members of a religious group may be nominated as representative of a marginalized and underrepresented sector. The prohibition is directed only against religious sectors registering as a political party[194] because the government cannot have a partner in legislation who may be driven by the dictates of faith which may not be capable of rational evaluation.

The fourth and fifth guidelines in Ang Bagong Bayani pertain to disqualifying circumstances which can justify the denial of the petition for registration of party, organization or coalition, thus:

Fourth, a party or an organization must not be disqualified under Section 6 of RA 7941, which enumerates the grounds for disqualification as follows:

“(1) It is a religious sect or denomination, organization or association organized for religious purposes;

(2) It advocates violence or unlawful means to seek its goal;

(3) It is a foreign party or organization;

(4) It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through third parties for partisan election purposes;

(5) It violates or fails to comply with laws, rules or regulations relating to elections;

(6) It declares untruthful statements in its petition;

(7) It has ceased to exist for at least one (1) year; or

(8) It fails to participate in the last two (2) preceding elections or fails to obtain at least two per centum (2%) of the votes cast under the party-list system in the two (2) preceding elections for the constituency in which it has registered.”

x x x x

Fifth, the party or organization must not be an adjunct of, or a project organized or an entity funded or assisted by, the government. By the very nature of the party-list system, the party or organization must be a group of citizens, organized by citizens and operated by citizens. x x x[195]

To be eligible for registration, the party, organization or coalition must prove that it possesses all the qualifications and none of the disqualifications stated in the law. The grounds for disqualification stated in Section 6 of RA 7941 pertain to acts, status or conditions which render the applicant group an unsuitable partner of the state in alleviating the conditions of the marginalized and underrepresented. These disqualifying circumstances are drawn to further implement the state policy of preserving the party-list system exclusively for the intended beneficiaries of RA 7941.

On the other hand, the disqualification mentioned in the fifth guideline connotes that the party-list group must maintain its independence from the government so that it may be able to pursue its causes without undue interference or any other extraneous considerations. Verily, the group is expected to organize and operate on its own. It must derive its life from its own resources and must not owe any part of its creation to the government or any of its instrumentalities. By maintaining its independence, the group creates a shield that no influence or semblance of influence can penetrate and obstruct the group from achieving its purposes. In the end, the party-list group is able to effectively represent the causes of the marginalized and underrepresented, particularly in the formulation of legislation intended for the benefit of the sectors.

Qualifications of the Nominees

The sixth, seventh and eighth guidelines in Ang Bagong Bayani bear on the qualifications of the nominees, viz:

Sixth, the party must not only comply with the requirements of the law; its nominees must likewise do so. Section 9 of RA 7941 reads as follows:

SEC. 9. Qualifications of Party-List Nominees. — No person shall be nominated as party-list representative unless he is a natural-born citizen of the Philippines, a registered voter, a resident of the Philippines for a period of not less than one (1) year immediately preceding the day of the election, able to read and write, a bona fide member of the party or organization which he seeks to represent for at least ninety (90) days preceding the day of the election, and is at least twenty-five (25) years of age on the day of the election.

In case of a nominee of the youth sector, he must at least be twenty-five (25) but not more than thirty (30) years of age on the day of the election. Any youth sectoral representative who attains the age of thirty (30) during his term shall be allowed to continue in office until the expiration of his term."

Seventh, not only the candidate party or organization must represent marginalized and underrepresented sectors; so also must its nominees. To repeat, under Section 2 of RA 7941, the nominees must be Filipino citizens "who belong to marginalized and underrepresented sectors, organizations and parties." Surely, the interests of the youth cannot be fully represented by a retiree; neither can those of the urban poor or the working class, by an industrialist. To allow otherwise is to betray the State policy to give genuine representation to the marginalized and underrepresented.

Eighth, as previously discussed, while lacking a well-defined political constituency, the nominee must likewise be able to contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole. x x x [196]

Except for a few, the basic qualifications of the nominee are practically the same as those required of individual candidates for election to the House of Representatives. He must be: (a) a natural-born citizen; (b) a registered

voter; (c) a resident of the Philippines for a period of not less than one (1) year immediately preceding the day of the election; (d) able to read and write; (e) bona fide member of the party or organization which he seeks to represent for at least ninety (90) days before the day of election; (f) at least twenty five (25) years of age on the day of election; (g) in case of a nominee for the youth sector, he must at least be twenty-five (25) but not more than thirty (30) years of age on the day of election. Owing to the peculiarity of the party-list system of representation, it is not required that the nominee be a resident or a registered voter of a particular district since it is the party-list group that is voted for and not the appointed nominees. He must, however, be a bona fide member of the party-list group at least ninety (90) days before the elections.

The nominee must be a bona fide member of the marginalized and underrepresented sector

In some of the petitions, the COMELEC denied registration to the party, organization or coalition on the ground that the nominee does not belong to the sector he wishes to represent. The quandary stems from the interpretation of who are considered as one “belonging to the marginalized and underrepresented.” The COMELEC supposed that before a person may be considered as one “belonging to the marginalized and underrepresented sector,” he must actually share with the rest of the membership that common characteristic or attribute which makes the sector marginalized and underrepresented.

The construction seemed logical but to be consistent with the letter of the law, it must be harmonized with Section 9 of RA 7941, the specific provision dealing with the qualifications of the nominee. In the mentioned provision, aside from the qualifications similarly required of candidates seeking to represent their respective districts, the nominee is required to be a bona fide member of the party, a status he acquires when he enters into the membership of the organization for at least ninety (90) days before the election. From the point in time when the person acquires the status of being a bona fide member, he becomes one “belonging to the marginalized and underrepresented sector.”

It is my view that the foregoing interpretation accommodates two (2) types of nominees:

1. One who actually shares the attribute or characteristic which makes the sector marginalized or underrepresented (the first type);
2. An advocate or one who is genuinely and actively promoting the causes of the sector he wishes to represent (the second type).

The first type of nominee is one who shares a common physical attribute or status with the rest of the membership. That he possesses this common characteristic of marginalization is what entitles him to nomination as representative of the group. This is because of the reasonable presumption that those who have experienced the inadequacies in the sector are the ones who can truly represent the same. However, there are instances when this strict construction becomes impracticable, if not altogether impossible. For instance, a representation from the organization of skilled workers working abroad is difficult to comply with without the nominee being excluded from the literal definition of who belongs to the sector. The strict interpretation also discourages growth, as in the nominee from the urban sector, since the moment he rises from his status as such, he becomes disqualified to represent the party.

The second type of nominee addresses the gap. An advocate or one who is publicly known to be pursuing the causes of the sector is equally capable of fulfilling the objective of providing a genuine and effective representation for the marginalized and underrepresented. He is one who, notwithstanding social status, has always shown genuine concern for those who have less in life. Unlike the first type of nominee who shares a

common characteristic with the members of the group, the advocate shares with them a common aspiration and leads them towards achieving that end. He serves as a catalyst that stirs movement so that the members of the sector may be encouraged to pursue their welfare. And though not bound with the group by something physical, he is one with them in spirit and heart. He is known for his genuine commitment and selfless dedication to the causes of the sector and his track record boldly speaks of his advocacy.

At the outset, it may seem that the foregoing ratiocination translates to a more lenient entry for those aspiring to become a nominee. However, the standard of scrutiny should not change and nominees shall still be subject to the evaluation by the COMELEC of their qualifications. They bear the burden of proof to establish by concrete and credible evidence that they are truly representative of the causes of the sector. They must present proof of the history of their advocacy and the activities they undertook for the promotion of the welfare of the sector. They must be able to demonstrate, through their track record, their vigorous involvement to the causes of the sector.

The law puts a heavy burden on the nominee to prove his advocacy through his track record. To be clear, the track record is not a mere recital of his visions for the organization and the trivial activities he conducted under the guise of promoting the causes of the sector. He must actually and actively be espousing the interests of the sector by undertaking activities directly addressing its concerns.

In *Lokin, Jr. v. COMELEC*,^[197] the Court enumerated the list of evidence which the party-list group and its nominees may present to establish their qualifications, to wit:

The party-list group and the nominees must submit documentary evidence in consonance with the Constitution, R.A. 7941 and other laws to duly prove that the nominees truly belong to the marginalized and underrepresented sector/s, the sectoral party, organization, political party or coalition they seek to represent, which may include but not limited to the following:

- a. Track record of the party-list group/organization showing active participation of the nominee/s in the undertakings of the party-list group/organization for the advancement of the marginalized and underrepresented sector/s, the sectoral party, organization, political party or coalition they seek to represent;
- b. Proofs that the nominee/s truly adheres to the advocacies of the party-list group/organizations (prior declarations, speeches, written articles, and such other positive actions on the part of the nominee/s showing his/her adherence to the advocacies of the party-list group/organizations);
- c. Certification that the nominee/s is/are a bona fide member of the party-list group/ organization for at least ninety (90) days prior to the election; and
- d. In case of a party-list group/organization seeking representation of the marginalized and underrepresented sector/s, proof that the nominee/s is not only an advocate of the party-list/organization but is/are also a bona fide member/s of said marginalized and underrepresented sector.^[198]

Regardless of whether the nominee falls under the first or second type, proof of his track record is required. The requirement is even more stringent for the second type of nominee as he must convincingly show, through past activities and undertakings, his sincere regard for the causes of the sector. The history of his advocacy and the reputation he earned for the same will be considered in the determination of his qualification.

Admittedly, the foregoing clarification partakes of a new guideline which the COMELEC failed to take into consideration when it conducted automatic review of the petitions for registration and summary evidentiary hearings pursuant to Resolution No. 9513.

Disqualification of the nominee
and its effects

In a number of resolutions, the COMELEC disqualified some party-list groups on the ground that one or some of its nominees are disqualified. Apparently, the COMELEC is of the impression that the group, upon filing their petition for registration, must submit names of at least five (5) nominees who must all be qualified. In the instances when some of the nominees were found to be suffering from any disqualification, the COMELEC deemed the party to have committed a violation of election laws, rules and regulations and denied its petition for registration.

I agree with the majority that the construction made by the COMELEC is misplaced.

It is the COMELEC's supposition that when the party-list group included a disqualified nominee in the list of names submitted to the COMELEC, it is deemed to have committed the violation stated in Section 6 (5)[199] of RA 7941. This feeble deduction, however, is not within the contemplation of the law. The mentioned provision does not suggest that all kinds of violations can be subsumed under Section 6 (5) and justify the disqualification of the group. To warrant such a serious penalty, the violation must be demonstrative of gross and willful disregard of the laws or public policy. It must be taken to refer to election offenses enumerated under Sections 261 and 262, Article XXII of the Omnibus Election Code or any other acts or omissions that are inconsistent with the ideals of fair and orderly elections. It does not intend to cover even innocuous mistakes or incomplete compliance with procedural requirements.

Accordingly, it is a mistake on the part of the COMELEC to suppose that failure to comply with Section 8 of RA 7941 is within the contemplation of Section 6 (5) thereof. Section 8 reads:

Section 8. Nomination of Party-List Representatives. Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.

x x x x

The language of the law is clear and unambiguous; it must be given its plain and literal meaning. A reading of the provision will show that it is simply a procedural requirement relating to the registration of groups, organizations and coalitions under the party-list system of representation. Plainly, it requires the applicant under the party-list system to submit a list of nominees, not less than five, at least forty-five (45) days before the election. The group's compliance with this requirement is determinative of the action of the COMELEC. In case of failure to comply, the COMELEC may refuse to act on the petition for registration. If the applicant, on the other hand, tendered an incomplete compliance, as in submitting a list of less than five (5) nominees, the COMELEC may ask it to comply or simply regard the same as a waiver. In no way can the mere submission of the list be construed as a guarantee or attestation on the part of the group that all of the nominees shall be qualified especially that the assessment of qualifications is a duty pertaining solely to the COMELEC. In the same way, the provision did not intend to hold the group liable for violation of election laws for such a shortcoming and to mete out the same with the penalty of disqualification. Such an absurd conclusion could not have been the intention of the law.

Indeed, there are instances when one or some of the nominees are disqualified to represent the group but this should not automatically result to the disqualification of the latter. To hold otherwise is to accord the nominees the same significance which the law holds for the party-list groups of the marginalized and underrepresented. It is worthy to emphasize that the formation of party-list groups organized by the marginalized and underrepresented and their participation in the process of legislation is the essence of the party-list system of representation. Consistent with the purpose of the law, it is still the fact that the party-list group satisfied the qualifications of the law that is material to consider. That one or some of its chosen agents failed to satisfy the qualifications for the position should not unreasonably upset the existence of an otherwise legitimate party-list group. The

disqualification of the nominees must simply be regarded as failure to qualify for an office or position. It should not, in any way, blemish the qualifications of the party-list group itself with defect.

The point is that the party-list group must thus be treated separate and distinct from its nominees such that qualifications of the latter must not be considered part and parcel of the qualifications of the former. The features of the party-list system of representation are reflective of the intention of the law to treat them severally.

To begin with, the electorate votes for the party-list group or organization itself, not for the individual nominees.[200] The nominees do not file a certificate of candidacy nor do they launch a personal campaign for themselves.[201] It is the party-list group that runs as candidate and it is the name of the group that is indicated in the ballot. The list of nominees submitted to the COMELEC becomes relevant only when the party-list group garners the required percentage of votes that will entitle it to a seat in Congress. At any rate, the party-list group does not cease in existence even when it loses the electoral race. And, should it decide to make another electoral bid, it is not required to keep its previous list of nominees and can submit an entirely new set of names.

Further, there are separate principles and provisions of law pertaining to the qualifications and disqualifications of the party-list group and the nominees. The qualifications of the party-list group are outlined in Ang Bagong Bayani while the grounds for the removal/cancellation of registration are enumerated in Section 6 of RA 7941.

On the other hand, Section 9 of the law governs the qualifications of the nominees. As to their disqualification, it can be premised on the ground that they are not considered as one “belonging to the marginalized and underrepresented sector” or that they lack one or some of the qualifications. They may also be disqualified under Section 15[202] and Section 8[203] of RA 7941, particularly under the second paragraph thereof. Even after the COMELEC’s determination, interested parties may still question the qualifications of the nominees through a petition to cancel or deny due course to the nomination or petition for disqualification under Sections 1[204] and 2,[205] Rule 5 of the COMELEC Resolution No. 9366, respectively.

It is worth emphasizing that the selection of nominees depends upon the choice of the members of the party-list group. It is a matter which cannot be legislated and is solely dependent upon the will of the party.[206] More often than not, the choice of nominees is grounded on trust and confidence, not on the vague or abstract concepts of qualifications under the law. The method or process by which the members of the party-list group choose their nominees is a matter internal to them. No set of rules or guidelines can be imposed upon them by the Court or the COMELEC in selecting their representatives lest we be charged of unnecessarily disrupting a democratic process.

Regrettably, the COMELEC did intrude in the party-list groups’ freedom to choose their nominees when it disqualified some of them on the ground that their nominees are disqualified. While the COMELEC has the authority to determine the qualifications of the nominees, the disqualification of the group itself due to the failure to qualify of one or some of the nominees is too harsh a penalty. The nexus between the COMELEC’s outright disqualification of the group due to the disqualification of the nominees and the avowed objective of RA 7941 of encouraging the development of a “full, free and open party-list system” is extremely hard to decipher.

In other words, the Court cannot countenance the action of the COMELEC in disqualifying the party-list group due to the disqualification of one or some of the nominees. There is simply no justifiable ground to support this action. It is unthinkable how the COMELEC could have conceived the thought that the fate of the party-list group depends on the qualifications of the nominees, who are mere agents of the group, especially that the agency between them is still subject to the condition that the group obtains the required percentage of votes to be entitled to a seat in the House of Representatives. Until this condition is realized, what the nominees have is a mere expectancy.

It may also be helpful to mention that in *Veterans Federation Party v. Commission on Elections*,^[207] the Court emphasized the three-seat limit rule, which holds that each qualified party, regardless of the number of votes it actually obtained, is entitled only to a maximum of three (3) seats.^[208] The rule is a reiteration of Section 11(b)^[209] of RA 7941. Relating the principle to Section 8, it becomes more apparent that the action of the COMELEC was made with grave abuse of discretion. It bears noting that while Section 8 requires the submission of the names of at least five (5) nominees, Section 11 states that only three (3) of them can actually occupy seats in the House of Representatives should the votes they gather suffice to meet the required percentage. The two (2) other nominees in the list are not really expecting to get a seat in Congress even when the party-list group of which they are members prevailed in the elections. If at all, they can only substitute incumbent representatives, if for any reason, they vacate the office. Therefore, if the right to office of three (3) of the nominees is based on a mere expectancy while with the other two (2) the nomination is dependent on the occurrence of at least two (2) future and uncertain events, it is with more reason that the disqualification of one or some of the nominees should not affect the qualifications of the party-list group.

I have also observed that in some of the consolidated petitions, the party-list group submitted a list of nominees, with less than five (5) names stated in Section 8 of RA 7941. In some other petitions, only some out of the number of nominees submitted by the party-list group qualified. Again, Section 8 must be construed as a procedural requirement relative to registration of groups aspiring to participate in the party-list system of representation. In case of failure to comply, as in non-submission of a list of nominees, the COMELEC may deny due course to the petition. In case of incomplete compliance, as when the party-list group submitted less than 5 names, it is my view that the COMELEC must ask the group to comply with the admonition that failure to do so will amount to the waiver to submit 5 names. The implication is that if the party-list group submitted only one qualified nominee and it garners a number of votes sufficient to give it two (2) seats, it forfeits the right to have a second representative in Congress. Therefore, for as long as the party-list group has one (1) qualified nominee, it must be allowed registration and participation in the election. The situation is different when the party-list group submitted a list of nominees but none qualified and, upon being asked to submit a new list of names, still failed to appoint at least one (1) qualified nominee. In this case, the party can now reasonably be denied registration as it cannot, without at least one qualified nominee, fulfill the objective of the law for genuine and effective representation for the marginalized and underrepresented, a task which the law imposes on the qualified nominee by participating in the “formulation and enactment of appropriate legislation that will benefit the nation as a whole.”^[210] More importantly, the party-list group’s inability to field in qualified nominees casts doubt on whether the group is truly representative of the marginalized and underrepresented. Considering that the majority of the group must belong to the marginalized and underrepresented, it should not have any trouble appointing a qualified nominee.

Ruling on each of the petitions

As opposed to the vote of the majority, I deem it unnecessary to remand ALL the petitions to the COMELEC, completely disregarding the ground/s for the cancellation or denial of the party-list groups’ registration, and even on the supposition that the ponencia had substantially modified the guidelines that are set forth in the *Ang Bagong Bayani*.

I vote, instead, to REMAND only the petitions of the party-list groups whose remaining ground for denial or cancellation of registration involves the new guideline on the qualifications of a party’s nominees. While I agree on modifying the qualifications of major political parties, no remand is justified on this ground since none of the 52^[211] petitioners is a major political party. On all other issues, the standard of grave abuse of discretion shall already be applied by the Court.

For an extraordinary writ of certiorari to be justified, the tribunal or administrative body must have issued the

assailed decision, order or resolution with grave abuse of discretion.[212] In *Mitra v. Commission on Elections*,[213] the Court recognized that along with the limited focus that attends petitions for certiorari is the condition, under Section 5, Rule 64 of the Rules of Court, that findings of fact of the COMELEC, when supported by substantial evidence, shall be final and non-reviewable. Substantial evidence is that degree of evidence that a reasonable mind might accept as sufficient to support a conclusion.[214]

Guided by the foregoing principles, I vote to DISMISS the petitions for failure to substantiate grave abuse of discretion, and to AFFIRM THE COMELEC's DENIAL OR CANCELLATION OF REGISTRATION, of the following party-list groups: GREENFORCE, KALIKASAN, UNIMAD, AAMA, APEC, 1-CARE, ALA-EH, 1BRO-PGBI, 1GANAP/GUARDIANS, ASIN, Manila Teachers, KAKUSA, BANTAY, GUARDJAN, PACYAW, ARC, SMART, ALAM, ABANG LINGKOD, AKMA-PTM, BAYANI, FIRM 24-K, KAP, COCOFED, AANI, ABROAD, AG, ALONA, AGRI, 1ST KABAGIS, ARAL, BINHI, SENIOR CITIZENS, Atong Paglaum, ANAD, PBB, PPP, 1AAAP, ABP, AAB, AKB and AI.

The COMELEC's conclusion on the said groups' failure to qualify, insofar as the grounds pertained to the sectors which they seek to represent and/or their capacity to represent their intended sector finds support in established facts, law and jurisprudence.

ON THE OTHER HAND, I find grave abuse of discretion on the part of the COMELEC in ruling on the disqualification of 1-UTAK, PASANG MASDA, BUTIL, AT and ARARO on the supposed failure of these parties to substantiate their eligibility as a group, specifically on questions pertaining to their track record and the sectors which they seek to represent.

Although as a general rule, the Court does not review in a certiorari case the COMELEC's appreciation and evaluation of evidence presented to it, in exceptional cases, as when the COMELEC's action on the appreciation and evaluation of evidence oversteps the limits of discretion to the point of being grossly unreasonable, the Court is not only obliged, but has the constitutional duty to intervene. When grave abuse of discretion is present, resulting errors arising from the grave abuse mutate from error of judgment to one of jurisdiction.[215] To this exception falls the COMELEC's disqualification of 1-UTAK, PASANG MASDA, BUTIL, AT and ARARO.

1-UTAK and PASANG MASDA

1-UTAK is a sectoral organization composed of various transport drivers and operators associations nationwide with a common goal of promoting the interest and welfare of public utility drivers and operators.[216] On the other hand, PASANG MASDA is a sectoral political party that mainly represents the marginalized and underrepresented sectors of jeepney and tricycle drivers and operators across the National Capital Region.[217] Contrary to the conclusion that was inferred by the COMELEC from the common circumstance that 1-UTAK and PASANG MASDA represent the sectors of both public utility drivers and operators, it is not a sufficient ground to cancel their respective registration as party-list group.

To a great extent, the supposed conflict in the respective interests of public utility drivers and operators is more apparent than real. It is true that there is a variance in the economic interests of public utility drivers and operators; the former is concerned with wages while the latter is concerned with profits. However, what the COMELEC failed to consider is that the two sectors have substantial congruent concerns and interests.

To my mind, the interests of public utility drivers and operators are aligned with each other in several instances. To name a few: first, the effects of fluctuation in the prices of petroleum products; second, their benefit from petitions for fare increase/reduction; and third, the implications of government policies affecting the transportation sector such as traffic rules and public transport regulation. In these instances, it is mutually beneficial for drivers

and operators of public utility vehicles to work together in order to effectively lobby their interests. Certainly, the interrelated concerns and interests of public utility drivers and operators far outweigh the supposed variance in their respective economic interests.

Accordingly, my view is that the COMELEC En Banc gravely abused its discretion in cancelling the registration of 1-UTAK and PASANG MASDA as party-list groups on the ground of the sectors which they aim to represent.

BUTIL

Similarly, the COMELEC gravely abused its discretion when it cancelled the registration of BUTIL on the alleged ground that the party failed to prove that the “agriculture and cooperative sectors,” which the party represents, are marginalized and underrepresented[218]

In arriving at the said conclusion, the COMELEC noted that the Secretary-General of BUTIL, Wilfredo A. Antimano affirmed in his judicial affidavit that BUTIL is an organization “representing members of the agriculture and cooperative sectors.” From this declaration, the COMELEC ruled that since the agriculture and cooperative sectors are not enumerated in RA 7941, it is incumbent upon BUTIL to establish the fact that the sectors it is representing are marginalized and underrepresented. Since the party failed to discharge this burden, the COMELEC cancelled the party’s registration.

I stress, however, that in determining whether the group represents a marginalized and underrepresented sector, all of the evidence submitted by the party should be duly considered by the Commission. Thus, Antimano’s statement in his judicial affidavit that BUTIL represents the “agriculture and cooperative sectors” should be read in conjunction with the other documents submitted by the party, including the oral testimony that was given by the party’s witness. Significantly, during the clarificatory hearing conducted by the Commission En Banc on August 23, 2012, Antimano explained:

CHAIRMAN BRILLANTES:

Isa lang. Gusto ko lang malaman, sino ho ang mga myembro nyo?

MR. ANTIMANO:

Ang myembro po ng aming partido ay mga magsasaka, maliliit na magsasaka at maliliit na mangignigsda sa kanayunan.

x x x x

CHAIRMAN BRILLANTES:

Ang tanong ko ho eh, gusto ko lang malaman, small farmers ang inyong nire-represent?

MR. ANTIMANO:

Opo.

CHAIRMAN BRILLANTES:

Small fishermen, kasama ho ba yun?

MR. ANTIMANO:

Opo.

CHAIRMAN BRILLANTES:

Pati maliliit na mangingisda?

MR. ANTIMANO:

Opo, sa kanayunan. Meron po kasing maliliit na mangingisda sa karagatan pero yung sa amin, yun pong maliliit na mangingisda na nag-aalaga ng maliliit na...[219]

It can be reasonably gathered from the foregoing that Antimano's reference to the "agriculture and cooperative sector" pertains to small farmers and fishermen. Likewise, on the basis of the evidence on record, the term "cooperative" in Antimano's affidavit should be taken to refer to agricultural cooperatives which, by their nature, are still comprised of agricultural workers.

Time and again, the Court has recognized small agricultural workers as marginalized and underrepresented. Based on the records, BUTIL appears to fully adhere to and work towards their cause. I also give due consideration to the fact that since the party-list system was first implemented in 1998, the party had been able to obtain the necessary votes for at least one seat in the House of Representatives. This affirms the party's constituency that may deserve a continued representation in Congress.

AT

AT is an incumbent party-list group that claims to represent six (6) marginalized sectors – labor, urban poor, elderly, women, youth and overseas Filipino workers (OFWs).[220] In disqualifying AT, the COMELEC found that its incumbent representative, Congresswoman Daryl Grace J. Abayon, failed to author house measures that will uplift the welfare of all the sectors it claims to represent.[221]

In so ruling, however, the COMELEC gravely abused its discretion in failing to appreciate that effective representation of sectors is not confined to the passage of bills that directly identify or name all of the sectors it seeks to represent. In the case of AT, there is evidence that it adopted and co-sponsored House Bills that advanced the interests, not only of the sectors it represents, but even other marginalized and underrepresented sectors.[222] AT also established with sufficiency an exceptional track record that demonstrates its genuine desire to uplift the welfare of all of the sectors it represents.[223] It is broad enough to cover legislation which, while directly identifying only some of the sectors as main beneficiaries, also benefits the rest of the sectors it seeks to represent.

ARARO

ARARO is a party-list group that seeks to represent peasants and the urban poor. It was disqualified by the COMELEC on the ground that these two sectors involve conflicting interests, for instance, in the matter of land use.

However, I do not see, and the COMELEC failed to show, how the issue of land use can be conflicting between these sectors. Peasants generally belong to the class of marginal farmers, fisherfolk and laborers in the rural areas. On the other hand, the urban poor, as the term connotes, are those in the urban areas. While they may have different interests and concerns, these are not necessarily divergent.

I also do not adhere to the COMELEC's conclusion that ARARO's alliances with other sectoral organizations "muddle" the sectors it represents.[224] These are mere alliances, i.e., ties. It does not necessarily follow that ARARO, because of these ties, will also represent the interests of these sectors. As long as ARARO's platform continually focuses on the enhancement of the welfare of the peasants and the urban poor, there can be an effective representation in their behalf.

On the ground of grave abuse of discretion, I then vote to nullify the COMELEC's cancellation of the registration

of 1-UTAK, PASANG MASDA, BUTIL, AT and ARARO on the ground of these parties' supposed failure to prove their eligibility to represent their intended sectors.

The COMELEC also committed grave abuse of discretion in ruling on the outright cancellation of the five parties' registration on the ground of the supposed failure of their nominees to qualify. I have fully explained that the qualification of a party-list group shall be treated separate and distinct, and shall not necessarily result from the qualification of its nominees.

In any case, my vote to nullify the aforementioned actions of the COMELEC shall not be construed to automatically restore the five parties' registration and accreditation, which would otherwise allow their participation in the May 2013 elections. As has been discussed, each party must still be able to field in qualified nominees, as it is only through them that the party may perform its legislative function in the event that it garners the required percentage of votes for a seat in the House of Representatives. With this circumstance, and considering a new guideline on nominees' qualifications, I then find the necessity of remanding their petitions to the COMELEC.

ALIM, A-IPRA, AKIN, A BLESSED
Party-List and AKO-BAHAY

The denial of the registration of AKIN, and the cancellation of the registration of ALIM, A-IPRA, A BLESSED Party-List and AKO-BAHAY were based solely on the alleged failure of their respective nominees to prove that they factually belong to the marginalized and underrepresented sector that their parties seek to represent. I reiterate that a party-list group must be treated separate and distinct from its nominees; the outright disqualification of the groups on the said ground is not warranted. The COMELEC's ruling to the contrary is an act exhibitivite of grave abuse of discretion.

Accordingly, I deem it appropriate to nullify the COMELEC's resolve to deny AKIN's registration and cancel the registration of ALIM, A-IPRA, A BLESSED Party-List and AKO-BAHAY. Nonetheless, as in the case of 1-UTAK, PASANG MASDA, BUTIL, AT and ARARO, this does not necessarily restore or grant their registration under the party-list system.

I submit that in view of my stand regarding the qualifications of nominees, specifically on the two types of qualified nominees, it is only proper that the petitions that involve the ground of disqualification of the nominees be remanded to the COMELEC to afford it the opportunity to revisit its rulings. In so doing, the COMELEC may be able to assess the facts and the records, while being guided by the clarification on the matter. It must be emphasized, however, that not all of the petitions necessitates a remand considering that from the records, only ten (10) out of the fifty-three (53) consolidated petitions solely involved the disqualification of the party's nominees. The bulk of the petitions consist of cancellation or denial of registration on the ground (1) that the party-list group does not represent a marginalized and underrepresented sector, or; (2) that the group itself, on the basis of the pertinent guidelines enumerated in Ang Bagong Bayani, failed to qualify. If the ground for the denial or cancellation of registration is disqualification on the basis of sector or group, it is a futile exercise to delve into the qualifications of the nominees since notwithstanding the outcome therein, the party-list group remains disqualified. It is well to remember that the law provides for different sets of qualifications for the party-list group and the nominees. The law, while requiring that the party-list group must have qualified nominees to represent it, treats the former as separate and distinct from the latter, not to treat them as equals but to give a higher regard to the party-list group itself. Thus, in the event that the nominees of the party-list group fail to qualify, the party-list group may still be afforded the chance to fill in qualified nominees to represent it. The reverse, however, is not true. The lack of qualifications, or the possession of disqualifying circumstances by the group, impinges on the

legitimacy or the existence of the party-list group itself. Absent a qualified party-list group, the fact that the nominees that are supposed to represent it are qualified does not hold any significance.

Even though the ponencia modifies the qualifications for all national or regional parties/organizations, IT STILL IS NOT NECESSARY TO REMAND ALL THE PETITIONS. It bears stressing that of the 52 petitioners, only eleven are national or regional parties/organizations. The rest of the petitioners, as indicated in their respective Manifestations of Intent and/or petitions, are organized as sectoral parties or organizations.

The party-list groups that are organized as national parties/organizations are:

- Alliance for Nationalism and Democracy (ANAD)[225]
- Bantay Party-List (BANTAY)[226]
- Allance of Bicolnon Party (ABP)[227]

On the other hand, the following are regional parties/organizations:

- Ako Bicol Political Party (AKB)[228]
- Aksyon Magsasaka – Partido Tinig ng Masa (AKMA-PTM)[229]
- Ako an Bisaya (AAB)[230]
- Kalikasan Party-List (KALIKASAN)[231]
- 1 Alliance Advocating Autonomy Party (1AAAP)[232]
- Abyan Ilonggo Party (AI)[233]
- Partido ng Bayan and Bida (PBB)[234]
- Pilipinas Para sa Pinoy (PPP)[235]

Accordingly, even granting credence to the ponencia's ratiocination, it does not follow that a remand of all the cases is justified; as we have pointed out the ponencia has been able to explain the necessity of a remand of only eleven petitions for further proceedings in the COMELEC, in addition to the ten petitions that I have recommended for remand.

WHEREFORE, in light of the foregoing disquisitions, I vote to:

1. PARTLY GRANT the petitions in G.R. No. 204410, G.R. No. 204153, G.R. No. 204356, G.R. No. 204174, G.R. No. 204367, G.R. No. 204341, G.R. No. 204125, G.R. No. 203976, G.R. No. 204263 and G.R. No. 204364. The assailed Resolutions of the Commission on Elections (COMELEC) En Banc in SPP No. 12-198 (PLM), SPP No. 12-277 (PLM), SPP No. 12-136 (PLM), SPP No. 12-232 (PLM), SPP No. 12-104 (PL), SPP No. 12-269 (PLM), SPP No. 12-292 (PLM), SPP No. 12-288 (PLM), SPP No. 12-257 (PLM) and SPP No. 12-180 (PLM) shall be NULLIFIED insofar as these declared the outright disqualification of the parties 1-UTAK, PASANG MASDA, BUTIL, AT, AKIN, ALIM, A-IPRA, ARARO, A Blessed Party List and AKO-BAHAY, respectively, and their cases shall be REMANDED to the COMELEC, which shall be DIRECTED to: (a) allow the party-list groups to present further proof that their nominees are actually qualified in light of the new guideline on the qualification of nominees, (b) evaluate whether the nominees are qualified to represent the group, and (c) grant or deny registration depending on its determination;
2. DISMISS the petitions in G.R. No. 204139, G.R. 204370, G.R. No. 204379, G.R. No. 204394, G.R. No. 204402, G.R. No. 204426, G.R. No. 204435, G.R. No. 204455, G.R. No. 204485, G.R. No. 204490, G.R. No.

204436, G.R. No. 204484, G.R. No. 203766, G.R. Nos. 203818-19, G.R. No. 203922, G.R. No. 203936, G.R. No. 203958, G.R. No. 203960, G.R. No. 203981, G.R. No. 204002, G.R. No. 204094, G.R. No. 204100, G.R. No. 204122, G.R. No. 204126, G.R. No. 204141, G.R. No. 204158, G.R. No. 204216, G.R. No. 204220, G.R. No. 204236, G.R. No. 204238, G.R. No. 204239, G.R. No. 204240, G.R. No. 204318, G.R. No. 204321, G.R. No. 204323, G.R. No. 204358, G.R. No. 204359, G.R. No. 204374, G.R. No. 204408, G.R. No. 204421, G.R. No. 204425, G.R. No. 204428 and G.R. No. 204486.

[1] Ang Bagong Bayani-OFW Labor Party vs. Commission on Elections, 412 Phil. 308 (2001).

[2] Resolutions dated November 13, 2012, November 20, 2012, December 4, 2012, December 11, 2012 and February 19, 2013.

[3] “An Act Providing for the Election of Party-List Representatives Through the Party-List System, and Appropriating Funds Therefor”

[4] Rules and Regulations Governing The: 1) Filing of Petitions for Registration; 2) Filing of Manifestations of Intent to Participate; 3) Submission of Names of Nominees; and 4) Filing of Disqualification Cases Against Nominees or Party-List Groups of Organizations Participating Under the Party-List System of Representation in Connection with the May 13, 2013 National and Local Elections, and Subsequent Elections Thereafter.

[5] Supra note 1.

[6] First, the political party, sector, organization or coalitions must represent the marginalized and underrepresented groups identified in Section 5 of RA 7941. In other words, it must show – through its constitution, articles of incorporation, bylaws, history, platform of government and track record – that it represents and seeks to uplift marginalized and underrepresented sectors. Verily, majority of its membership should belong to the marginalized and underrepresented. x x x

Second, while even major political parties are expressly allowed by RA 7941 and the Constitution to participate in the party-list system, they must comply with the declared statutory policy of enabling “Filipino citizens belonging to marginalized and underrepresented sectors x x x to be elected to the House of Representatives.” In other words, while they are not disqualified merely on the ground that they are political parties, they must show, however, that they represent the interests of the marginalized and underrepresented. x x x

x x x x

Third, x x x the religious sector may not be represented in the party-list system.

x x x x

Fourth, a party or an organization must not be disqualified under Section 6 of RA 7941 x x x

x x x x

Fifth, the party or organization must not be an adjunct of, or a project organized or an entity funded or assisted by, the government. x x x

Sixth, the party must not only comply with the requirements of the law; its nominees must likewise do so.

x x x x

Seventh, not only the candidate party or organization must represent marginalized and underrepresented sectors;

so also must its nominess. x x x

Eighth, x x x the nominee must likewise be able to contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole. x x x

[7] Consolidated Comment dated December 26, 2012, p. 54.

[8] Order dated August 9, 2012; rollo (G.R. No. 204323), pp. 16-19.

[9] Rollo (G.R. No. 203818), pp. 83-87; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim; Commissioner Maria Gracia Cielo M. Padaca, no part.

[10] SPP No. 12-154 (PLM) and SPP No. 12-177 (PLM).

[11] Rollo (G.R. No. 203818), p. 86.

[12] Rollo (G.R. No. 203981), pp. 47-70; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim. Commissioner Rene V. Sarmiento also voted in favor. Commissioner Maria Gracia Cielo M. Padaca took no part.

[13] SPP No. 12-161 (PLM).

[14] Section 9 of RA 7941. x x x x In case of a nominee of the youth sector, he must be twenty-five (25) but not more than thirty (30) years of age on the day of the election. Any youth sectoral representative who attains the age of thirty (30) during his term shall be allowed to continue in office until the expiration of his term.

[15] Rodolfo P. Pancrudo, Jr.

[16] Pablo Lorenzo III.

[17] Victor G.. Noval.

[18] Melchor P. Maramara.

[19] SPP No. 12-187 (PLM).

[20] Rollo (G.R. No. 203981), p. 59.

[21] Id. at 60.

[22] SPP No. 12-188 (PLM).

[23] Rollo (G.R. No. 203981), p. 61.

[24] SPP No. 12-220 (PLM).

[25] Rollo (G.R. No. 203981), p. 66.

[26] Rollo (G.R. No. 204100), pp. 52-67; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christina Robert S. Lim; Commissioner Maria Gracia Cielo M. Padaca, no part.

[27] SPP No. 12-196 (PLM).

[28] Rollo (G.R. No. 204100), p. 60.

[29] SPP No. 12-223 (PLM).

[30] Rollo (G.R. No. 204100), p. 62.

[31] Id.

[32] SPP No. 12-257 (PLM).

[33] Rollo (G.R. No. 204100), p. 65.

[34] Rollo (G.R. No. 203960), pp. 61-68. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim; Commissioners Rene V. Sarmiento and Maria Gracia Cielo M. Padaca, no part.

[35] SPP No. 12-260.

[36] Rollo (G.R. No. 203922), pp. 92-101; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim; Commissioner Maria Gracia Cielo M. Padaca, no part.

[37] SPP No. 12-201 (PLM).

[38] Rollo (G.R. No. 204174), pp. 158-164; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco; Commissioner Christian Robert S. Lim concurred; Commissioner Maria Gracia Cielo M. Padaca, no part.

[39] SPP No. 12-232 (PLM).

[40] Rollo (G.R. No. 203976), pp. 21-37; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco and Christian Robert S. Lim; Commissioner Elias R. Yusoph, also voted in favor. Commissioner Maria Gracia Cielo M. Padaca, no part.

[41] SPP No. 12-288 (PLM).

[42] Id. at 28.

[43] Joel C. Obar, Jose F. Gamos and Alan G. Gonzales.

[44] Rollo (G.R. No. 203958), pp. 26-48; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco and Christian Robert S. Lim; Commissioner Elias R. Yusoph, also voted in favor; Commissioner Maria Gracia Cielo M. Padaca, no part.

[45] SPP No. 12-279 (PLM).

[46] SPP No. 12-248 (PLM).

[47] Margarita Delos Reyes Cojuangco, Datu Michael Abas Kida, Catherine Domingo Trinidad, Saidamen Odin Limgas.

[48] SPP No. 12-263 (PLM).

[49] SPP No. 12-180 (PLM).

[50] SPP No. 12-229 (PLM).

[51] Rollo (G.R. No. 203958), p. 39.

[52] SPP No. 12-217 (PLM).

[53] SPP No. 12-277 (PLM).

[54] SPP No. 12-015 (PLM).

[55] Rollo (G.R. No. 203958), p. 44.

[56] Rollo (G.R. No. 204428), pp. 35-40; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V. Sarmiento, Lucenito N. Tagle and Armando C. Velasco; Commissioners Elias R. Yusoph and Christian Robert S. Lim concurred; Commissioner Maria Gracia Cielo M. Padaca, took no part.

[57] SPP No. 12-256 (PLM).

[58] Rollo (G.R. No. 204428), p. 36.

[59] Sec. 2. Grounds for opposition to a petition for registration. The Commission may deny due course to the petition *motu proprio* or upon verified opposition of any interested party, after due notice and hearing, on any of the following grounds: x x x f. It violates or fails to comply with laws, rules or regulations relating to elections; x x x.

[60] Rollo (G.R. No. 204094), pp. 30-40; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph and Christian Robert S. Lim; Commissioner Maria Gracia Cielo M. Padaca, no part.

[61] SPP No. 12-185 (PLM).

[62] Rollo (G.R. No. 204094), p. 34.

[63] Rollo (G.R. No. 204239), pp. 25-42; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim; Commissioner Maria Gracia Cielo M. Padaca, no part.

[64] SPP No. 12-060 (PLM).

[65] SPP No. 12-254 (PLM).

[66] SPP No. 12-269 (PLM).

[67] Rollo (G.R. No. 204358), pp. 140-148. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca; Commissioner Rene V. Sarmiento on official business.

[68] SPP No. 12-204 (PLM).

[69] Rollo, (G.R. No. 204359), pp. 42-50. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim; Commissioner Maria Gracia Cielo M. Padaca, no part.

[70] SPP No. 12-272 (PLM).

[71] Rollo (G.R. No. 204238), pp. 54-58. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph and Christian Robert S. Lim; Commissioners Armando C. Velasco and Maria Gracia Cielo M. Padaca on official business.

[72] SPP No. 12-173 (PLM).

[73] Rollo (G.R. No. 204323), pp. 44-48; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V.

Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca.

[74] SPP No. 12-210 (PLM).

[75] Rollo (G.R. No. 204323), pp. 44-45.

[76] Alvin V. Abejuela.

[77] Rollo (G.R. No. 204321), pp. 43-51; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca.

[78] SPP No. 12-252 (PLM).

[79] Rollo (G..R. No. 204125), pp. 44-48; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph and Christian Robert S. Lim; Commissioner Maria Gracia Cielo M. Padaca, no part.

[80] SPP No. 12-292 (PLM).

[81] Rollo (G..R. No. 204125), p. 47.

[82] Rollo (G.R. No. 204216), pp. 23-28; Signed by Chairman Sixto S. Brillantes, Jr., Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca.

[83] SPP No. 12-202 (PLM).

[84] Rollo (G.R. No. 204220), pp. 39-44; Signed by Chairman Sixto S. Brillantes, Jr., Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph and Christian Robert S. Lim.

[85] SPP No. 12-238 (PLM).

[86] Rollo (G.R. No. 204158), pp. 59-64; Signed by Chairman Sixto S. Brillantes, Jr., Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, Christian Robert S. Lim; Commissioner Maria Gracia Cielo M. Padaca, no part.

[87] SPP No. 12-158 (PLM).

[88] Rollo (G.R. No. 204158), p. 62.

[89] Rollo (G.R. No. 204374), pp. 36-41; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim; Commissioner Maria Gracia Cielo M. Padaca, no part.

[90] SPP No. 12-238 (PLM).

[91] Rollo (G.R. No. 204356), pp. 56-64; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim, with MariaGracia Cielo M. Padaca taking no part.

[92] SPP No. 12-136 (PLM).

[93] Rollo (G.R. 204486), pp. 42-47; Signed by Chairman Sixto S. Brillantes, Jr., Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim; Maria Gracia Cielo M. Padaca, no part.

[94] SPP No. 12-194 (PLM).

[95] Rollo (G.R. 204486), p. 46.

[96] Rollo (G.R. No. 204410), pp. 63-67; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V. Sarmiento, Armando C. Velasco and Christian Robert S. Lim, with Commissioners Lucenito N. Tagle and Elias R. Yusoph dissenting, and Commissioner Maria Gracia Cielo M. Padaca taking no part.

[97] SPP No. 12-198 (PLM).

[98] Rollo (G.R. No. 204421), pp. 43-50; Signed by Chairman Sixto S. Brillantes, Commissioners Rene V. Sarmiento, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle, Armando C. Velasco, and Elias R. Yusoph dissenting.

[99] SPP No. 12-157 (PLM) and SPP No. 12-191 (PLM).

[100] Rollo (G.R. No. 204484), pp. 42-45; Signed by Chairman Sixto S. Brillantes, Jr., Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca.

[101] SPP No. 11-002.

[102] Rollo (G.R. No. 204379), pp. 26-35; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph, dissenting.

[103] SPP No. 12-099 (PLM).

[104] Rollo (G.R. No. 204426), pp. 127-144; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco (concurred except for SPP No. 12-011 ALA-EH), Christian Robert S. Lim (concurred with reservation on issue of jurisdiction) and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph, dissenting.

[105] SPP No. 12-238 (PLM).

[106] Rollo (G.R. No. 204426), p. 143.

[107] Id at 133.

[108] SPP No. 12-011 (PLM).

[109] Rollo (G.R. No. 204426), pp. 134-135.

[110] Rollo (G.R. No. 204435), pp. 47-55; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph, dissenting.

[111] SPP No. 12-057 (PLM).

[112] Atty. Eddie U. Tamondong and Herculano C. Co, Jr.

[113] Rollo (G.R. No. 204435), p. 53.

[114] 1st Nominee, Atty. Pantaleon D. Alvarez, is a lawyer, business, former DOTC Secretary and Congressman; 2nd Nominee, Emmanuel D. Cifra, is a general manager/president; 3rd Nominee, Atty. Eddie U. Tamondong, is a lawyer; 4th Nominee, Herculano C. Co., Jr., is a businessman.

[115] Rollo (G.R. No. 204367), pp. 30-35; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene

V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph, dissenting.

[116] SPP No. 12-104 (PL).

[117] Camelita P. Crisologo and Benjamin A. Moraleda, Jr.

[118] Corazon Alma G. De Leon.

[119] Imelda S. Quirante.

[120] Flordeliza P. Penalosa.

[121] Rollo (G.R. No. 204370), pp. 37-50; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph, dissenting.

[122] SPP No. 12-011 (PLM).

[123] Rollo (G.R. No. 204370), p. 44, citing AAB's Petition dated February 8, 2012.

[124] Rollo (G.R. No. 204379), pp. 45-57; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, Christian Robert S. Lim and Maria Gracia Cielo M. Padaca, with Commissioners Lucenito N. Tagle and Elias R. Yusoph, dissenting.

[125] SPP No. 12-009 (PP).

[126] Rollo (G.R. No. 204379), p. 53.

[127] Lyndeen John D. Deloria

[128] Rolex T. Suplico.

[129] Francis G. Lavilla.

[130] Rollo (G.R. No. 204485), pp. 42-49; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Armando C. Velasco, and Christian Robert S. Lim; with Commissioners Lucenito N. Tagle and Elias R. Yusoph, dissenting; Commissioner Maria Gracia Cielo M. Padaca, no part.

[131] SPP No. 12-175 (PL).

[132] Rollo (G.R. No. 204139), pp. 505-512; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle and Armando C. Velasco; Commissioners Elias R. Yusoph and Christian Robert S. Lim voted in favor, but were on official business at the time of signing; Commissioner Maria Gracia Cielo M. Padaca, no part.

[133] SPP No. 12-127 (PL).

[134] Rollo (G.R. No. 204402), pp. 22-33; Signed by Chairman Sixto S. Brillantes, Jr., Rene V. Sarmiento, Lucenito N. Tagle, Elias R. Yusoph and Christian Robert S. Lim.

[135] SPP No. 12-061 (PP).

[136] Rollo (G.R. No. 204402), p. 35.

[137] Rollo (G.R. No. 204394); Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim; Commissioner

Maria Gracia Cielo M. Padaca, no part.

[138] SPP No. 12-145 (PL).

[139] Rollo (G.R. No. 204490), pp. 71-78; Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Rene V. Sarmiento, Lucenito N. Tagle, Armando C. Velasco, Elias R. Yusoph and Christian Robert S. Lim; Maria Gracia Cielo M. Padaca, no part.

[140] Id. at. 61-70.

[141] SPP No. 12-073 (PLM).

[142] Comment dated December 26, 2012, pp. 35-36.

[143] Supra note 1.

[144] G.R. No. 188308, October 15, 2009, 603 SCRA 692.

[145] Id. at 709-710.

[146] Pangandaman v. COMELEC, 377 Phil. 297, 312 (1999).

[147] Dissenting Opinion of J. Pardo, Akbayan-Youth v. COMELEC, 407 Phil. 618, 669, citing Digman v. COMELEC, 120 SCRA 650 (1983).

[148] 444 Phil. 812 (2003).

[149] Id. at 824-825, citing Commission on Elections v. Silva, Jr., 286 SCRA 177 (1998); Pimentel vs. Commission on Elections, 289 SCRA 586 (1998); Commission on Elections vs. Noynay, 292 SCRA 254 (1998); Domalanta vs. Commission on Elections, 334 SCRA 555 (2000).

[150] Bautista v. COMELEC, 460 Phil. 459, 476 (2003), citing Canicosa v. COMELEC, 347 Phil. 189 (1997).

[151] Canicosa v. COMELEC, 347 Phil. 189, 201 (1997).

[152] Liberal Party v. Commission on Elections, 620 SCRA 393, 431 (2010).

[153] G.R. No. 161115, November 30, 2006, 509 SCRA 332.

[154] Id. at 369-370.

[155] Mendoza v. COMELEC, G.R. No. 188308, October 15, 2009, 603 SCRA 692, 710, citing Presidential Anti-Dollar Salting Task Force v. Court of Appeals, G.R. No. 83578, March 16, 1989, 171 SCRA 348; Midland Insurance Corporation v. IAC, No. L-71905, August 13, 1986, 143 SCRA 458; Cariño v. Commission on Human Rights, G.R. No. 96681, December 2, 1991, 204 SCRA 483, on the activities encompassed by the exercise of quasi-judicial power.

[156] Supra note 155, at 824.

[157] Supra note .157

[158] G.R. No. 190793, June 19, 2012.

[159] Id., citing Cipriano v. COMELEC, 479 Phil. 677 (2004).

[160] 347 Phil. 189 (1997).

[161] Santos v. COMELEC, 191 Phil. 212, 219 (1981).

- [162] Section 3, Article IX-C of the 1987 Constitution.
- [163] Section 2(1), Article IX-C of the 1987 Constitution.
- [164] Section 2(3), Article IX-C of the 1987 Constitution. [165] G.R. No. 189600, June 29, 2010, 622 SCRA 593.
- [166] *Id.*, citing *Frivaldo v. COMELEC*, G.R. No. 87193, June 23, 1989, 174 SCRA 245, 255.
- [167] *Montemayor v. Bundalian*, 453 Phil. 158, 169 (2003), citing *Dinsay vs. Cioco*, 264 SCRA 703 (1996)
- [168] *Baricuatro v. Caballero*, G.R. No. 158643, June 19, 2007, 525 SCRA 70, 76.
- [169] *Philippine Business Bank v. Chua*, G.R. No. 178899, November 15, 2010, 634 SCRA 635, 648, citing *Denso (Phils.) Inc. v. Intermediate Appellate Court*, G.R. No. 75000, February 27, 1987, 148 SCRA 280.
- [170] *Supra* note 175.
- [171] See *Philippine Guardians Brotherhood, Inc. (PGBI) v. COMELEC*, G.R. No. 190529, April 29, 2010.
- [172] *Rollo* (G.R. No. 204323), pp. 16-19.
- [173] *Id.* at 19.
- [174] *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*, *supra* note 1.
- [175] Record of the Constitutional Commission No. 46, August 2, 1986.
- [176] Record of the Constitutional Commission No. 46, August 2, 1986.
- [177] *Ibid.*
- [178] *Supra* note 1 at 322.
- [179] 586 Phil. 210.
- [180] *Id.* at 333.
- [181] Record of the 1986 Constitutional Commission, Vol. 2., July 22, 1986, RCC No. 36, p. 85.
- [182] Record of the 1986 Constitutional Commission, Vol. 2., July 25, 1986, RCC No. 39, p. 255.
- [183] *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*, *supra* note 1 at 342.
- [184] *Ibid.*
- [185] *Id.* at 336-337.
- [186] Webster's Third New International Dictionary (1986), p. 2053.
- [187] Words and Phrases, Permanent Ed., Vol. 2A, p. 294.
- [188] Record of the 1986 Constitutional Commission, Volume 2, 7-25-1986, RCC No. 39, p. 257.
- [189] *Id.* at 247-248.
- [190] Concurring and Dissenting Opinion of J. Puno, *BANAT v. Comelec*, *supra* note 186 at 258-259.
- [191] 396 Phil. 419 (2000).
- [192] *Supra* note 1 at 337-338.

[193] Ang Ladlad LGBT Party v. Commission on Elections, G.R. No. 190582, April 8, 2010, 618 SCRA 32, 59.

[194] Ang Bagong Bayani-OFW Labor Party v. Commission on Elections, *supra* note 1 at 343.

[195] *Id.* at 343-344.

[196] *Id.* at 345.

[197] G.R. No. 193808, June 26, 2012.

[198] *Ibid.*

[199] Section 6. Refusal and/or Cancellation of Registration. – 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, organization or coalition on any of the following grounds:

x x x x

5. It violates or fails to comply with laws, rules and regulations relating to elections;

x x x x

[200] Lokin, Jr. v. Commission on Elections, G.R. Nos. 179431-32 and 180443, June 22, 2010, 621 SCRA 385, 409.

[201] Record of the Senate, Third Regular Session, October 3, 1994 to December 5, 1994, Volume II, Nos. 23-45, p. 143.

[202] Section 15. Change of Affiliation; Effect. Any elected party-list representative who changes his political party or sectoral affiliation during his term of office shall forfeit his seat; Provided, that if he changes his political party or sectoral affiliation within six (6) months before an election, he shall not be eligible for nomination as party-list representative under his new party or organization.

[203] Section 8. Nomination of Party-list Representatives. x x x x

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the immediately preceding election. x x x x

[204] SEC. 1. Petition to deny due course and/or cancellation; Grounds. A verified petition seeking to deny due course the nomination of nominees of party-list groups may be filed by any person exclusively on the ground that a material misrepresentation has been committed in the qualification of the nominees.

[205] SEC. 2. Petition for disqualification, Ground; - A verified petition seeking the disqualification of nominees of party-list groups may be filed by any person when the nominee has been declared by final decision of a competent court guilty of, or found by the Commission of having:

a. Given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions;

b. Committed acts of terrorism to enhance his candidacy;

c. Spent in the campaign an amount in excess of that allowed by law;

d. Solicited, received or made any contribution prohibited under Section 89, 95, 96, 97 and 104 of the Omnibus Election Code; or

e. Violated any of Sections 83, 86 and 261, paragraphs d, e, k, v, and cc, sub-paragraph 6 of the Omnibus Election Code.

[206] Record of the Senate, Third Regular Session, October 3, 1994 to December 5, 1994, Volume II, Nos. 23-45, p. 157

[207] 396 Phil. 419 (2000).

[208] Id. at 424.

[209] Section 11. Number of Party-List Representatives.

a. 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 set each: Provided, That those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their number of votes; Provided, finally, That each party, organization, or coalition shall be entitled to not more than three (3) seats.

[210] Section 2, RA 7941.

[211] The 53 consolidated petitions include 2 petitions filed by SENIOR CITIZENS.

[212] Malinias v. Commission on Elections, 439 Phil. 319 (2002).

[213] G.R. No. 191938, June 2, 2010, 622 SCRA 744.

[214] Id. at 766-767.

[215] Id. at 767.

[216] Rollo (G.R. No. 204410), p. 79.

[217] Rollo (G.R. No. 204153), p. 5.

[218] Rollo (G.R. No. 204356), p. 61.

[219] Id. at 77-79.

[220] Rollo (G.R. No. 204174), p. 173.

[221] Id. at 160.

[222] Id. at 544-613.

[223] Id. at 839-1494.

[224] Rollo (G.R. No. 203976), p. 28.

[225] Rollo (G.R. No. 204094), p. 146.

[226] Rollo (G.R. No. 204141), p. 74.

[227] Rollo (G.R. No. 204238), p. 170.

[228] Rollo (G.R. Nos. 203818-19), p. 119.

[229] Rollo (G.R. No. 203936), p. 73.

[230] Rollo (G.R. No. 204370), p. 92.

[231] Rollo (G.R. No. 204402), p. 72.

[232] Rollo (G.R. No. 204435), p. 91.

[233] Rollo (G.R. No. 204436), p. 186.

[234] Rollo (G.R. No. 204484), p. 60.

[235] Rollo (G.R. No. 204490), p. 79.

CONCURRING AND DISSENTING OPINION

LEONEN, J.:

I agree with the ponencia in substance, but dissent in so far as there is no finding of grave abuse of discretion on the part of the COMELEC.

National political parties may participate in party list elections, provided that they have no candidate for legislative districts. The constitution disqualifies political parties, which have candidates for legislative districts, from the party list system.[1] I also agree that they need not be organized sectorally and/or represent the “marginalized and underrepresented”.

We take this opportunity to take a harder look at article VI section 5(1) and (2) in the light of article II section 1 of the Constitution. We now benefit from hindsight as we are all witness to the aftermath of the doctrines enunciated in *Ang Bagong Bayani-OFW Labor Party v. COMELEC*[2] as qualified by *Veterans Federation Party v. COMELEC*[3] and *Barangay Association for National Advancement and Transparency v. COMELEC*[4].

In my view, the Constitutional provisions have always created space for “national, regional and sectoral parties and organizations” to join the party list system. It is textually clear that national political parties or regional organizations do not need to be organized on sectoral lines. Sectoral parties or organizations belong to a different category of participants in the party list system.

Moreover, there is no constitutional requirement that all those who participate in the party list system “must represent the marginalized and underrepresented groups” as mentioned in Republic Act No. 7941[5]. This law is unconstitutional in so far as it makes a requirement that is not supported by the plain text of the Constitution.

There is also a constitutional difference between the political parties that support those who are candidates for legislative districts and those that participate in the party list system. It is inconsistent for national political parties who have candidates for legislative districts to also run for party list. This, too, is the clear implication from the text of article VI, section 5(1) of the Constitution.

The insistence on the criteria of “marginalized and underrepresented”[6] has caused so much chaos to the point of absurdity in our party list system. It is too ambiguous so as to invite invidious intervention on the part of COMELEC, endangering the fundamental rights to suffrage of our people. Hewing more closely with the text of the Constitution makes more sense under the present circumstances.

Besides, there was no clear majority in support of the ratio decidendi relevant to our present cases in the case of *Ang Bagong Bayani et al. v. COMELEC*[7] and *BANAT v. COMELEC*[8].

I vote for the grant of the Petitions and the nullification of COMELEC Resolution No. 9513, s. August 2, 2012. This will have the effect of reinstating the registration of thirty nine (39) existing party list groups that have

already registered for the 2010 elections especially those that have won seats in the current Congress. This will also automatically remand the thirteen (13) cases of new party list registrants for proper processing and evaluation by the Commission on Elections.

Textual analysis

of the relevant provisions

Different kind of political party in the party list system

The core principle that defines the relationship between our government and those that it governs is captured in the constitutional phrase that ours is a "democratic and republican state".[9] A democratic and republican state is founded on effective representation. It is also founded on the idea that it is the electorate's choices that must be given full consideration.[10] We must always be sensitive in our crafting of doctrines lest the guardians of our electoral system be empowered to silence those who wish to offer their representation. We cannot replace the needed experience of our people to mature as citizens in our electorate.

We should read article VI, section 5 (1) and (2) in the light of these overarching consideration.

Article VI, section 5(1) provides:

“(1) The House of Representative 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 those who, as provided by law, shall be elected through a party list system of registered national, regional and sectoral parties or organizations.” (emphasis provided)

There are two types of representatives in the House of Representatives. Those in the first group are “elected from legislative districts”. Those in the second group are “elected through a party list system of registered national, regional and sectoral parties and organizations.”

The differences in terms of representation are clear.

Those who are elected from legislative districts will have their name in the ballot. They present their persons as the potential agent of their electorate. It is their individual qualifications that will be assessed by COMELEC on the basis of the Constitution and relevant statutes. Should there be disqualification it would be their personal circumstances, which will be reviewed, in the proper case, by the House of Representatives Electoral Tribunal (HRET). The individual representative can lose subsequent elections for various reasons, including dissatisfaction from those that initially elected him/her into office.

Incidentally, those who present themselves for election by legislative districts may or may not be supported by a registered political party. This may give them added political advantages in the electoral exercise, which includes the goodwill, reputation and resources of the major political party they affiliate with. However, it is not the nature of the political party that endorses them that is critical in assessing the qualifications or disqualifications of the candidate.

The elected district representative in the House of Representative is directly accountable to his/her electorate. The political party s/he affiliates with only shares that political accountability; but, only to a certain extent. Good performance is usually rewarded with subsequent election to another term. It is the elected representative, not the political party that will get re-elected. We can even take judicial notice that party affiliation may change in subsequent elections for various reasons, without any effect on the qualification of the elected representative.

The political party that affiliates those who participate in elections in legislative districts organize primarily to

have their candidates win. These political parties have avowed principles and platforms of government.[11] But, they will be known more through the personalities and popularity of their candidates.[12] Often, compromises occur in the political party's philosophies in order to accommodate a viable candidate.

This has been the usual role of political parties even before the 1987 Constitution.

The party list system is an attempt to introduce a new system of politics in our country, one where voters choose platforms and principles primarily and candidate-nominees secondarily. As provided in the Constitution, the party list system's intentions are broader than simply to "ensure that those who are marginalized and represented become lawmakers themselves".[13]

Historically, our electoral exercises privileged the popular and, perhaps, pedigreed individual candidate over platforms and political programs.[14] Political parties were convenient amalgamation of electoral candidates from the national to the local level that gravitated towards a few of its leaders who could marshal the resources to supplement the electoral campaigns of their members.[15] Most elections were choices between competing personalities often with very little discernible differences in their interpretation and solutions for contemporary issues.[16] The electorate chose on the bases of personality and popularity; only after the candidates were elected to public offices will they later find out the concrete political programs that the candidate will execute. Our history is replete with instances where the programs that were executed lacked cohesion on the basis of principle.[17] In a sense, our electoral politics alienated and marginalized large parts of our population.

The party list system was introduced to challenge the status quo. It could not have been intended to enhance and further entrench the same system. It is the party or the organization that is elected. It is the party list group that authorizes, hopefully through a democratic process, a priority list of its nominees. It is also the party list group that can delist or remove their nominees, and hence replace him or her, should he or she act inconsistently with the avowed principles and platforms of governance of their organization. In short, the party list system assists genuine political parties to evolve. Genuine political parties enable true representation, and hence, provide the potential for us to realize a "democratic and republican state".

Today, we are witness to the possibility of some party list groups that have maintained organizational integrity to pose candidates for higher offices, i.e. the Senate. We can take judicial notice that two of the candidates for the 2013 senatorial elections--who used to represent party list groups in the House of Representatives--do not have the resources nor the pedigree and, therefore, are not of the same mould as many of the usual politicians who vie for that position. It is no accident that the party list system is only confined to the House of Representatives. It is the nurturing ground to mature genuine political parties and give them the experience and the ability to build constituencies for other elective public offices.

In a sense, challenging the politics of personality by constitutionally entrenching the ability of political parties and organizations to instill party discipline can redound to the benefit of those who have been marginalized and underrepresented in the past. It makes it possible for nominees to be chosen on the basis of their loyalty to principle and platform rather than their family affiliation. It encourages more collective action by the membership of the party and hence will reduce the possibility that the party be controlled only by a select few.

Thus, it is not only "for the marginalized and underrepresented in our midst... who wallow in poverty, destitution and infirmity"[18] that the party list system was enacted. Rather, it was for everyone in so far as attempting a reform in our politics.

But, based on our recent experiences, requiring "national, regional and sectoral parties and organizations" that participate in the party list system to be representatives of the "marginalized and underrepresented sector" and be

“marginalized and underrepresented themselves” is to engage in an ambiguous and dangerous fiction that undermines the possibility for vibrant party politics in our country. This requirement, in fact, was the very requirement that “gut the substance of the party list system”.^[19]

Worse, contrary to the text of the constitution, it fails to appreciate the true context of the party list system.

No requirement that the party or organization be “marginalized and underrepresented”

The disqualification of two “green” or ecological parties^[20] and two “right wing” ideological groups^[21] (currently part of the party list sector in the present Congress) is based on the assessment of the COMELEC en banc that they do not represent a “marginalized” sector and that the nominee themselves do not appear to be marginalized.

It is inconceivable that the party list system framed in our Constitution make it impossible to accommodate green or ecological parties of various political persuasions.

Environmental causes do not have as their constituency only those who are marginalized or underrepresented. Neither do they only have for their constituency those “who wallow in poverty, destitution and infirmity”.^[22] In truth, all of us, regardless of economic class, are constituents of ecological advocacies.

Also, political parties organized along ideological lines--the socialist or even right wing political parties--are groups motivated by a their own narratives of our history, a vision of what society can be and how it can get there. There is no limit to the economic class that can be gripped by the cogency of their philosophies and the resulting political platforms. Allowing them space in the House of Representatives if they have the constituency that can win them a seat will enrich the deliberations in that legislative chamber. Having them voice out opinions--whether true or false--should make the choices of our representatives richer. It will make the choices of our representatives more democratic.

Ideologically oriented parties work for the benefit of those who are marginalized and underrepresented, but they do not necessarily come mainly from that economic class. Just a glance at the history of strong political parties in different jurisdictions will show that it will be the public intellectuals within these parties who will provide their rationale and continually guide their membership in the interpretation of events and, thus, inform their movement forward.

Political ideologies have people with kindred ideas as their constituents. They may care for the marginalized and underrepresented, but they are not themselves--nor for their effectivity in the House of Representatives should we require that they can only come from that class.

Highlighting these groups in this opinion should not be mistaken as an endorsement of their platforms. Rather, it should be seen as clear examples where interests and advocacies, which may not be within the main focus of those who represent legislative districts, cry out for representation. Surely, it should be the electorate, not the COMELEC, which should decide whether their groups should participate in our legislative deliberations. That these groups could be excluded even before the vote is not what the party list system is all about.

These two instances arising from the consolidated petitions we are considering clearly show why the text of article VI, section 5 (2) provides:

“(2) The party-list representative 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 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 sectors.” (emphasis provided)

What is plain from a reading of the text is that the qualification as to reserved seats is applicable only for the “three consecutive terms after the ratification” of the Constitution. Only one-half of the seats within that period is reserved to the “sectors” that were enumerated, clearly implying that there are other kinds of party list groups other than those who are sectoral.

To require that all the seats for party list representatives remain sectoral in one form or the other is clearly and patently unconstitutional. It is not supported by the text. Its rationale and its actual effect is not in accord with the spirit of these provisions.

Revisiting *Ang Bagong Bayani et al v COMELEC*

We are aware of the case of *Ang Bagong Bayani v Comelec*.^[23] In that case, the Court en banc declared that political parties may participate in the party list system but that these political parties must be organized sectorally to represent the “marginalized and underrepresented”.

The reasoning of the ponencia of that case derived from his fundamental principle that:

“...The requisite character of these parties or organizations must be consistent with the purpose of the party list system, as laid down in the Constitution and RA 7941.”^[24]

The ponencia then proceeded to put the interpretation of a statute at par with the text of article VI, section 5 (1) and (2) the Constitution, thus:

“The foregoing provision on the party list system is not self-executory. It is, in fact, interspersed with phrases like ‘in accordance with law’ or ‘as may be provided by law’; it was thus up to Congress to sculpt in granite the lofty objective of the Constitution.”^[25]

The 1987 Constitution is a complete document. Every provision should be read in the context of all the other provisions so that contours of constitutional policy are made clear.^[26] To claim that the framers of the Constitution left it to Congress to complete the very framework of the party list system is to question the fundamental character of our constitution. The phrases “in accordance with law” and “as may be provided by law” is not an invitation to the members of Congress to continue the work of the constituent assembly that crafted the Constitution. Constitutional policy is to be derived from the text of the constitution in the light of its context in the document and considering the contemporary impact of relevant precedents.

From constitutional policy, Congress then details the workings of the policy through law. The Constitution remains the fundamental and basic law with a more dominant interpretative position vis-a-vis statute. It has no equal within our normative system.

Article VI, sections 5 (1) and (2) already imply a complete Constitutional framework for the party list system.

Congress cannot add the concept of “proportional representation”. Congress cannot pass a law so that we read in the text of the Constitution the requirement that even national and regional parties or organizations should likewise be sectoral. Certainly Congress cannot pass a law so that even the one-half that was not reserved for sectoral representatives even during the first three consecutive terms after the ratification of the Constitution should now only be composed of sectoral representatives.

There were strong cogent dissenting opinions coming from Justices Mendoza and Vitug when *Ang Bagong Bayani v. COMELEC* was decided in 2001.^[27] Only six (6) justices concurred with the reasoning of the ponencia. Two justices voted only in the result. Five (5) justices dissented. Four (4) of them joining the dissenting

opinion of Justice Vicente Mendoza. There was no majority therefore in upholding the reasoning and ratio decidendi proposed by the ponencia in that case. It was a divided court, one where there was a majority to sustain the result but not enough to establish doctrine.

It was even a more divided court when the same issues were tackled in the case of *BANAT v. COMELEC* in 2009.[28]

Ostensibly, the rationale of the majority in *BANAT* was to prevent major political parties from dominating organizations of the marginalized. Citing the concurring and dissenting opinion of then Chief Justice Puno:

“....There is no gainsaying the fact that the party-list parties are no match to our traditional political parties in the political arena. This is borne out in the party list elections held in 2001 where major political parties were initially allowed to campaign and be voted for. The results confirmed the fear expressed by some commissioners in the Constitutional Commission that major political parties would figure in the disproportionate distribution of votes: of the 162 parties which participated, the seven major political parties made it to the top 50.”[29]

The premise of course was the argument that major political parties that support candidates for legislative districts were to be allowed to participate in the party-list system. This is not the reading proposed today of the Constitution. Furthermore, the opinion failed to foresee that even parties and organizations that claim to represent the “marginalized” could crowd out each other further weakening the system.

Not only do we vote today without a precedent having a clear vote, we also do so with the benefit of hindsight.

“Marginalized and underrepresented” is ambiguous

There is another reason why we cannot fully subscribe to the concept of “marginalized and underrepresented”. It is too ambiguous. There can be no consistent judicially discernible standard for the COMELEC to apply. It thus invites invidious intervention from COMELEC to undermine the right of suffrage of the groups that want to vie for representation. Indirectly, it also violates the right of suffrage of the electorate. COMELEC substituted its judgment for that of the electorate. It thus acted arbitrarily and beyond its jurisdiction.

In none of the Orders of the COMELEC in question was there a definition of what it is to be socially marginalized. No empirical studies have informed COMELEC’s determination as to which groups are “underrepresented” in government. In fact, there is no indication as to what the characteristics of an individual's or group’s identity would lead the COMELEC en banc to consider that they were a “sector”.

To the COMELEC en banc, for instance, the following are not marginalized or underrepresented sectors: “Bicolanos”,[30] “young professionals like drug counselors and lecturers”,[31] rural energy consumers,[32] “peasants, urban poor, workers and nationalistic individuals who have stakes in promoting security of the country against insurgency criminality and their roots in economic poverty”,[33] “persons imprisoned without proof of guilt beyond reasonable doubt”,[34] those who advocate “to publicly oppose, denounce and counter, communism in all its form in the Filipino society”,[35] “environmental enthusiasts intending to take care of, protect and save Mother Earth”,[36] “agricultural and cooperative sectors”,[37] “businessmen, civil society groups, politicians and ordinary citizens advocating genuine people empowerment, social justice, and environmental protection and utilization for sustainable development”,[38] “artists”,[39] “Bisayans”,[40] Ilonggos.[41]

What is plain is that the COMELEC declared *ex cathedra* sans any standard what were the “marginalized and underrepresented sectors.” This, in my opinion, constitutes grave abuse of discretion on the part of the COMELEC. We are now asked to confirm their actions. We are asked to affirm that COMELEC knew what a “marginalized and underrepresented sector” was when they saw one.

COMELEC's process was a modern day inquisition reminiscent of the medieval hunt for heretics and witches, a spectacle which may in a few cases weed out the sham organization. But it was a spectacle nonetheless fraught with too many vulnerabilities that cannot be constitutionally valid. It constitutes grave abuse of discretion.

As guardians of the text and values congealed in our Constitution, we should not lend our imprimatur to both the basis and the procedure deployed by COMELEC in this case.

After all, we have a due process clause still in place.[42] Regardless of the nature of the power that COMELEC deployed--whether it was administrative or quasi-judicial--the parties were entitled to have a standard that they could apply in their situation so that they could properly discern whether their factual situation deserved registration or disqualification.

Neither was it possible for COMELEC to come up with a standard. Even Rep. Act No. 7941 was ambiguously worded.[43] There was no workable definition of "marginalized", "underrepresented" and "sector."[44]

Neither would it have been possible for Congress to define these concepts. In the first place, our decisions have not given them guidance. In the second place, we could not give guidance because it is not in the Constitution and could not be derived from its provisions. This is also apart from the reality that "identity", "sector", "marginalized" and "underrepresented" are heavily contested concepts in the fields of social science and philosophy.[45]

The fallacy of representation by "marginalized and underrepresented" groups

It is possible under our system for a party list group representing indigenous peoples to be elected by peoples who do not belong to their sector but from a vote-rich legislative district. The same is true with a party list group allegedly of security guards.[46] They, too, can get elected without the consent of majority of all the security guards in this country but simply from the required number allowed by our formula in *BANAT v COMELEC*.[47] In practice, we have seen the possibility for these "marginalized and underrepresented" party list groups being elected simply by the required vote in some legislative districts.

This sham produces the failure in representation. It undermines the spirit of the party list system, violates the principle of representation inherent in a democratic and republican state, and weakens--rather than strengthen--the abilities of the "marginalized and underrepresented" to become lawmakers themselves. Constitutional construction cannot lose sight of how doctrines can cause realities that will undermine the very spirit of the text of our Constitution.[48]

Allowing the existence of strong national and regional parties or organizations in the party list system have better chances of representing the voices of the "marginalized and underrepresented. It will also allow views, standpoints and ideologies sidelined by the pragmatic politics required for political parties participating in legislative districts to be represented in the House of Representatives. It will also encourage the concept of being multi-sectoral and therefore the strengthening of political platforms.

To allow this to happen only requires that we maintain full fealty to the textual content of our Constitution. It is "a party-list system of registered national, regional, and sectoral parties or organizations."[49] Nothing more, nothing less.

Requirements for Party List Groups

Preferably, party list groups should represent the marginalized and underrepresented in our society. Preferably, they may not be marginalized themselves but that they may also subscribe to political platforms that have the improvement of those who are politically marginalized and economically destitute as their catapulting passion.

But, this cannot be the constitutional requirements that will guide legislation and actions on the part of the Commission on Election.

I propose instead the following benchmarks:

First, the party list system includes national, regional and sectoral parties and organizations;

Second, there is no need to show that they represent the “marginalized and underrepresented”. However, they will have to clearly show how their plans will impact on the “marginalized and underrepresented”. Should the party list group prefer to represent a sector, then our rulings in *Ang Bagong Bayani*[50] and *BANAT*[51] will apply to them;

Third, the parties or organizations that participate in the party list system must not also be a participant in the election of representatives for the legislative districts. In other words, political parties that field candidates for legislative districts cannot also participate in the party list system;

Fourth, the parties or organizations must have political platforms guided by a vision of society, an understanding of history, a statement of their philosophies and how this translates into realistic political platforms;

Fifth, the parties or organizations--not only the nominees--must have concrete and verifiable track record of political participation showing their translation of their political platforms into action;

Sixth, the parties or organizations that apply for registration must be organized solely for the purpose of participating in electoral exercises;

Seventh, they must have existed for a considerable period, such as three (3) years, prior to their registration. Within that period they should be able to show concrete activities that are in line with their political platforms;

Eighth, they must have such numbers in their actual active membership roster so as to be able to mount a credible campaign for purpose of enticing their audience (national, regional or sectoral) for their election;

Ninth, a substantial number of these members must have participated in the political activities of the organization;

Tenth, the party list group must have a governing structure that is not only democratically elected but also one which is not dominated by the nominees themselves;

Eleventh, the nominees of the political party must be selected through a transparent and democratic process;

Twelfth, the source of the funding and other resources used by the party or organization must be clear and should not point to a few dominant contributors specifically of individuals with families that are or have participated in the elections for representatives of legislative districts;

Thirteenth, the political party or party list organization must be able to win within the two elections subsequent to their registration;

Fourteenth, they must not espouse violence; and

Fifteenth, the party list group is not a religious organization.

Disqualification of existing registered party list groups

Jurisdiction of the COMELEC

With respect to existing registered party list groups, jurisdiction to disqualify is clearly reposed on the House of Representatives Electoral Tribunal (HRET). The Constitution in article VI, section 17 clearly provides:

“Sec. 17. The Senate and the House of Representatives shall each have a Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members...”

A more specific provision in the Constitution with respect to disqualifying registered political party list groups should prevail over the more general powers of the COMELEC to enforce and administer election laws. Besides, that the HRET is the “sole judge” clearly shows that the constitutional intention is to exclude all the rest.[52]

WHEREFORE, in view of the foregoing, I vote to:

(1) GRANT the Petitions and NULLIFY COMELEC Resolution No. 9135 and all the COMELEC Resolutions raised in these consolidated cases; and

(2) REMAND the cases to COMELEC for proper proceedings in line with our decision.

[1] Constitution, Art. VI, Sec. 5, par. (1).

[2] G.R. No. 147589, June 26, 2001, 359 SCRA 698.

[3] G.R. No. 136781, October 6, 2000, 342 SCRA 244.

[4] G.R. No. 179271, April 21, 2009. 586 SCRA 211. But, by a vote of 8 joining the opinion of Puno, C.J. the court upheld Veterans disallowing political parties from participating in the party list elections.

[5] Republic Act. No. 7941 (1995).

[6] Supra note 2, see first, second and sixth and seventh requirements:

“First, the political party, sector, organization or coalitions must represent the marginalized and underrepresented groups identified in Section 5 of RA 7941. In other words, it must show--through its constitution, articles of incorporation, by laws, history, platform of government and track record--that it represents and seeks to uplift marginalized and underrepresented sectors. Verily, majority of its membership should belong to the marginalized and underrepresented ...

“Second, while even major political parties are expressly allowed by RA 7941 and the Constitution to participate in the party list system, they must comply with the declared statutory policy of enabling ‘Filipino citizens belonging to marginalized and underrepresented sectors...to be elected to the House of Representatives.’ In other words, while they are not disqualified merely on the ground that they are political parties, they must show, however, that they represent the interests of the marginalized and underrepresented...”

xxx

“Sixth, the party or organization must not only comply with the requirements of the law; its nominees must likewise do so ...”

“Seventh, not only the candidate party or organization must represent marginalized and underrepresented sectors; so also must its nominees...”

[7] Supra note 2.

[8] Supra note 4; Infra note 29.

[9] Constitution, Art. II, Sec. 1.

[10] See Moya v. Del Fiero, G.R. No. L-46863, November 18, 1939,

[11] See for instance, Lande, Carl H., Parties and Politics in the Philippines, Asian Survey, Vol. 8, No. 9 (Sep

1968) pp 725-747 or Teehankee, Julio, Electoral Politics in the Philippines, in Electoral Politics in Southeast Asia, Aurel Croissant, ed., Friedrich Ebert Stiftung, 2002.

[12] Id.; Lo, Barnaby, Fame, Family Dominate Key Philippines Election, CBS News, May 10, 2010, (visited March 7, 2013).

[13] See Constitution, Art. IX(C), Sec. 6.

[14] Supra note 11.

[15] Id.

[16] Supra note 12.

[17] Supra note 11.

[18] Supra note 2.

[19] See Supra note 2. (This was the ostensible justification for not allowing all “national, regional and sectoral parties and organizations” as provided in the Constitution to participate).

[20] GREENFORCE in G.R. No. 204239 and KALIKASAN in G.R. No. 204402.

[21] ANAD in G.R. No. 204094 and BANTAY in G.R. No. 204141.

[22] Supra notes 2 & 4.

[23] Supra note 2.

[24] Id., 359 SCRA 698, 717

[25] Id., 359 SCRA 698, 718

[26] Chavez v. JBC, G.R. No. 202242, July 17, 2012.

[27] See supra note 2 at 733-761.

[28] See supra note 4. (Voting to disallow major political parties from participating directly or indirectly in the party list system were eight justices, namely: Puno, Quisumbing Ynares-Santiago, Austria- Martinez, Corona, Chico-Nazario, Velasco, and Leonardo-de Castro. Voting to allow major political parties in the party list system were seven justices, namely: Carpio, Carpio Morales, Tinga, Nachura, Brion, Peralta, and Bersamin).

[29] Id., per Puno Concurring and Dissenting opinion at 258-259.

[30] COMELEC Resolution dated October 20, 2012, SPP No. 12-154 (PLM) and SPP No. 12-177 (PLM), G.R. No. 203818 (Ako Bicol Political Party, AKB).

[31] COMELEC Omnibus Resolution dated October 11, 2012, SPP 12-220 (PLM), G.R. No. 203981 (UNIMAD).

[32] COMELEC Resolution dated October 16, 2012, SPP 12-260 (PLM), G.R. No. 203960 (1-CARE).

[33] COMELEC Resolution dated October 24, 2012, SPP 12-229 (PLM), G.R. No. 203958 (BANTAY).

[34] COMELEC Resolution dated October 24, 2012, SPP 12-015 (PLM), G.R. No. 203958 (KAKUSA).

[35] COMELEC Resolution dated November 7, 2012, SPP 12-185 (PLM), G.R. No. 204094 (ANAD)

[36] COMELEC Resolution dated November 7, 2012, SPP 12-060 (PLM), G.R. No. 204239 (GREENFORCE)

- [37] COMELEC Resolution dated November 28, 2012, SPP 12-136 (PLM), G.R. No. 204356 (BUTIL)
- [38] COMELEC Resolution dated December 5, 2012, SPP 11-002, G.R. No. 204484 (PBB)
- [39] COMELEC Resolution dated November 23, 2012, SPP 12-099, G.R. No. 204379 (ASIN)
- [40] COMELEC Resolution dated November 29, 2012, SPP 12-011 (PP), G.R. No. 204370 (AAB)
- [41] COMELEC Resolution dated December 4, 2012, SPP 12-009 (PP), G.R. No. 204379 (AI)
- [42] See Constitution, Art. III, Sec. 1.
- [43] See Republic Act No. 7941 (1995), Sec. 2-3.
- [44] See Republic Act No. 7941 (1995), Sec. 3.
- [45] See for instance, Iris Marion Young, *Justice and the Politics of Difference*, (2011).
- [46] *ANG GALING PINOY (AG)* in G.R. No. 204428.
- [47] *Supra* note 4.
- [48] See for instance *Association of Small Landowners v. DAR*, G.R. No. 78742, July 14, 1989 [per Cruz J.] on allowing payment of just compensation in cash and bonds: “...We do not mind admitting that a certain degree of pragmatism has influenced our decision on this issue, but after all this Court is not a cloistered institution removed from the realities and demands of society or oblivious to the need for its enhancement.”
- [49] Constitution, Art. VI, Sec. 5, par. 1.
- [50] *Supra* note 2.
- [51] *Supra* note 4.
- [52] See *Angara v. Electoral Commission*, G.R. No. L-45081, July 15, 1936.

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