

Party-List System: Issues and Challenges In the 2007 Elections

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Introduction

It was with high hopes that the constitutional framers approved in the 1986 Constitutional Commission the provision on the party-list system. President Corazon Aquino subsequently appointed the first set of sectoral representatives in the transition to the implementation of the party-list system in Congress.

Immediately, difficulties arose. The incumbent district congressmen snubbed the sectoral representatives. The latter were always reminded that they are not elected but only appointed. This translated into the relegation of sectoral representatives to a secondary and inferior status in the House of Representatives. They were even denied membership in the important committees such as the Commission on Appointments and the House of Representatives Electoral Tribunal.

District representatives also put up resistance to the enactment of the implementing law on the party-list system which the constitution requires. President Fidel Ramos had to call special sessions just to get it passed in 1995.

When it passed, major compromises had to be made—such as the three-seat limit, relaxation on restrictions on sectoral composition and participation of major political parties, and the two-percent threshold—which effectively diluted the constitutional intent to enable proportional representation.

Unfortunately, the insistence to frame the system exclusively within the interests of the marginalized and underrepresented sectors—effectively voted down in the constitutional convention—became part of the party-list law. This led to many loopholes that later were exploited by traditional political dynasties.

The party-list system has been a fixture of our Congress since 1998 when the first party-list elections were held and the first batch of 13 party-list groups were elected with 14 representatives. It was a dismal performance considering there were 52 seats available—despite the obvious advance in broadening participation of hitherto marginalized sectors.

In the last 2007 party-list elections, only 14 party-list groups were elected with 19 representatives.¹

A review of the party-list system is definitely in order. However, efforts to amend the Party-List Law came to naught during the 11th, 12th, and 13th Congresses. It is now an urgent necessity to do this in the current 14th Congress.

However, before we can proceed further, we need to address the experience and lessons of the 2007 party-list elections. Amendments to the law should then be re-examined.

¹ There are still some petition cases that are pending before the Commission on Elections for inclusion, as of press time.

It is, of course, evident that the constitutional design of the party-list system needed to be revisited for its performance in the real world. The obvious limitations—such as the 20 percent limit in relation to the total House membership—cannot be addressed outside of constitutional amendments. It is therefore considered outside of the scope of this paper.

2007 Party-List Elections

The Commission on Elections Resolution No. 7819 promulgated on February 12, 2007 disqualified/deleted from the list of registered party-list groups 36 groups for 2007 election. Meanwhile the same resolution certified the qualification of 44 party-list groups, an initial number as noted by the Commission to participate in the 2007 party-list elections.

On February 13, 2007, the Comelec certified 38 new party-list groups. Eventually, 93 were accredited. On its face, this huge number of participants contributed to the various difficulties in the next election stages of the party-list elections.

The Supreme Court, in a June 2001 ruling, directed the Comelec to conduct evidentiary hearings to strictly apply qualification criteria and trim down the list from an initially humungous 163 accredited organizations. Only 46 party-list groups survived the process.

However, the 2007 elections show a disturbing return to a relaxed application of criteria. In so doing, the Comelec opened itself to the suspicion that unscrupulous lobbying had happened, with the worst accusations pointing to possible bribery or pressure on Comelec officers.

The number of party-list groups, both applicants and approved for participation in the party-list elections, are simply too many for practical handling. This will again tax the patience of voters, the BEIs, the BOCs, and everybody else. This situation may need to be investigated if this is the result of lax application of the 8-point criteria set by the Supreme Court.

Another major issue in the last elections is the presence of party-list groups that are identified or suspected to be with government. The case of Mamamayan Ayaw sa Droga (MAD) in 2001 was the classic case of government-funded projects turned into party-list projects. There were indications that this had happened again in the 2007 party-list elections. Eleven party-list groups have been alleged to be either formed or led by government officials or their relatives or are extensions of government agencies.

The approval of possible fake party-list groups which do not have a constituency or sectoral causes among marginalized sectors will add to the confusion and may provide a rich ground for electoral corruption. In fact, this was alleged also in the last elections and election officials became the target for this accusation.

The senatorial and party-list campaign officially started on February 13, 2007. The proclamation rallies, motorcades, media ads, and postering were the first activities done by the respective coalition and candidates.

The Comelec issued timely reminders on the observance of the Fair Election Act, including the designation of common poster areas. Early in the campaign, it also conducted highly-visible campaigns

involving its personnel, government street-sweepers, and volunteers to clean the Metro Manila streets of posters, banners, and streamers placed outside common areas.

The Comelec issued Resolution No. 7767 to regulate the implementation of the Fair Elections Act in relation to the May 2007 elections. This resolution contained three provisions which were contested later. One was the inclusion of the provision banning exits polls despite a standing Supreme Court decision setting aside this provision in the law. The second was the limitation to 120 minutes for television and 180 minutes for radio. The third was the lack of provisions on the purchase, manufacture, distribute or accept propaganda gadgets, such as pens, lighters, fans of whatever nature, flashlights, athletic goods or materials, wallets, shirts, hats, bandanas, matches, and the like.

Starkly clear in the behaviour of party-list groups in the campaign was their similar tactics and antics to the traditional parties and candidates. Negotiations for votes with local politicians, flashy campaigns, media ads, and use of personality endorsements abounded. There were even accusations of vote-buying or electoral cheating operations by some.

Despite all of these (and after three elections), the voter's participation in the party-list elections was still a dismal 40 percent. More than half of the electorate did not participate or simply did not know enough of the system and candidates to participate.

Expectedly, only 14 party-list groups—out of the 93—hurdled the two-percent threshold. Among them, they were only able to seat 19 representatives, out of the 54 available seats.

Bantay-Eleksyon 2007, as a domestic observer mission, has this to say regarding the party-list elections last May 2007:

The party-list election, after four elections since its inception in the 1998 elections, has still to attract the participation of the majority of Filipino voters. A considerable effort needs to be done, both in amending the law and in voter education, in order for this system to be useful in fulfilling its mandated role in bringing marginalized and underrepresented sectors to Congress. As it was in the 2007 elections, the party-list system has become a vehicle for political dynasties and unscrupulous people to enter the halls of power.²

Entry of Mainstream Politics

The 2007 party-list elections saw its tighter integration into mainstream politics. On the one hand, politicians, after their previous hemming and hawing about “a costly and useless system,” woke up to its possibilities in service of traditional political dynasties. On the other hand, the party-list groups—willingly or unwillingly—were obliged to deal with the mainstream political realities.

In the last elections, two traditional centers of political power were visible as serious participants in the party-list elections. One center were the so-called “political” churches, and the other center were the traditional political dynasties. Malacañang can be considered the most powerful among the latter.

² *Bantay-Eleksyon 2007*, Report on the 2007 Elections, p. 10.

Among the winners, Cibac, Buhay, and Alagad are identified with church organizations. Other new organizations were identified with specific politicians. There were reports that even the incumbents negotiated for votes from traditional local centers of power, including in the ARMM. An estimated more than 50 percent of the accredited party-list groups are identified with government or political dynasties.

These centers competed for votes with the incumbent party-list groups. The sheer number of accredited groups raised the base number for computing the two-percent threshold and also stole votes at the grassroots bailiwicks of the latter. There was also the negative campaign by the military and government-identified groups against many Left party-list groups.

The impact of traditional politicians on the 2007 party-list elections was significant enough that it drew off considerable votes from erstwhile top performers in the previous elections. Bayan Muna, Akbayan, Apec all had three representatives in the 13th Congress. In the 14th Congress, they all lost one or two seats. Instead, Buhay topped the list.

Ironically, this sudden interest by traditional politicians came about because of the successful campaign by the incumbents for equal treatment by their district representative colleagues. This means not only an equal status and authority; it also means an equal access to pork barrel and perquisites of office.

It is evident that mainstream political groups will become more active in the party-list system in the future. Unless the loopholes in the law are plugged, it may well turn out that the party-list system may well become an extension of the traditional politics rather than the reform-oriented system it was conceived by the framers.

Issues Regarding the Implementation of the Party-List System

In the 2007 elections, basically the same issues cropped up and led to many problems in implementation. Among these were the following:

a. *Difficulty in determining the “marginalized and underrepresentative sectors.”* The confusion on this was evident in a cursory examination of the accredited party-list groups. There was the question of what sectors are qualified (all, as it turned out in the law). There was the question of what is a “marginalized and underrepresented sector.” Still, there is the question of the “genuineness” of some party-list groups allegedly fronting for vested interests.

b. *Too many accredited groups.* This only divides votes and poses additional headaches in ballot lay-out, campaign activities, voter name retention, counting and canvassing, and eventually in getting past the two-percent threshold.

c. *Difficulty in maximizing the seats.* The two-percent threshold, the three-seat limit, and disregard of fractional vote percentages still effectively present an obstacle to the filling of the maximum number of seats reserved for party-list representatives.

d. *No observer for party-list groups in voting, counting and canvassing.* The law does not specifically allow observers for party-list groups. The Comelec, for its part, sees it as impractical.

Thus, party-list groups cannot monitor their votes and are at the mercy of the political parties who have the accreditation. Often, they have to rely on citizen arms for the monitoring.

e. *Lack of voter education on the party-list system.* Despite it being a nine-year system already, the party-list system is still not understood by many voters and even election officers. There remains the huge requirement for voter education and public information.

f. *Full integration in the House of Representatives.* Although party-list representatives are now regarded as equals in Congress, there are still significant reforms that have to be done. Their representation in the House Electoral Tribunal and the Commission on Appointments are still being held in abeyance. Their status as majority or minority is also not being satisfactorily addressed.

Amending the party-list law is an urgent necessity, especially after the experience of the past four elections. Amending the House Rules comes second.

Challenges Ahead

The party-list system suffered a certain setback in the 2007 elections in the sense that it was not able to insulate the system from traditional politics. Its reform orientation has suffered as a result.

In a study of the party-list system done before the 2007 elections, IPER made the following conclusion:

“The party-list system is a major breakthrough in broadening participation in Philippine democracy. That it will continue to be a progressive political reform will largely depend on its own ability and that of the reform stakeholders in pushing forward for more political reforms.

It is an irony of the Philippine political system that the success of the party-list system will have to be measured ultimately in its capability to give birth and nurture full-fledged political parties—parties that will not anymore need the party-list system but rather can engage fully in all levels of electoral contest, and, by extension, in democratic governance.”³

This reform orientation of the system may well not be realized if traditional politics comes in and control its development. If pending party-list amendments again fail to pass Congress, the entry of traditional politics will certainly tighten and lead to the opposite results.

We may find ourselves in a situation where, as a popular adage say it, “the more things change, the more they stay the same.”

³ Institute for Political and Electoral Reform, **Fairing Well: The Philippine Party-List System: Current Lessons and Implications**, p. 48.