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THE PHILIPPINE PARTY-LIST SYSTEM AND REPRESENTATION OF MARGINALIZED POPULATIONS

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"Justice will not be served until those who are unaffected are as outraged as those who are."

- BENJAMIN FRANKLIN



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The Philippine Party-list System and Representation of Marginalized Populations

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Abstract

The Party-list system is a unique aspect of the Philippine political system; a political battleground designed to ensure a representative democracy that allows for ample and proportional representation of marginalized groups in the House of Representatives. Guaranteed by Article 6 of the 1987 Philippine Constitution, the party-list system was created by the framers of the constitution as “a scheme aimed at giving meaningful representation to the interests of sectors which are not adequately attended to in normal deliberations¹”.

This article particularly explores the party-list system and argues for a necessary revamping of the process of selection and accreditation of party-lists. As Congress is empowered to define and prescribe the mechanics of party-list representation, laws like the Omnibus Election Code and the Party-list Systems Act have allowed for this system to operate. The 18th Congress has seen the party-list system continue to grow; however, it still lacks a mechanism to ensure proper representation. With the national elections happening this year, we again see the same trend of party-lists vying for a seat in Congress. However, just like in previous elections, these party-lists do seem to represent a clear marginalized group. So, is there a need to revamp the party-list system? And does being marginalized even matter anymore?

¹ Joaquin Bernas, in *The Intent of the 1986 Constitution Writers* (Rex Bookstore, 1995), p. 344.

Introduction

With the 2022 national elections looming on the horizon, our ballots will determine who will represent the people in the hallowed halls of the House of Representatives. On our ballots, we will not only choose our district representatives but also, one (1) party-list representative – an important feature in our democracy that arguably benefits marginalized populations.

Our 1987 Philippine Constitution provides in Article 6, Section 5, that:

(1) The House of Representatives shall be composed of not more than two hundred and fifty members unless otherwise fixed by law, x x x and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations².

The framers of the constitution recognized not just the need of the district representatives, whose mandate is to serve the interests of their districts and their citizens, but also, the representation of marginalized sectors of society.

The party-list system, an innovation introduced by the 1987 Constitution, in order to encourage the growth of a multi-party system, is designed to give a chance to marginalized sectors of society to elect their representatives to Congress. A scheme aimed at giving meaningful representation to the interests of sectors which are not adequately attended to in normal deliberations, it is envisioned that the system will encourage interest in political affairs on the part of a large number of citizens who feel that they are deprived of the opportunity to elect spokesmen of their own choosing under the present system. It is expected to forestall resort to extra-parliamentary means by minority groups which would wish to

² CONST., (1987), Art. VI, Sec. V, Par. 1 (Phil)

express their interests and influence governmental policies, since every citizen is given a substantial representation³. (Emphasis supplied.)

Recently, LGBTQ PLUS Party-list was denied by COMELEC to run in the upcoming elections. Their Facebook page describes their vision as “to become a national Lesbian, Gay, Bisexual, Transsexual, Queer, Intersexual, Asexual + (LGBTQIA+) governing party that will advance the civil rights, freedoms, and address the intersectional issues of the LGBTQIA+ community and other minorities...⁴”

In December 2021, COMELEC denied the Motion for Reconsideration of LGBTQ PLUS Party-list and a number of other party-list groups who were seeking accreditation⁵. COMELEC on October 7, 2021, issued a resolution dismissing the Petition of the LGBTQ PLUS Party-list on the ground that it failed to comply with the requirements⁶. A Motion for Reconsideration was further filed by LGBTQ PLUS Party-list on October 12, 2021. This

³ Osmeña v. COMELEC, G.R. No. 132231, (March 31, 1998). (Phil)

⁴ About Page of the LGBTQ PLUS Party-list, <https://www.facebook.com/LGBTQPartylistNational>.

⁵ Commission on Elections, In Re: Participation of Party-List Groups in the Conduct of Raffle to Determine the Order of their Listing on the Official Ballot in Connection with the 2022 National and Local Elections, Resolution No. 10735, Sec. 2 (December 1, 2021), https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10735.pdf.

⁶ Commission on Elections, Rules and Regulations Governing the: 1) Filing of Petitions for Registration; 2) Filing of Manifestation of Intent to Participate; 3) Submission of Names of Nominees; And 4) Filing of Disqualification Cases against Nominees of Party-List Groups or Organizations Participating under the Party-List System of Representation in Connection with the May 13, 2013, National and Local Elections, and Subsequent Elections Thereafter, Resolution No. 9366, Secs. 6 & 7 (February 21, 2012), https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10690.pdf

was denied by COMELEC on technical and procedural grounds⁷.

As a response, the party-list issued a statement dated December 5, 2021, on their social media page stating:

“They denied our chance to participate in the 2022 poll of party-list but this doesn't (sic) mean we have to stop dreaming and take actions to deliver what is best for our sector.”

Reliving the question of Commissioner Jaime “Ka Jimmy” Tadeo, a peasant activist and the sole peasant representative to the 1986 Constitutional Commission, in which he asks, “How do we ensure ample representation of basic sectors in the legislature so that laws reflect their needs and aspirations”⁸?

Have we actually achieved “ample representation” or are we still impeded by traditional politics or a weakened Party-list system?

It is important to also recognize that ample representation is not equivalent to the proportional representation electoral system practiced by calculating the number of party-list representatives elected into office. One case in particular clarified that the Constitutional provision⁹ that “at least 20% of the members of the House of Representatives come from the party-list representatives” is not mandatory rather it provides a ceiling following a formula¹⁰. Congress is empowered to define and prescribe the mechanics of party-list representation.

⁷ Commission on Elections, “Petition for Registration of LGBTQ+ Organization, Inc. (LGBTQ PLUS), as a sectoral organization under the party-list system”, SPP No. 21-147 (PL), (December 13, 2021).

⁸ Record of the Constitutional Commission, No. 45, Friday, August 1, 1986.
<https://www.officialgazette.gov.ph/1986/08/01/r-c-c-no-45-friday-august-1-1986/>

⁹ CONST., (1987), Art. VI, Sec. V, Par. 2 (Phil)

¹⁰ Veterans Federation Party v. COMELEC, G.R. No. 136781, (October 6, 2000). (Phil)

This is reminiscent of another landmark case, where the *ratio decidendi* of the case, reads: “As such, we hold that moral disapproval, without more, is not a sufficient governmental interest to justify the exclusion of homosexuals from participation in the party-list system. The denial of Ang Ladlad’s registration on purely moral grounds amounts more to a statement of dislike and disapproval of homosexuals, rather than a tool to further any substantial public interest”¹¹.

This landmark ruling is an important precedent in determining the registration of future party-lists by ensuring equal protection and non-discrimination. It is of utmost importance that party-lists represent marginalized populations. Equally important is that the number of party-lists in Congress is increased beyond 20% to have a substantial impact on any legislative agenda (Gutierrez III 2010).

The present article will delve into the current composition of party-lists with a seat in the 18th Congress of the Philippines. The present Congress seats 61 party-lists, two seats more than the 17th Congress.

It will also explore the laws passed, main author or sponsor, not co-authored or co-sponsored by the sitting party-lists under the domains of (1) basic education and culture, (2) women and gender equality, and (3) senior citizens vis-a-vis the party-list that has passed these laws in relation to the marginalized groups they represent. These domains represent the current standing committees in the 18th Congress of the Philippines. This does not, of course, provide the total picture, but this should suffice for this paper, which is admittedly a work-in-progress.

Similarly, due to the lack of key performance indicators that would show exactly if the party-list groups

¹¹ Ang Ladlad LGBT Party v. COMELEC, G.R. No. 190582, (April 8, 2010). (Phil)

promote the human rights that should be afforded to their constituents, we are left with this preliminary comparative article of legislations passed by sitting party-lists and the extent to which these statutes benefit their constituents.

There is a state obligation to fulfill the fundamental human rights of these marginalized populations through the enactment of legislation; consequently, this is also the primary role of party-lists. The state is the guardian of human rights and the basis of this obligation is enshrined in the Constitution itself (Villasis 2020). Take, for example, the right to health as a component of a person's right to life¹²; hence, indispensable. Similarly, to ensure that labor rights are protected, employment opportunities shall be equal regardless of sex, race, or creed¹³.

The Party-list System is, therefore, the battleground for marginalized groups to formulate, negotiate, and lobby for the passage of legislation that would benefit them.

The Party-list System

The current purpose of the party-list system is exhibited in two decisions of the Supreme Court: first, to make the marginalized and underrepresented not merely passive recipients of the State's benevolence, but active participants in the mainstream of representative democracy¹⁴; second, to democratize political power by giving political parties that cannot win in legislative district elections a chance to win seats in the House of Representatives¹⁵. An alternative point of view was given by Justice Artemio Panganiban when he wrote about the court seeing the party-list system, not as a proportional system of

¹² *Imbong v. Ochoa, Jr.*, G.R. No. 204819, (April 8, 2014). (Phil)

¹³ *International School Alliance of Educators v. Quisumbing*, G.R. No. 128845, (June 1, 2000). (Phil)

¹⁴ *Ang Bagong Bayani-OFW Labor Party v. COMELEC*, G.R. No. 147589, (June 25, 2003). (Phil)

¹⁵ *Atong Paglaum, Inc. v. COMELEC*, G.R. No. 203766, (April 2, 2013). (Phil)

representation designed to strengthen democracy but as “sectoral representation” meant to promote social justice.

Even the Omnibus Election Code ensures equal representation of sectors, such as the agricultural labor sector, industrial labor sector, and youth sector, in the legislature¹⁶.

In the spirit of genuine democracy and the pursuit of the true essence of a representative government, our lawmakers enacted Republic Act Number (R.A.) 7941 or “*The Party-List System Act*.” This Act strives to achieve proportional representation, which is rooted in the desire to remedy flaws in the plurality system adopted by the government¹⁷ to ensure inclusion. The law also declares that this law will “enable Filipino citizens belonging to the marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies, but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives”¹⁸.

R.A. 7941 is the implementing statute of the constitutional guarantee of party-list representation. The intent of which “was not to allow all associations to participate indiscriminately in the system but to limit participation to parties or organizations representing the ‘marginalized and underprivileged’” (Bernas 2009). However, in one case the 2% threshold in Section 11(b) of R.A. 7941 was stricken down as unconstitutional as it was counterintuitive to the 20% ceiling provided in the Constitution¹⁹.

¹⁶ Omnibus Election Code, B.P. Blg., 881, as amended, Secs. 26 & 27 (Phil)

¹⁷ An Act Providing for the Election of Party-List Representatives through the Party-List System, and Appropriating Funds Therefor, Rep. Act. No. 7941, sec. 3, (Mar. 3, 1995).
https://lawphil.net/statutes/repacts/ra1995/ra_7941_1995.html

¹⁸ *Ibid*, Sec. 2

¹⁹ BANAT vs. COMELEC, G.R. No. 179271, (April 21, 2009). (Phil)

Other authors critical about the party-list system opine that “some party-list groups now display the features of elitist and traditional politics” (Tigno 2019). Furthermore, even President Duterte, himself, at one point criticized the party-list system and described it as “evil” for not sticking true to the intentions of the framers of R.A. 7941 (Romero 2019).

The Party-Lists of the 18th Congress

This section of the paper will list some of the 18th Congress party-lists and the house bills principally sponsored.

Education. A deep dive into the Congressional Committee on Basic Education and Culture reveals some promising bills favorable to the welfare of teachers. Three sitting party-lists in the 18th Congress claim to represent the education sector. These include those A Teacher Party-List, whose representative, Hon. Ma. Victoria Umali principally authored a bill providing medical allowance²⁰ and instructional material allowance²¹ for public school teachers. Manila Teachers’ Hon. Virgilio S. Lacson is proposing a law that would strengthen and expand the professional rights and work incentives of public-school teachers²² and the establishment of e-libraries in all public schools²³. Finally, ACT-TEACHERS’ Hon. France L. Castro filed a bill mandating the addition of human rights education in the curriculum²⁴, penalizing the imposition of a “no permit, no exam” policy²⁵ and the passage of the Magna Carta for Private School Teachers²⁶.

²⁰ 18th Congress, HB 00872

²¹ 18th Congress, HB 00871

²² 18th Congress, HB 03677

²³ 18th Congress, HB 04131

²⁴ 18th Congress, HB 00320

²⁵ 18th Congress, HB 00321

²⁶ 18th Congress, HB 05783

Castro has also filed bills with the committee on “Higher and Technical Education” focused on the declaration of students’ rights²⁷ and the promotion of campus press freedom²⁸.

The education agenda is quite broad in the sense that it covers the rights of students and teachers, as well as policies that ensure equal access to education. As a whole agenda, it does not even point to a specific marginalized group but rather to resolve issues involving the deteriorating literacy rate in the country and accessibility to education.

Women and Gender. Women’s rights and the women’s sector have always been ripe for legislation that promotes gender mainstreaming, inclusion, and equality. When talking about women’s rights in the lower house, it always points to the sole women’s party-list, Gabriela Women’s Party. Currently, Hon. Arlene D. Brosas represents the party.

One positive development in this advocacy is the passage of R.A. 11313 or the Safe Spaces Act in 2018. The law primarily “recognizes that both men and women must have equality, security and safety not only in private but also on the streets, public spaces, online, workplaces and educational and training institutions”²⁹.

This law finds support from both the upper and lower house, especially within the House Committee on Women and Gender Equality, which Hon. Maria Lourdes Acosta-Alba of the 1st District of Bukidnon currently heads as chairperson.

As of writing, several bills are currently being referred to the committee for hearing and deliberation.

²⁷ 18th Congress, HB 00318

²⁸ 18th Congress, HB 00319

²⁹ An Act Defining Gender-Based Sexual Harassment in Streets, Public Spaces, Online, Workplaces, and Educational or Training Institutions, Providing Protective Measures and Prescribing Penalties Therefor, Rep. Act. No. 11313, sec. 2 (April 17, 2019), https://lawphil.net/statutes/repacts/ra2019/ra_11313_2019.html

notable ones include several versions of a bill prohibiting discrimination on the basis of sexual orientation or gender identity or expression (SOGIE) or known as SOGIE Equality Bill or Anti-Discrimination bill.

Senior Citizens. The Senior Citizens Party-List has been providing representation for the welfare, protection and support of elderly Filipinos since the 14th Congress in 2007. Currently, the Senior Citizens Party-List is represented by Hon. Rodolfo M. Ordanes, who also chairs the House Committee on Senior Citizens. The Senior Citizens Party-List remains to be the sole representative of senior citizens in the lower house.

Legislation has exemplified the importance of youth representation in legislative bodies³⁰ but rarely does it point to the representation of the elderly. The Philippine House of Representatives takes pride in young representation in governance with both the Kabataan Party-List and Duterte Youth Party-List, which are supposed to be the standard bearers of youth-centered legislation.

The comprehensive Expanded Senior Citizens Act of 2010³¹ has been a landmark legislation to forward the rights of Senior Citizens. However, the continued representation of senior citizens is still essential, and this is something that the Senior Citizens Law, itself, failed to provide. Their importance is evidenced by legislation being proposed by the Senior Citizens Party-List, such as a bill

³⁰ An Act Creating the National Youth Commission, establishing a National Comprehensive and Coordinated Program on Youth Development, Appropriating Funds Therefore, and for Other Purposes, Rep. Act No. 8044 (June 7, 1995), <http://hrlibrary.umn.edu/research/Philippines/RA%208044%20-%20Youth%20In%20Nation-Building%20Act.pdf>

³¹ An Act Granting Additional Benefits and Privileges to Senior Citizens, Further Amending Republic Act No. 7432, As Amended, Otherwise Known as “An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes, Rep. Act No. 9994 (February 15, 2010). <https://www.officialgazette.gov.ph/2010/02/15/republic-act-no-9994/>

granting income tax exemption to senior citizens aged sixty (60) and above³².

There are also crucial legislations being referred to the House Committee on Senior Citizens like a bill protecting senior citizens from violence and abuse³³, authored by Hon. Victor A. Yap of the 2nd District of Tarlac. Without the Senior Citizens Party-List marshaling the committee, legislation benefiting this sector might be not prioritized or totally neglected.

Revamp the Party-List System

The examples herein are proof of the invaluable contributions of the party lists in the lobbying, representation, and recognition of marginalized populations. It seems as though, in terms of legislation, the equal representation required for our democracy in our 1987 Philippine Constitution, Party-list Systems Act, and Omnibus Election Code is fulfilled. Those sitting have arguably done their job of passing (or proposing) legislation that benefits their specific sector.

However, it is suggested that there is a need for a revamping of the party-list system, so as to accommodate legitimate party-lists that represent actual marginalized groups as defined in relevant legislation, like the Party-list Systems Act. The *Ang Ladlad* case also shows that for the recognition and accreditation of the party-list, it must be inclusive and non-discriminatory. This same standard has to be applied to the accreditation of all party-lists.

The process of accreditation of party lists by the COMELEC should involve marginalized sector representatives. While there are legislations that emphasize equal representation of sectors, there are still several party lists in the 18th Congress that don't necessarily represent any

³² 18th Congress, HB 08832

³³ 18th Congress, HB 00065

clear and definite marginalized populations. Admittedly, the voting population vote for their party-lists based on familiarity or proximity, or even residency, instead of understanding that party-lists are supposed to represent actual marginalized groups.

Party-list groups like AAMBIS-OWA, Ako Bicol Political Party, CIBAC and Talino at Galing ng Pinoy (TGP) don't seem to point to a specific marginalized group. They, instead, seem to be very broad and ambiguous or simply do not represent any marginalized group, but rather an ethnolinguistic group or a provincial organization. Authors have also opined that party-lists have become political tools that satisfy the fancy of political dynasties (Yee 2019), for example, that of Iloilo 1st District's AAMBIS-OWA Party-List (Marzan and Espina-Varona 2022).

While these party-lists have received the blessings of COMELEC during the last elections, it does make you wonder who exactly they are representing. Consequently, does being marginalized even matter anymore?

Of course, we have seen the same trend in the 2022 elections. There were some interesting new party-list groups that were declared eligible to run in the 2022 national elections following COMELEC rules and regulations³⁴, notably WOW Pilipinas Party-List, MOCHA Party-List, UMA Ilonggo Party-List, Barkadahan Party-List, and SMILE Party-List (COMELEC 2022).

There is very little room to even assess the performance of the previous party-lists, which would inform both the COMELEC as to their accomplishments and the voters as to their platforms.

³⁴ Commission on Elections, Rules, and Regulations for the Conduct of Raffle of Party-List Groups to Determine the Order of their Listing on the Official Ballot in Connection with the 2022 National and Local Elections, Partially Amending Resolution 10695, Resolution No. 10733, Sec. 1 (November 24, 2021),

However, the Constitution does not actually require party-lists to actually legislate in favor of their sectors. The party-lists are not restricted from proposing bills that favor other sectors or a specific district or locality. Their duty to legislate in favor of their specific sector seems to just be what is expected of them, as their very success in garnering a seat during the preceding elections is hinged on votes from people that they supposedly represent and to whom they are accountable for legislation that favors these voters.

Would it then be unconstitutional to enact a law that institutionalizes performance indicators for party-lists? The constitution does provide Congress with the power and freedom to regulate the party-list system. It is opined that amending the party-list system will be beneficial to ensure that there are clearer definitions for marginalized groups. Consequently, it would secure the party-list system from being co-opted by traditional politics and political dynasties. However, would policing the party-list system to make it favorable to marginalized groups be violative of the very tenets of democracy?

We are left with more questions than answers. While this topic is heavily studied by policy analysts and lawyers alike, there is still room to improve the party-list system, which is part and parcel of our flourishing democracy of, for, and by the people. ■

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