

EN BANC
Agenda of April 2, 2013
Item No. 25

G.R. Nos. 203766, 203818-19, 203922, 203936, 203958, 203960, 203976, 203981, 204002, 204094, 204100, 204122, 204125, 204126, 204139, 204141, 204153, 204158, 204174, 204216, 204220, 204236, 204238, 204239, 204240, 204263, 204318, 204321, 204323, 204341, 204356, 204358, 204359, 204364, 204367, 204370, 204374, 204379, 204394, 204402, 204408, 204410, 204421, 204425, 204426, 204428, 204435, 204436, 204455, 204484, 204485, 204486 and 204490 – ATONG PAGLAUM, INC. represented by its President, MR. ALAN IGOT, *Petitioner*, versus COMMISSION ON ELECTIONS, *Respondent; et al.*
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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. 7941³ (RA 7941) and COMELEC Resolution No. 9366⁴ dated February 21, 2012 were

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

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 guidelines⁶ 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 280⁷ 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

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 nominee. 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.

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) 1st 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) 1st Kabalikat ng Bayan Ginhawang Sangkatauhan (**1st 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:

1. 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**.

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*.

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. Resolution⁹ 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

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).

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 Resolution¹² 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**’s¹³ 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 years¹⁴ 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 nominee¹⁵ served as vice-president in a multinational corporation; (2) its second nominee¹⁶ is the owner of a corporation engaged in the business of pineapple contract growing with Del Monte Philippines; (3) its third nominee¹⁷ is the owner and manager of two business establishments; and (4) its sixth nominee¹⁸ 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.

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 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.

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.

UNIMAD²⁴ 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.

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.

3. Omnibus Resolution²⁶ 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**'s²⁷ 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-List³² 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. Resolution³⁴ dated October 16, 2012 in SPP No. 12-260

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.

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. Resolution³⁶ 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. Resolution³⁸ 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 Resolution⁴⁰ dated October 24, 2012, which covers SPP Case No. 12-288 (PLM)

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.

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 nominees⁴³ 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 Resolution⁴⁴ 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's⁴⁶ 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

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. Yusoooph, also voted in favor; Commissioner Maria Gracia Cielo M. Padaca, no part.

⁴⁵ SPP No. 12-279 (PLM).

⁴⁶ SPP No. 12-248 (PLM).

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.

BANTAY⁵⁰ 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

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).

sector.

PASANG MASDA's⁵³ 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. Resolution⁵⁶ dated October 30, 2012 in SPP Case No. 12-256 (PLM)

The COMELEC cancelled **AG**'s⁵⁷ 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

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.

not belong to any of the mentioned sectors.

10. Resolution⁶⁰ dated November 7, 2012 in SPP Case No. 12-185 (PLM)

ANAD's⁶¹ 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 Resolution⁶³ 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

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).

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's⁶⁶ 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. Resolution⁶⁷ 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

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).

truly adhere to its advocacies, and are *bona fide* members of the party.

13. Resolution⁶⁹ 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. Resolution⁷¹ 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.

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).

15. Resolution⁷³ dated November 7, 2012 in SPP Case No. 12-210 (PLM)

BAYANI⁷⁴ 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. Resolution⁷⁷ 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. Resolution⁷⁹ 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

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).

all, that the said nominees are its bona fide members.”⁸¹

18. Resolution⁸² 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. Resolution⁸⁴ dated November 7, 2012 in SPP No. 12-238 (PLM)

ABANG LINGKOD’s⁸⁵ 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. Resolution⁸⁶ dated November 14, 2012 in SPP Case No. 12-158 (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.

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. Resolution⁸⁹ 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. Resolution⁹¹ dated November 28, 2012 in SPP Case No. 12-136 (PLM)

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.

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. Resolution⁹³ dated December 3, 2012 in SPP No. 12-194 (PLM)

1st KABAGIS⁹⁴ 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, **1st 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 **1st 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. Resolution⁹⁶ dated December 4, 2012 in SPP No. 12-198 (PLM)

The COMELEC cancelled **1-UTAK**’s⁹⁷ 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

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).

sector. The party did not even include among its nominees a representative from the drivers' sector.

25. Resolution⁹⁸ 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. Resolution¹⁰⁰ 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

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.

through the issuance of the following:

1. Resolution¹⁰² dated November 23, 2012 in SPP No. 12-099 (PLM)

ASIN's¹⁰³ 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 Resolution¹⁰⁴ 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.

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.

The denial of **ALA-EH**'s¹⁰⁸ 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. Resolution¹¹⁰ dated November 27, 2012 in SPP No. 12-057 (PLM)

The COMELEC *En Banc* denied **1AAAP**'s¹¹¹ 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 nominees¹¹² 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 four¹¹⁴ of its five nominees do not belong to any marginalized and underrepresented sector.

4. Resolution¹¹⁵ dated November 27, 2012 in SPP No. 12-104 (PL)

AKIN¹¹⁶ 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 nominees¹¹⁷ are lawyers, its second nominee¹¹⁸ is a retired government employee, its fourth nominee¹¹⁹ is an accountant/social volunteer worker, and its

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.

fifth nominee¹²⁰ is a secretary.

5. Resolution¹²¹ dated November 29, 2012 in SPP No. 12-011 (PP)

AAB¹²² 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. Resolution¹²⁴ dated December 4, 2012 in SPP Case Nos. 12-009 (PP) and 12-165 (PLM)

Although the COMELEC *En Banc* affirmed **AI**’s¹²⁵ 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

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.

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 nominee¹²⁷ has withdrawn his acceptance to his nomination, while its first¹²⁸ and fifth¹²⁹ nominees have filed their certificates of candidacy for local elective positions in Iloilo.

7. Resolution¹³⁰ dated December 4, 2012 in SPP No. 12-175 (PL)

ALONA¹³¹ 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. Resolution¹³² 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

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).

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. Resolution¹³⁴ 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. Resolution¹³⁷ dated November 14, 2012 in SPP No. 12-145 (PL)

GUARDJAN's¹³⁸ 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

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).

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. Resolution¹³⁹ 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 Resolution¹⁴⁰ 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

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).

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

¹⁴² Comment dated December 26, 2012, pp. 35-36.

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:

¹⁴³ Supra note 1.

¹⁴⁴ G.R. No. 188308, October 15, 2009, 603 SCRA 692.

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 x¹⁴⁵

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

¹⁴⁵

Id. at 709-710.

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:

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).

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

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).

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.

¹⁵² *Liberal Party v. Commission on Elections*, 620 SCRA 393, 431 (2010).

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

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

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.

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).

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

¹⁶² Section 3, Article IX-C of the 1987 Constitution.

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 election¹⁶³ 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

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.

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

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)

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

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.

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 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

¹⁷¹ See *Philippine Guardians Brotherhood, Inc. (PGBI) v. COMELEC*, G.R. No. 190529, April 29, 2010.

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, 2012¹⁷², 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.

¹⁷² *Rollo* (G.R. No. 204323), pp. 16-19.

¹⁷³ *Id.* at 19.

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

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Ang Bagong Bayani-OFW Labor Party v. Commission on Elections, supra note 1.

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**

¹⁷⁵ Record of the Constitutional Commission No. 46, August 2, 1986.

¹⁷⁶ Record of the Constitutional Commission No. 46, August 2, 1986.

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

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Ibid.

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-

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Supra note 1 at 322.

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

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586 Phil. 210.

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.

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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

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Id. at 333.

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*:

1. The number of people belonging to the sector;
2. The extent of marginalization, exploitation and deprivation of social and economic rights suffered by the sector;
3. The absence of representation in the government, particularly in the legislature, through the years;
4. 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

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.

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

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Ang Bagong Bayani-OFW Labor Party v. Commission on Elections, supra note 1 at 342.

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 x¹⁸⁴

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

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Ibid.

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

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.

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?

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Record of the 1986 Constitutional Commission, Volume 2, 7-25-1986, RCC No. 39, p. 257.

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

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).

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

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Supra note 1 at 337-338.

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 flocked 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 party¹⁹⁴ 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

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.

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 x¹⁹⁵

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

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Id. at 343-344.

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.

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Id. at 345.

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

¹⁹⁷

G.R. No. 193808, June 26, 2012.

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

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

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 15²⁰² and Section 8²⁰³ of RA

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

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 1²⁰⁴ 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

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

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

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.*

(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 52²¹¹ 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

²¹⁰ Section 2, RA 7941.

²¹¹ The 53 consolidated petitions include 2 petitions filed by SENIOR CITIZENS.

²¹² *Malinas v. Commission on Elections*, 439 Phil. 319 (2002).

²¹³ G.R. No. 191938, June 2, 2010, 622 SCRA 744.

²¹⁴ *Id.* at 766-767.

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

²¹⁵ Id. at 767.

²¹⁶ *Rollo* (G.R. No. 204410), p. 79.

²¹⁷ *Rollo* (G.R. No. 204153), p. 5.

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 underrepresented²¹⁸

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.

²¹⁸

Rollo (G.R. No. 204356), p. 61.

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

²¹⁹

Id. at 77-79.

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

²²⁰ *Rollo* (G.R. No. 204174), p. 173.

²²¹ *Id.* at 160.

²²² *Id.* at 544-613.

²²³ *Id.* at 839-1494.

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

²²⁴ *Rollo* (G.R. No. 203976), p. 28.

outright disqualification of the groups on the said ground is not warranted. The COMELEC's ruling to the contrary is an act exhibitiv 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:

1. Alliance for Nationalism and Democracy (ANAD)²²⁵
2. Bantay Party-List (BANTAY)²²⁶
3. Allance of Bicolnon Party (ABP)²²⁷

On the other hand, the following are regional parties/organizations:

1. Ako Bicol Political Party (AKB)²²⁸
2. Aksyon Magsasaka – Partido Tinig ng Masa (AKMA-PTM)²²⁹
3. Ako an Bisaya (AAB)²³⁰
4. Kalikasan Party-List (KALIKASAN)²³¹
5. 1 Alliance Advocating Autonomy Party (1AAAP)²³²
6. Abyan Ilonggo Party (AI)²³³
7. Partido ng Bayan and Bida (PBB)²³⁴
8. 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,

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.

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.**



BIENVENIDO L. REYES
Associate Justice