

TRADITION, CONTESTATION, AND DEMOCRATIZATION: LAW AND THE CHALLENGE OF PHILIPPINE “FOLK DEMOCRACY”

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I. EVICTING PRESIDENTS

Joseph E. Estrada was elected President of the Philippines in 1998 with the largest margin of victory in Philippine history.¹ His presidency was also the shortest. Estrada's administration was racked by scandals and hounded by charges of ineptitude and corruption² that by October 2000, Estrada became the first Philippine President to be impeached by Congress.³ His trial in the Senate followed shortly and was scheduled to end sometime on February 2001.⁴

But on January 16, 2001, Estrada's supporters in the Senate blocked the examination of bank documents that prosecutors claimed would prove that Mr. Estrada kept millions of dollars in secret bank accounts. Angered by the decision, people took to the streets to demand Estrada's resignation from office. As days went by, members of the Estrada Cabinet resigned and the military and the police

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¹ According to the Commission on Elections (COMELEC), Estrada garnered 42.1% of the votes cast in the May 11, 1998 national elections. See NATIONAL STATISTICAL COORDINATING BOARD, NSCB STATISTICS SERIES NO. 2001-002, A STATISTICAL ANALYSIS OF THE COUNTRY'S ELECTORAL EXERCISES 7 (2001).

² Many of the allegations against Mr. Estrada involved unexplained wealth, cronyism and a profusion of mistresses. See PHILIPPINE CENTER FOR INVESTIGATIVE JOURNALISM, INVESTIGATING ESTRADA: MILLIONS, MANSIONS AND MISTRESSES (Sheila S. Coronel ed., 2000).

³ The impeachment complaint against Joseph E. Estrada accused the President of bribery, graft and corrupt practices, betrayal of the public trust, and the culpable violation of the Constitution. *Articles of Impeachment*, at <http://www.nenepimentel.org/trial/complaint.html> (last modified March 21, 2001).

⁴ For a summary of the events leading to the impeachment of Mr. Estrada, see Marites D. Vitug, *Tightening the Noose*, NEWSWEEK, Nov. 27, 2000, at 39.

brass withdrew their support from the President. Shortly thereafter, President Estrada left the Presidential Palace.

After noon, on January 20, 2001, Vice President Gloria Macapagal-Arroyo took her oath as President of the Philippines. She declared:

I will refer to one of my core beliefs, that of the need for new politics. Politics and political power as traditionally practiced and used in the Philippines are among the roots of the social and economic inequities that characterize our national problems. Thus, to achieve true reforms, we need to outgrow our traditional brand of politics based on patronage and personality. Traditional politics is the politics of the *status quo*. It is a structural part of our problem.

We need to promote a new politics of true party programs and platforms, of an institutional process of dialogue with our citizenry. This new politics is the politics of genuine reform. It is a structural part of the solution.

We have long accepted the need to level the playing field in business and economics. Now, we must accept the need to level the playing field in politics as well. We have long aspired to be a world class economy. Now, we must also aspire to develop a world class political system, one in tune with the 21st Century.⁵

President Arroyo was a new Philippine leader with an old message—the need to abandon “traditional politics” and to attack patronage and personality politics. The message was familiar to many Filipinos, but it was welcome.⁶

Less than a week later, sectors that supported Arroyo’s ascension to office started to criticize her. Business leaders complained that her Cabinet appointments reflected political concessions, rather than competence of her appointees.⁷ Critics objected to the return of “traditional politicians” to power—a retreat from the promise of change they expected from the new government.⁸

Despite the extraordinary events leading to the fall of the Estrada government, radical changes may not be forthcoming from the Arroyo

⁵ President Gloria Macapagal-Arroyo's Inaugural Speech as the 14th President of the Republic of the Philippines delivered at the EDSA Shrine, Ortigas Avenue, Mandaluyong City, Philippines, Jan. 20, 2001, <http://www.kgma.org/speech.html>.

⁶ Arroyo herself is the product of traditional politics. She is the daughter of a former President and enjoys tremendous popularity. When she ran for the vice president in 1998, Arroyo garnered even more votes than Joseph Estrada—49.7% of the votes cast. See NATIONAL STATISTICAL COORDINATING BOARD, NSCB STATISTICS SERIES NO. 2001-002, A STATISTICAL ANALYSIS OF THE COUNTRY'S ELECTORAL EXERCISES 7 (2001).

⁷ Clarissa S. Batino and Amy Bainbridge, *Cabinet appointees alarm civil society*, PHIL. DAILY INQUIRER, Jan. 26, 2001, at A1.

⁸ *Id.* at A16.

administration. Unlike the toppling of Ferdinand Marcos in 1986, observers were less enthused about the demonstrations that led to the removal of Estrada from office.⁹ The international media's response to the Estrada's ouster was almost hostile. Estrada's removal from office was branded as a conspiracy by business and political leaders to excise an outsider from the seat of political leadership—the exclusive enclave of the elite.¹⁰ Business leaders were hurrying the end of the Estrada Presidency, which was pushing the country towards economic ruin.¹¹ The allegations of corruption and the impeachment trial provided the opportunity to save the economy.¹² Others pointed out that Estrada's removal "was a de facto military coup, with only broad upper- and middle-class support"¹³ led by "the opportunist coalition of church, business elite" and the defection of the army brass.¹⁴ It was a "soft coup" engineered "to return the old, wealthy political and business elite to power"¹⁵ and a victory for "mob rule."¹⁶

If these charges are accurate, traditional politics, an embarrassing if resilient feature of Philippine politics, is safe from any threat of upheaval.¹⁷

⁹ The Supreme Court ruled that the Arroyo government is not a revolutionary government. The Court explained that unlike the ouster of Ferdinand Marcos in 1986, which "overthrew the whole government," the removal of Joseph Estrada was "an exercise of people power of freedom of speech and freedom of assembly to petition the government for redress of grievances which only affected the office of the President." It added that the issues concerning the legitimacy of the Arroyo presidency are not political issues because they implicate specific provisions of the Constitution. The Supreme Court dismissed the petitions of former President Joseph Estrada challenging Gloria Macapagal-Arroyo as the *de jure* President of the Philippines. See *Estrada v. Desierto*, G.R. Nos. 146710-15 and *Estrada v. Macapagal-Arroyo*, G. R. No. 146738, March 3, 2001, Decision, 21-22, available at <http://www.supremecourt.gov.ph>.

¹⁰ See Peter Cordingley & Antonio Lopez, *After the Gloria Euphoria*, ASIaweek, Feb. 2, 2001, at 21.

¹¹ For a summary of the Philippines' economic performance under the Estrada Administration see Mark L. Clifford, *Not a moment too soon*, BUSINESS WEEK, Feb. 5, 2001, at 16-19. See also Solita C. Monsod, *Mediocre by Empirical Findings*, in PEOPLE POWER 2: LESSONS AND HOPES 207-208 (2001) (discussing the deteriorating economic conditions under Estrada's administration).

¹² Sandra Burton, *People Power Redux*, TIME, Jan. 29, 2001, at 14, 17.

¹³ William H. Overholt, *It's 'People Power' Again, but this Time Without the People*, INTERNATIONAL HERALD TRIBUNE, Jan. 24, 2001, <http://www.ihrt.com/articles/8430.htm>.

¹⁴ Philip Bowring, *Filipino Democracy Needs Stronger Institutions*, INTERNATIONAL HERALD TRIBUNE, Jan. 22, 2001, <http://www.ihrt.com/articles/8219.htm>. Later reports reveal that the protests at EDSA aborted an attempt by members of the military to stage a *coup* against Mr. Estrada. Retired and active generals planned to deploy troops, seize the president and arrest more than 50 of his allies. When Armed Forces Chief of Staff Gen. Angelo Reyes learned that the *coup* attempt was imminent, he defected to the opposition leaving the President without military support. Worried that an acquittal in Congress would give Estrada new legitimacy, the conspirators planned to oust him before his impeachment trial was expected to end on Feb. 12. See Richard C. Paddock, *'Constitutional Coup' Ended Estrada's Rule*, THE L.A. TIMES, Jan. 22, 2001.

¹⁵ Deidre Sheehan, *More Power to The Powerful*, FAR EASTERN ECONOMIC REVIEW, Feb. 1, 2001, http://www.feer.com/_0102_01/p016region.html.

¹⁶ Anthony Spaeth, *Oops, We Did It Again*, TIME, Jan. 29, 2001, at 22. I do not wish to suggest that the foreign media's assessment of the ouster of Mr. Estrada is accurate. However, local analysts and journalists responded to these views and the rebuttals need not be repeated here. For a summary of the rebuttals, see Seth Mydans, *Expecting Praise, Filipinos are Criticized for Ouster*, NEW YORK TIMES, Feb. 5, 2001.

¹⁷ For a discussion on "traditional politics" in the Philippines, see Part III, *infra*.

Traditional politics is the dominant feature of Philippine politics. Cynics charge that personalities, patronage, and personal gain are so enmeshed with government that it is the cause of the country's economic and political stagnation. Former House Speaker Manuel Villar probably said it best: "Politics here are the politics of personality. If you want to run [for public office] you have to learn to dance and sing, it doesn't matter what else you do. Politicians, instead of sharpening their skills in management, sharpen their singing skills."¹⁸

Aware of these defects, Filipinos attempted to institute changes in their laws to end traditional politics. After the fall of the Marcos regime in 1986, they ratified a Constitution with strong provisions on democratization and Congress passed laws to address the country's dysfunctional democracy.

This article is an analysis of the democratization of Philippine politics. There are two main parts to this paper. The first analyzes the literature on Philippine politics and will show that the introduction of elections in the Philippines was skewed to serve the objectives of the colonizers' empires, thereby allowing the elite to dominate electoral politics. It argues that "traditional politics" is also the product of the incorporation of the Filipino's alliance-building practices with the election processes introduced by the colonizers. Both the colonizers' designs and the Filipino response to the official selection fashioned what is now derided as Philippine-style democracy.

The second discusses two innovations in Philippine law designed to democratize electoral contests. It will illustrate how the framers of the Constitution introduced local sectoral representation in local legislative councils (*sanggunians*), and the party-list system for the House of Representatives to address elite domination of electoral exercises. Both innovations were implanted in Philippine law to skew elections in favor of groups that are historically left out of politics and public office. The article will also analyze recent developments regarding these experiments.

Particularly, Part II provides a brief overview of the literature on democracy to show that democracy is an evolving concept, one that accommodates the legal and political developments in the Philippines. Part III will discuss some of the reasons for the shaping of Philippine "political culture". Part IV will discuss the laws that are designed to democratize Philippine politics and the problems that confront them. Finally, Part V assesses the state of democratization in the Philippines.

¹⁸ Deidre Sheehan & Rodney Tasker, *A Chance for Change*, FAR EASTERN ECONOMIC REVIEW, Nov. 2, 2000, at 21, 22.

II. DEBATING DEMOCRACY

In its simplest sense, democracy concerns the role of the people in governance. The right to democracy is the right of people to be consulted and to participate in the process by which political values are reconciled and choices made.¹⁹ So broadly defined, many political systems today easily qualify as democracies. Indeed, popular participation in politics is spreading so quickly that there are those who argue that democracy may be administered in virtually every country and that this system is superior to all other forms of government.²⁰ Others warn, however, that these claims to the invincibility of democracy are limited to the recognition of mechanisms for political competition, but ignore the ways through which these mechanisms fulfill the ends of democracy.²¹

These competing views as to what constitutes a democracy illustrate how the definition of democracy is far from settled. Indeed, political scientists can identify more than 550 subtypes of democracy.²²

There are many ways of defining democracy. Most studies begin with Schumpeter's definition where "the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote." Others amplified Schumpeter's "competitive struggle for the people's vote" to mean a polyarchy—or a system, which encompasses the right to vote and contest office, the freedom to speak and publish dissenting views, the freedom to form and join organizations, and the availability of alternative sources of information.²³

¹⁹ Thomas M. Franck, *Legitimacy and the Democratic Entitlement*, in DEMOCRATIC GOVERNANCE AND INTERNATIONAL LAW 25, 25-26 (Gregory H. Fox and Brad R. Roth eds., 2000).

²⁰ Brad R. Roth, *Evaluating Democratic Progress*, in DEMOCRATIC GOVERNANCE AND INTERNATIONAL LAW 493 (Gregory H. Fox and Brad R. Roth eds., 2000).

²¹ *Id.* at 494.

²² LARRY DIAMOND, *DEVELOPING DEMOCRACY: TOWARD CONSOLIDATION* 7 (1999).

²³ *Id.* at 8. Liberal democracies, one variant, look beyond elections. They require the absence of domains of power for the military or other actors not accountable to the electorate, a system of checks and balances, provisions for political and civic pluralism as well as for individual and group freedoms. This is to ensure that contending interests and values may be expressed and compete through ongoing processes of articulation and representation after elections. Diamond continues by explaining that freedom and pluralism can be secured only through a "rule of law," in which legal rules are applied fairly, consistently, and predictably across equivalent cases, irrespective of the class, status, or power of those subject to the rules. Under a "rule of law," all citizens have political and legal equality, and the state and its agents are themselves subject to the law." *Id.* at 10-11.

Schumpeter's definition, however, is criticized for being deficient and being too elitist.²⁴ Scholars attempted to generate another definition of democracy where "citizens had more access to political information, more access to political leaders, and more direct input into political processes, both in choices of candidates and in shaping policy making."²⁵ Studies recognize "possible varieties of democracy"²⁶ and that

Some conceptions of democracy fall somewhere in between, explicitly incorporating basic freedoms of expression and association yet still allowing for constrictions in citizenship rights and a porous, insecure rule of law. The crucial distinction turns on whether freedoms are relevant mainly to the extent that they ensure meaningful electoral competition and participation or whether they are, instead, viewed as necessary for a wider range of democratic functions.²⁷

Recently, Huntington reasserted the Schumpeterian definition and defined a democracy as a political system where "its most powerful collective decisions makers are selected through fair, honest, and periodic elections in which candidates freely compete for votes and in which virtually all the adult population is eligible to vote."²⁸ He emphasizes the twin requirements of contestation and participation.

Huntington acknowledges that this definition is minimal but dismisses other bases for defining democracies as "sweeping and idealistic" or "fuzzy".²⁹ He insists that open, free, and fair elections are the essence of democracy explaining that while elected governments may not live up to the expectations of the electorate, these governments are not undemocratic.³⁰ With this definition, Huntington includes the Philippines as among those which reverted to the democratic path after the ouster of Mr. Marcos in 1986.³¹

On the other hand, some argue, that elections alone do not make a political system democratic. They emphasize the role of citizens in governance, repudiating

²⁴ O'Donnell points out that the criticisms of Schumpeter's definition of democracy are inaccurate because Schumpeter did not limit the "democratic method" to elections. Schumpeter cited many, if vague, elements that are required for a democracy. O'Donnell concedes that Schumpeter's definition is elitist because he legitimizes the dichotomy between the elected and those who are not. He challenges the perception, however, that it is "minimalist" claiming that Schumpeter implied that although the primary function of the electorate is to produce a government, the electorate is engaged in an enduring quest of selecting and evicting governments. See Guillermo O'Donnell, *Democracy, Law, and Comparative Politics*, IDS Working Paper 118 (2000).

²⁵ JOHN D. NAGLE & ALISON MAHR, *DEMOCRACY AND DEMOCRATIZATION* 10 (1999).

²⁶ *Id.* at 12.

²⁷ Diamond, *supra* note 22, at 13.

²⁸ SAMUEL P. HUNTINGTON, *THE THIRD WAVE: DEMOCRATIZATION IN THE LATE TWENTIETH CENTURY* 7 (1993).

²⁹ *Id.* at 9.

³⁰ *Id.*

³¹ *Id.* at 23.

the notion that elected officials have a monopoly of policy-making. According to Saward, all citizens are equal with respect to their right to decide the appropriate political course of their community. He argues that there is no reason to believe that one person or group has a better insight on any issue.³² Because of this presumption of equality, substantive policy, and political and administrative actions performed under substantive policy, must correspond to the express preferences of a majority of citizens.³³ A political system, in his view, is democratic only to the extent that, it involves realization of responsive rule.³⁴

Democracy may thus be viewed in two senses:

Democracy in its optimal and substantive sense refers to a political system that, beyond fulfilling minimal procedural criterion, the people's will is being effected in the processes of governance, and the declared constitutional and legal purposes and policies are being achieved through the functioning of governmental and political institutions, in relation to democratic norms and expectations. Democracy is put to the test of policy performance—the capacity of its institutions and leaders to deliver what is promised and expected.³⁵

Democracy, others point out, is the active participation of citizens in decision-making in all aspects of life, and in actualizing these decisions.³⁶ Democracy is sometimes regarded as a process of democratization where internal groups and institutions interact with each other.³⁷ A democracy is not about procedures but about the "actual material benefits and the kinds of social justice that it dispenses."³⁸

As this article will show, the Philippines satisfies the election requirement but the outcome of these exercises are wanting.

³² Michael Saward, *Democratic Theory and Indices of Democratization*, in *DEFINING AND MEASURING DEMOCRACY* 13 (David Beetham ed., 1994).

³³ *Id.* at 13.

³⁴ Saward explains that the emphasis is on the outcome and not the procedures because "responsive procedures" do not guarantee that citizens will get what they want in terms of substance. There must be a correspondence between the acts of government and the wishes of the citizens, otherwise, values other than democracy may be taking precedence over the realization of democratic decisions, and/or procedural inadequacies are affecting the democratic character of policy decisions. *Id.* at 6, 13-14.

³⁵ Jose V. Abueva, *Philippine Democratization and the Consolidation of Democracy since the 1986 EDSA Revolution: An Overview of the Main Issues, Trends and Prospects*, in *DEMOCRATIZATION: PHILIPPINE PERSPECTIVES* 1, 2 (Felipe B. Miranda ed., 1997).

³⁶ Miriam Coronel-Ferrer, *Civil Society: An Operational Definition*, in *DEMOCRACY AND CITIZENSHIP IN FILIPINO POLITICAL CULTURE* 5 (Maria Serena I. Diokno ed., 1997).

³⁷ *Id.* at 6.

³⁸ See Benilda A. Aquino, *Filipino Elections and "Illiberal" Democracy*, 2 *PUBLIC POLICY* 1, 5 (July-Dec. 1998).

III. "TRADITIONAL POLITICS" IN THE PHILIPPINES

A. MONOPOLY

Observers often deride Philippine democracy as a poor facsimile of the ideal—more rhetoric than reality. It is a contest among rival factions of the elite for public office and is used as a means for personal enrichment.³⁹ It is for this reason that Philippine democracy is known as "elite democracy" where political and economic power were shared between shifting coalitions of these elite families, leaving little if any room for policy determination or legislation by majority of the Filipinos.⁴⁰

Political scientists almost invariably identify the same reasons for the Philippines' electoral system. Much of the blame is placed on a "political culture" marked by "the primacy of kinship, the influence of particularism and personalism, the importance of reciprocity and patron-client relations, the emphasis on smooth interpersonal relations and the effect of pervasive poverty on values and behavior."⁴¹ Together, these features produced a culture "characterized by personalism and particularism, ambiguous class affiliations, skepticism about the effectiveness of government and laws, ambivalence about democracy and an uncertain concept of nationalism."⁴² Response to the concerns of the majority of the Filipinos, if any, was achieved on an "ad hoc and self-serving basis."⁴³

This political culture and elite control of the electoral processes created what is known as "traditional politics," which Timberman describes in the following manner:

Traditional Philippine politics were characterized by the close correlation between landownership, wealth, and political power. Politics were driven by the rivalries between wealthy families and competing economic interests. Political affiliations and loyalties were determined primarily by family and linguistic ties, patron-client relationships and patronage. Public office was

³⁹ RENATO CONSTANTINO, *The Filipino Politician, in* NEOCOLONIAL IDENTITY AND COUNTER CONSCIOUSNESS: ESSAYS ON CULTURAL DECOLONISATION 148, 148-164 (1978).

⁴⁰ DAVID G. TIMBERMAN, *A CHANGELESS LAND: CONTINUITY AND CHANGE IN PHILIPPINE POLITICS* 35 (1991). In the Philippines, poverty fosters a short-term, pragmatic, and a conservative approach to life, forcing the poor "to relinquish their one source of collective leverage." The poor exchange their votes for small individual favors from politicians. *Id.* at 21.

⁴¹ *Id.* at 15-16.

⁴² *Id.* at 21-22.

⁴³ *Id.*

seen as a vehicle for the control and allocation of privileges and government resources among competing elite factions and their followers.⁴⁴

Very little elicits praise in Philippine politics. Voters are mobilized to participate in elections less by ideology than by selective incentives or threats of violence.⁴⁵ Winning candidates are wealthy and well armed. The proliferation of firearms during elections is meant both to protect candidates and to intimidate opponents. Once in office, politicians recoup the costs of elections and expand their private economic interests through the use of state power and patronage.⁴⁶

Philippine political parties are parties of the elite, characterized by shifting membership and leadership and the absence of ideological differences with other parties.⁴⁷ The costs of participating in elections are so high, they prevent many qualified people from entering public office and it leaves the elite with a free hand in monopolizing elections. Even as democratic mechanisms and institutions such as political parties may exist, the results of electoral contests often affirm the dominance and corruption of entrenched powerful groups.⁴⁸

The effect of having elite parties dominating politics was the expansion of an economic system that scarcely benefited the poor. The major political parties did not attract electoral support by programs or ideology, but rather, through "pork barrel, patronage, cash, and violence."⁴⁹

Philippine politics suffered another setback when Ferdinand E. Marcos declared martial law on September 21, 1972. Marcos dismantled the existing political system and attacked other power bases in the country. He centralized the police, arrested elected officials and by-passed the courts by resorting to military tribunals to try his opponents,⁵⁰ outlawed student and intellectual organizations, and co-opted professional associations like the Integrated Bar of the Philippines.⁵¹ Marcos erected

⁴⁴ *Id.* at 49.

⁴⁵ Mark Thompson, *Moral Appeals and Collective Action in the 1953 and 1986 Philippine Elections*, in OLD TIES AND NEW SOLIDARITIES: STUDIES ON PHILIPPINE COMMUNITIES 250, 250-251 (Charles J-H Macdonald & Guillermo M. Pesigan eds., 2000).

⁴⁶ *Id.*

⁴⁷ Joel Rocamora, *Philippine Political Parties, Electoral System and Political Reform*, in PHILIPPINES INTERNATIONAL REVIEW 9 (Spring 1998).

⁴⁸ Aquino, *supra* note 38, at 3.

⁴⁹ DAVID WURFEL, FILIPINO POLITICS: DEVELOPMENT AND DECAY 98 (1988).

⁵⁰ *Id.* at 199.

⁵¹ *Id.* at 207. See also Alex B. Brillantes, Jr., *The State of Philippine Democracy*, 31 PHIL. J. PUB. ADM. 404, 407 (1987).

“a one-man constitutional regime which permits him to stay in office indefinitely, with almost unlimited powers, under a veneer of parliamentary democracy.”⁵²

Philippine politics enjoyed a respite after the ouster of the Marcos regime in 1986. Soon thereafter, there was talk of redemocratization—restoring the best ideas and practices from the political past and putting them to good use in the present.⁵³ The excitement over the possibility of redemocratization was triggered by the shifts in traditional power structures that sustained the Marcos dictatorship. One author explained that:

The increasing recognition of the limits of elite-oriented politics and the emergence of mass-based popular democracy is reflected in the realignment of the various electoral parties and the opening up of a broader democratic sphere under the Aquino Government. With the ouster of Marcos, the dynamics of the pre-revolution political terrain have been fundamentally altered. The political forces sustained by the patronage system of the deposed regime found themselves severely dislocated as supporters of the new coalition government hurriedly took over. The swift replacement of local executives by the Aquino Government threw the local elite network into disarray. Even traditional power blocks, like the *Iglesia ni Kristo*, were marginalized by the February surge of people power...⁵⁴

The more optimistic predictions about changes in Philippine political culture brought about by the fall of the Marcos dictatorship proved unfounded. A study of political change in local governments found, among others, that the Aquino government made modest changes towards democracy and not a “decisive reform of iniquitous social structures.”⁵⁵

Voting behavior analysis revealed that the poor are too busy trying to make ends meet to take elections seriously. They believed that elections were contaminated by cheating and were simply contests among those who had little interest in their plight. Public office was seen as a mechanism to address personal interests and not as a vehicle for public service. These perceptions explained vote-selling, nominal

⁵² SARA STEINMETZ, DEMOCRATIC TRANSITION AND HUMAN RIGHTS: PERSPECTIVES ON U.S. FOREIGN POLICY 166 (1994).

⁵³ Raul P. de Guzman, *Towards Redemocratization of the Political System*, in GOVERNMENT AND POLITICS OF THE PHILIPPINES 267-278 (Raul P. de Guzman & Mila A. Reforma eds., 1988).

⁵⁴ Luzviminda G. Tancangco, *The Electoral System and Political Parties in the Philippines*, in GOVERNMENT AND POLITICS OF THE PHILIPPINES 77, 110 (Raul P. de Guzman & Mila A. Reforma eds., 1988).

⁵⁵ Benedict J. Kerkvliet & Resil B. Mojares, *Themes in Transition from Marcos to Aquino: An Introduction*, in FROM MARCOS TO AQUINO: LOCAL PERSPECTIVES ON POLITICAL TRANSITION IN THE PHILIPPINES 1, 5 (Benedict J. Kerkvliet & Resil B. Mojares eds., 1991).

participation in the electoral system, and general indifference towards illegitimate governments so long as they deliver basic economic needs.⁵⁶

Ten years after the overthrow of the Marcos revolution, analysts concluded that Filipino democracy was still in the stage of consolidation.⁵⁷ Indeed, subsequent elections, others point out, marked the return of the pre-Marcos days where oligarchs and political clans ruled.⁵⁸

Still optimistic, some analysts predicted that because of developments in the structures, laws and institutions of elections, the 1998 national and local elections promised change. Developments in technology and the media, as well as the introduction of new figures suggested that traditional politicians would at least be put on guard. It was hoped that these changes would push Philippine politics into a new period of democratization.⁵⁹

Sadly, traditional power structures reasserted themselves even as new problems emerged. Shortly after taking power, Estrada reinvigorated the Marcos family and its cronies. Political dynasties flourished. There was an infusion of movie stars and celebrities in public office and an increased participation of religious and quasi-religious groups in politics.⁶⁰ These developments reveal the weak political culture of the Filipinos, as Aquino opines:

The Filipino electoral system is flawed because it continues to allow the worst abuses and flagrant excesses of plutocratic, corporatist, crypto-religious and otherwise insidious forces which undermine or frustrate democratic participation or genuine interests. It is our view that while the kind of democracy that Filipinos have developed enables them to go through electoral exercises that can be considered open, free, competitive, and so on, it has not nurtured the deeper meaning of economic and social justice that can bring about a democratic society in the real sense...

The results of the last electoral season are disturbing from a democratic standpoint. The traditional ills of vote-buying, voter intimidation, "flying voters", cheating, and depredations of political dynasties and warlords were supplemented by inordinate doses of "star-ization", quasi-religious

⁵⁶ *Id.* at 7-8.

⁵⁷ Abucva, *supra* note 35, at 48.

⁵⁸ Eva-Lotta E. Hedman, *Beyond Boycott: The Philippine Left and Electoral Politics After 1986*, in *THE REVOLUTION FALTERS: THE LEFT IN PHILIPPINE POLITICS AFTER 1986* 83 (Patricio N. Abinales ed., 1996).

⁵⁹ Eric Gutierrez, *Retail Politics, Term Limits and New Players: Change and Modernization in Philippine Politics*, in *PHILIPPINES INTERNATIONAL REVIEW* 16-20 (Spring 1998).

⁶⁰ Aquino, *supra* note 38, at 16-23.

manipulations, excessive mudslinging, vicious propaganda and other conditions that made one wonder what electoral competition really means.⁶¹

Indeed, the elite-dominated political system is likened to a *fiesta* where political leaders engage in grandstanding as a form of entertainment for the masses. Others suggest that the success of celebrities in politics is a form of retaliation against the insincerity of the politicians who “don't really mean what they say, anyway.”⁶² Today, the entertainment industry has become an important entry point for politics, so that actors and actresses and media personalities consider politics as an alternative career. Simbulan places the blame on politicians who have made public office a means for personal enrichment. Revulsion towards traditional politicians makes the voters turn to the celebrities who “though not intellectually qualified, will at least give them professional entertainment.”⁶³

Disgust over electoral politics can explain celebrity success or the buying and selling of votes. The involvement of religious groups could be viewed as a modification of the rules of the elections. Helpless against the pointlessness of elections, voters may be looking for guidance from no less than God. Religious and quasi-religious groups are happy to oblige by endorsing candidates. Aspirants to public office routinely seek church support in the course of their election campaign.⁶⁴

Altogether, Philippine party politics has been a dismal failure, as Corpuz notes:

The party system...was, as it had been since 1907, almost destitute of nationalism; it was since 1946, guided by no shred of social ethics except opportunism. It almost invariably corrupted honorable men and women, making the honest dishonest. It twisted civic values; it miseducated the youth; it was a dark and impenetrable screen that concealed every long-term national interest from the electorate.

⁶¹ *Id.* at 24.

⁶² See Roland G. Simbulan, *The Century that Nurtured Filipinas Toward Nationhood*, 2000, at <http://www.boondocksnet.com/sctexts/simbulan00a.html>.

⁶³ *Id.* One might apply Scott's discourse on “everyday forms of resistance” in the case of Philippine elections. Scott posited that peasant groups defend their interests “between revolts”, avoiding direct confrontation with authority or with elite norms. He suggested that an analysis of folk culture would indicate the extent to which marginalized groups genuinely accept the social order dictated by the elite. This acceptance is discerned from an analysis of everything from conversations to humor. See JAMES C. SCOTT, *WEAPONS OF THE WEAK: EVERYDAY FORMS OF PEASANT RESISTANCE* 28 (1985). While elections are not everyday occurrences, the election of “incompetent” candidates into office could be viewed as popular repudiation of the social order imposed by the Philippine State. Filipinos debase elections by electing those “not intellectually qualified”—to use Simbulan's words—to protest elite hegemonic control of the social order.

⁶⁴ Aquino, *supra* note 38, at 21-23.

Worst of all, the party system was a consistent failure at its social function: to instruct the community on political issues and structure public opinion so as to produce electoral decisions about the direction of the national life, as a guide for government. The system allowed the people only the knowledge, after the elections were over, that this candidate won and that one lost...⁶⁵

Again, however, it may be argued that these are the products of Philippine political culture; they are the merely effects of traditional politics. Still, we have no adequate explanation for the factors that shaped Philippine political culture. It becomes essential to ask how this culture was shaped.

B. IT'S ALL IN THE PAST

To understand the roots of political participation in the Philippines, it is necessary to scan the country's history. Spanish documentation of contact with indigenous populations showed the existence of social stratification—a slave class with fewer privileges co-existed with groups that enjoyed economic and political privileges.⁶⁶ It has been noted, however, that one entered the slave class often as a penalty for an offense and that one could, in essence, graduate from this status. Slaves were not chattel; they were regarded as members of the family, albeit inferior ones. Some went so far as to say that their servitude was essentially "benign".⁶⁷

Families were organized into "barangays" that were headed by a "datu" whose power to rule was determined by lineage and maintained by wealth—basically through the acquisition of slaves and the display of physical prowess. These datus were part of a loose federation of chiefs bound by ties of personal allegiance. The head of such a chiefdom exercised authority over supporting chiefs whose primacy stemmed from his ability to control local and foreign trade and to redistribute luxury goods.⁶⁸ However, while some datus tended to be autocratic, there is nothing to indicate that this was the general rule.⁶⁹ The datus did not make up an unproductive

⁶⁵ 2 ONOFRE D. CORPUZ, *THE ROOTS OF THE FILIPINO NATION* 572-573 (1989).

⁶⁶ For a synthesis and analysis of the data on the barangay see WILLIAM HENRY SCOTT, *BARANGAY: SIXTEENTH-CENTURY PHILIPPINE CULTURE AND SOCIETY* (1994).

⁶⁷ Jose V. Abueva, *Philippine Ideologies and National Development*, in *GOVERNMENT AND POLITICS OF THE PHILIPPINES* 18, 23 (Raul P. de Guzman & Mila A. Reforma eds., 1988). Barangay stratification was tempered by kinship ties and bore little resemblance to European models of class distinction. See DAVID R. STURTEVANT, *POPULAR UPRISINGS IN THE PHILIPPINES, 1840-1940* 23 (1976). See also WILLIAM HENRY SCOTT, *SLAVERY IN THE PHILIPPINES* 11-17 (1991) (discussing the social conditions and the absence of harshness in the treatment of "slaves" in the Philippines).

⁶⁸ SCOTT, *supra* note 66, at 129.

⁶⁹ *Id.*

leisure class as it was necessary for them to display leadership skills.⁷⁰ They did not exercise control over agricultural lands beyond settling disputes thereon.⁷¹ They were entrusted with the duty to care for their people.

In the Tagalog region, the *datus* were regarded as governors and administrators tasked to look after the interests of their people. They were not kings but “rulers”, more closely associated with knights.⁷² They did not arrogate arable lands to themselves because lands were considered communal properties.⁷³

The Philippine Islands were colonized by Spain when she accidentally landed on its shores in 1521. Spain assimilated most of the scattered *barangays* under a centralized system, working with local leaders who enforced the colonizer’s will. These local bosses gained prestige serving the colonial master for personal gain.⁷⁴

Spain introduced elections to the Philippines. Concerned with producing a governable colony, she used municipal elections for the wrong reason—to impose order over local rivalries by throwing their support behind one of the candidates. Instead of infusing politics with public *ethos*, elections heightened factional rivalries, subtly teaching Filipinos to use government for personal ends and not for public service.⁷⁵

Filipinos waged a successful revolution against Spain ending her three-century reign in 1898. But even as the Filipinos declared their independence, Spain sold the Philippine Islands to the United States, which was then establishing itself as a global power. Unlike Spain, the United States managed to quash the revolutionary forces in the Philippines in a war that resembled the annihilation of indigenous peoples in the Americas.⁷⁶ The United States then attempted to distinguish itself

⁷⁰ *Id.* at 130-131.

⁷¹ *Id.*

⁷² *Id.* at 221.

⁷³ *Id.* at 229.

⁷⁴ Abueva, *supra* note 67, at 27.

⁷⁵ Ruby R. Paredes, *Introduction: The Paradox of Philippine Colonial Democracy*, in *PHILIPPINE COLONIAL DEMOCRACY* 1, 7 (Ruby R. Paredes ed., 1989). Under Spain’s tutelage, Filipinos were trained to use, not serve government. Public officials learned that elections were a charade, and effective only as a means to promote particular interests. See Glenn A. May, *Civic Ritual and Political Reality: Municipal Elections in the Late Nineteenth Century*, in *PHILIPPINE COLONIAL DEMOCRACY* 13, 36 (Ruby R. Paredes ed., 1989).

⁷⁶ For accounts of the Philippine war with the United States, see JOHN M. GATES, *SCHOOLBOOKS AND KRAGS: THE UNITED STATES ARMY IN THE PHILIPPINES, 1898-1902* (1973); RUSSELL ROTH, *MUDDY GLORY: AMERICA’S “INDIAN WARS” IN THE PHILIPPINES, 1899-1935* (1981); STUART CREIGHTON MILLER, *BENEVOLENT ASSIMILATION: THE AMERICAN CONQUEST OF THE PHILIPPINES, 1899-1903* (1982); and BRIAN MCALLISTER LINN, *THE U.S. ARMY AND COUNTERINSURGENCY IN THE PHILIPPINE WAR, 1899-1902* (1989).

from other colonizers by allegedly preparing the Filipinos for self-government. Instead, American colonial officials exploited the Filipinos' history of patronage politics. Seeking to diffuse pro-independence sentiments, they worked with the educated elite, who then advocated an end to Filipino resistance to American rule.⁷⁷ Like Spain, the United States subverted the popular will by allowing the colony to elect leaders who, however, could only exercise power with the colonizers' consent.⁷⁸

The islands' first national elections saw a recently enfranchised male electorate—some 1.4 per cent of the total population—voting in the National Assembly in 1907. By making suffrage conditional upon literacy, property and language qualifications, the American colonial administration effectively enfranchised an electorate that "closely approximated the small group of Filipinos who had comprised the *principalías* in the *pueblos* during the Spanish regime". Over time, however, formal legislation and other dynamics contributed to the expansion of electoral participation (both in absolute and relative terms) under the American colonial regime. ... However, while expanding beyond the 1.4 per cent of the total population who voted in the first national elections, suffrage remained an exclusive privilege exercised by a mere 14 per cent of all colonial subjects at the end of the American period.⁷⁹

Throughout the post-war period, a national oligarchy "essentially recruited from families of long standing economic wealth or political dominance or both" has continued to define the nature and direction of electoral politics as large landowners, commercial magnates, and their scions have filled both houses of Congress as well as the offices of municipal halls and provincial capitols throughout the archipelago.⁸⁰

Significantly, the colonial lineages of this political class endowed it with control over a combination of clientelist structures, coercive mechanisms and monetary resources, which facilitated sustained oligarchic predominance in Philippine electoral politics.⁸¹

These circumstances produced what Anderson calls a malignant form of colonial-era electoralism. The restrictions on the right to vote limited political participation to those with a command of English or Spanish and those with substantial property.⁸²

⁷⁷ Paredes, *supra* note 75, at 8.

⁷⁸ *Id.* at 7.

⁷⁹ Eva-Lotta E. Hedman & John T. Sidel, *Transformismo and Political Democracy*, in PHILIPPINE POLITICS AND SOCIETY IN THE TWENTIETH CENTURY: COLONIAL LEGACIES, POST-COLONIAL TRAJECTORIES 15 (2000).

⁸⁰ *Id.* at 15.

⁸¹ *Id.* at 16.

⁸² Benedict Anderson, *Elections in Southeast Asia*, in THE SPECTRE OF COMPARISONS: NATIONALISM, SOUTHEAST ASIA AND THE WORLD 265, 273 (1998).

Thus, despite the introduction of democratic institutions, the colonizers found themselves in an alliance with the Filipino landowning elite thus retaining the politics and centralized administration conducted under the Spanish regime.⁸³ Under American rule, the poor remained “vulnerable to manipulation, or neglect by the ruling elite,”⁸⁴ and because of their dependency and subsistence, they could not exert any influence on policy.⁸⁵

When the Philippines obtained independence from the United States in 1946, little changed as most of the citizens in the provinces remained “poorly integrated into the functioning of interest groups, parties, the Congress, and the bureaucracy.” They were unable to see their individual problems and interests in terms of policy changes and could “neither assert the necessary policy demands on legislators or administrators, nor provide adequately the required public scrutiny and support needed by a well-functioning democracy.”⁸⁶

The political institutions established during the American period could not eradicate the prevailing social inequities. These structures were dominated by a relatively small number of public officials and leaders who came from the elite. They preserved their status and privileges and promoted the interests of the elite class through elections that were marred with the use of “guns, goons and gold”. Personalities, turncoatism, and indistinguishable political parties characterized the party system. Dominated by the oligarchy, Congress failed to pass laws to improve the condition of the poor.⁸⁷ American colonial experience helped develop the oligarchy, but not the state.⁸⁸

In short, the introduction of “democratic institutions” was tainted with the ulterior motives of the colonizers. As such, they alienated majority of the Filipinos from the official lanes of power. Spanish elections were far from democratic:

[T]he process of selecting these officials began with a highly restrictive election, the results of which were either approved or rejected by the Spanish governor general, the top regional colonial official. Supervised by friars and other colonial officials, participation was carefully restricted to members of

⁸³ Abueva, *supra* note 67, at 45.

⁸⁴ *Id.* at 46.

⁸⁵ *Id.*

⁸⁶ *Id.* at 53.

⁸⁷ De Guzman, *supra* note 53, at 268-269. For analyses of elite control and domination of Philippine politics, see Milagros C. Guerrero, *The Provincial and Municipal Elites of Luzon During the Revolution, 1898-1902*, in PHILIPPINE SOCIAL HISTORY: GLOBAL TRADE AND LOCAL TRANSFORMATION 155-190 (1982) and Benedict Anderson, *Cacique Democracy in the Philippines: Origins and Dreams*, in THE SPECTRE OF COMPARISONS: NATIONALISM, SOUTHEAST ASIA AND THE WORLD 192-226 (1998).

⁸⁸ PAUL D. HUTCHCROFT, *BOOTY CAPITALISM: THE POLITICS OF BANKING IN THE PHILIPPINES* 26-27 (1998).

indigenous communities that had previously held colonial office, collectively referred to as the *principalia*.⁸⁹

The Americans, on the other hand, carefully orchestrated the introduction of national political institutions "to ensure that national political power would belong exclusively to members of the elite, who, as the main beneficiaries of U.S. colonial policies, were also expected to be the most reliable guarantors of U.S. interest in the Philippines."⁹⁰

Certainly, the colonizers tainted the electoral process with their motives and the elite took advantage of the structures that were intended to benefit them. Little is said about how Filipinos reacted to the system that was introduced to supplant indigenous politics. Is it possible that colonizers and their collaborators have so effectively rigged the system that those enfranchised can never determine the outcome of electoral contests? Is it possible that voters use these alien systems to carry out their preferences despite the fact that the system was skewed against their will?

There is an apparent consensus as to how the colonial experience facilitated elite domination of politics, but little is said about the influence of pre-conquest power structures on the development of Philippine political culture.

The domination of the landowning elite and the predominance of patron-client relations are usually blamed for the state of politics in the Philippines. Largely unchallenged, these views are now under closer scrutiny. Sidel, among others, points to the legacy of the American colonial era and role of violence and coercion as factors that explain Philippine politics.⁹¹

Sidel takes exception to the view that holds that patron-client relations structure Philippine society and politics. Under this framework, individuals of unequal wealth, status, and power are bound in a mutually beneficial relationship. The patron uses his own influence and resources to provide for the protection and material welfare of his lower status client and his family. The client reciprocates by offering general support and assistance including personal services to the patron.⁹² Sidel's objection to this framework is that it cannot explain the coercive pressures such as fraud and violence that characterize Philippines elections.⁹³ If the

⁸⁹ JENNIFER CONROY FRANCO, CAMPAIGNING FOR DEMOCRACY: GRASSROOTS CITIZENSHIP MOVEMENTS, LESS-THAN DEMOCRATIC ELECTIONS, AND REGIME TRANSITION IN THE PHILIPPINES 68 (2000).

⁹⁰ *Id.* at 79.

⁹¹ JOHN T. SIDEL, CAPITAL, COERCION, AND CRIME: BOSSISM IN THE PHILIPPINES 4 (1999).

⁹² *Id.* at 7.

⁹³ *Id.* at 9.

relationship between patron and client was symbiotic, why are fraud and violence so prominent in Philippine elections?

Sidel also takes exception with the view that the Philippines is a weak state dominated by an oligarchy with roots in large landholdings. He claims that many entrenched politicians derived wealth from state resources and foreign capital, rather than private land ownership. In fact, he argues that the accumulation of land follows, and does not precede the assumption to public office.⁹⁴

Sidel proffers an alternative explanation for the problems of Philippine politics by looking back to pre-conquest Philippines. He points out that even then, power relations featured the prominence of local “strong men”. These “datus” maintained local monopolies on coercion and taxation through violence and the accumulation of personal followings. They maintained power and earned respect by providing for material needs of, and projecting prowess to, their followers.⁹⁵

The colonization of the Philippines by both Spain and the United States preserved this brand of leadership with slight modifications. Spain shifted the basis of strongman rule from military prowess to state resources and private capital. The United States expanded private control over the local coercive and extractive agencies “upward” by subordinating the national state apparatus to provincial-level, and national-level, elected officials. In short:

State formation in the Philippines after the precolonial era permitted the survival of private, personal control over the instruments of coercion and taxation. Successive phases of state formation supplanted the charismatic basis of local strongman authority with new bases of local power—derivative and discretionary enforcement of the law and accumulation of land and capital—and, in the American period, extended private control to include the provincial and national agencies of an emerging state apparatus.⁹⁶

Sidel argues that the subordination of “an extremely underdeveloped state apparatus to elected municipal, provincial, and national officials in the American colony” facilitated the emergence of “bossism” in the archipelago. The legacies of colonial rule facilitated the emergence and entrenchment of small-town bosses, provincial “warlords”, and authoritarian presidents by providing mechanisms for private monopolization of these resources and prerogatives of the state.⁹⁷

⁹⁴ *Id.* at 11.

⁹⁵ *Id.* at 13.

⁹⁶ *Id.* at 18.

⁹⁷ *Id.* Sidel’s observations on the application of the patron-client framework are not new. See Alfred McCoy, *The Restoration of Planter Power in La Carlota City*, in *FROM MARCOS TO AQUINO: LOCAL PERSPECTIVES ON POLITICAL TRANSITION IN THE PHILIPPINES* 105-144 (Benedict J. Kerkvliet & Resil B. Moares eds. 1991).

Looking further back to pre-conquest Philippines may do more than explain the emergence and resilience of local bosses in Philippine politics. It may also explain most of the features of Philippine political culture.

As explained earlier, pre-conquest communities were not consolidated into a centralized form of government. At best, there were loose federations of barangays. Barangays had highly decentralized power bases and weak regional integration, with relations of political subjugation maintained primarily through personal alliance and clientage ties maintained by continuous gift giving, ceremonialism, and the display of prestige.⁹⁸

Junker explains this relatively weak centralized structure of Philippine chiefdoms and the highly unstable nature of regional political integration:

[A] high degree of geographic fragmentation and ethnic and linguistic diversity was likely to have discouraged the long-term formation of large-scale, centralized polities, since the energy investment of militaristic conquest and long-distance administrative rule would have been significantly greater than in other regions of complex society formation. Comparatively abundant agricultural land, but relatively low population densities, would tend to deemphasize the formation of territorially based political units, but instead define political authority in terms of control over labor and tributary resources (i.e. people) who could augment the agricultural surplus and wealth of a particular chief. "Clients" and "allies" therefore had to be attracted and political loyalties maintained through constant gift giving and chiefly sponsored ritual, which were in turn dependent on a chief's ability to procure wealth objects through local luxury good production and foreign trade...

The alliance-building success of Philippine chiefs was not easily transferable intergenerationally because of a number of cultural and social factors. These include nonunilineal descent systems, a high degree of achievement-based social mobility, and the common practice of polygamy, which were also significant elements in the often chaotic process of kingly succession in more complex Southeast Asian polities. The fragility of political alliance and lineage networks coupled with the difficulties of intergenerational inheritance of political authority likely magnified the type of competitive interactions for labor and resources among élites both within polities and between peer polities that ultimately result in reconfiguration of the political landscape. This political cycling, or oscillatory expansion and contraction of polities, would be

⁹⁸ Prior to the arrival of the Spaniards, only two settlements in the Philippines were on the verge of consolidating into suprasettlements. Islamic influence is credited for stimulating greater socio-political integration creating the suprabarangays of Cebu and Manila. Both consisted of several large barangays with their own personalistic leaders, although one chief ranked about the other in these loose federations. This "first among equals" provided wise counsel, military leadership, and respect for the political rights of the other datu and could mobilize troops from within the suprabarangay and even adjoining settlements in times of crises. See Robert R. Reed, *Colonial Manila: The Context of Hispanic Urbanism and Process of Morphogenesis*, University of California Publications in Geography 3-6 (1978).

expected to occur with greatest frequency in societies with decentralized and weakly integrated political structures and in a political landscape characterized by complex societies of widely varying scale and complexity such as [the] island[s] [of] Southeast Asia.⁹⁹

Junker adds:

[T]he dyadic vertical relations between leader and subordinate would likely be of a highly personal nature as in the Sulu political structure, with the strength and scope of political authority dependent on the ability of individual leaders to transform ascribed status into de facto political power through successful manipulation of these alliance networks. That this is the case is suggested by the observations of Loraca that “freemen” or “commoners” are not obligated to serve a specific chieftain but rather become allied to particular political leaders through the establishment of mutually beneficial economic ties.... Subordinates or “clients” of a chiefly patron held a realistic expectation that service to the chief in warfare, maritime commerce, and production activities would result in a share of the profits obtained through tribute collection, raiding, and trading expeditions. Dissatisfaction with the benefits of such an alliance or harsh treatment by a chief... frequently resulted in shifting alliances, with commoners (and sometimes even slaves) attaching themselves to a more benevolent patron....¹⁰⁰

Thus while a person may attain the title of datu generally through blood, retention of the title required individual effort in attracting followers and alliance-building expertise. When the chief takes the title of datu, “others come to him and add credit and esteem to him, and make him a leader”. Personal ties of reciprocity “were the only means of bringing individuals sphere of influence, and alliance group membership was the only effective locus of political action.”¹⁰¹

Thus, it would seem that power relations in pre-conquest Philippines were shaped by geography and ethnic diversity. Prudence dictated allegiance among factions rather than the consolidation of a political base. Pageantry played an important role in politics as a means to attract allies. Leadership demanded displays

⁹⁹ LAURA LEE JUNKER, RAIDING, TRADING, FEASTING: THE POLITICAL ECONOMY OF PHILIPPINE CHIEFDOMS 83-84 (2000).

¹⁰⁰ *Id.* at 76.

¹⁰¹ *Id.* at 77.

of power through ceremonies. By necessity, these alliances were fragile and tended to expand or construct depending on the leaders' ability to maintain loyalty.¹⁰²

Even with a cursory look at the political developments then, one can discern the origins of patron-client ties. These alliance-building techniques show why party loyalties were discontinuous, if at all discernible. They explain the importance of charisma and personality in politics. They explain elements of show business—the song and dance routine during campaign sorties, and the involvement of celebrities—and the role of dole-outs during elections.

A leader became popular because of the ability to protect the interests of the people (the foundation of patron-client relations). These leaders lost the allegiance of people because of their failure to deliver benefits (the precursor of turncoatism). Thus, leaders had to perpetually maintain loyalty (dole-outs, cronyism, charisma) as their leadership was under constant scrutiny. These leaders were accountable and rejected when they could no longer deliver.

Evidently there are historical bases for bossism and traditional politics in the Philippines. Sidel may have provided the explanation for the reason behind corruption in public office. He explains why officials use public office for personal enrichment. On the other hand, Junker may have explained why Filipinos vote the way they do.

When candidates for public office give out money during their campaigns, are they exploiting poverty or are they carrying out an age-old function of winning the trust of the people? Are they merely offering a promise of things to come? When candidates sing and dance, is it part of the pageantry and ceremonialism that Junker was speaking about? Are today's political contests the equivalent of our ancestors' lavish displays of political prowess and attempts to win allies?¹⁰³

¹⁰² Others suggest that the practice persisted for centuries and was a regional feature and not unique to the Philippines. In his study of Southeast Asian peasantry at the turn of the nineteenth century, Elson argues that politics was an "often tense and fragile set of arrangements" between central and local bases of power. Power lay with those who could demand the greater following and control of manpower and prevent others from establishing "potentially competitive groupings of vertical alliances." A patron-ruler's prosperity depended on the ability to enhance following by marriage, bribes, threats, among others. Throughout Southeast Asia, this competition resulted in "fluidity within the population as people transferred their allegiance from one patron to another." R.E. ELSON, *THE END OF THE PEASANTRY IN SOUTHEAST ASIA: A SOCIAL AND ECONOMIC HISTORY OF PEASANT LIVELIHOOD, 1800-1990S* 24-25 (1997).

¹⁰³ As Junker explains, pre-conquest Filipinos staged feasts to allow the chiefs "to engage in status-enhancing displays of wealth aimed at underscoring their resource mobilization abilities, their skills in political alliance building through generous gift exchange, and their superior ritual potency." See Laura Lee Junker, *Competitive Feasting in Sixteenth-Century Philippines*, in *REFLECTIONS ON PHILIPPINE CULTURE AND SOCIETY: Festschrift in Honor of William Henry Scott* 54, 66 (Jesus T. Peralta ed., 2001).

Perhaps this is why kingship values and group rivalry undermine the electoral system in the Philippines. It is possible that patronage and personal networks decide the election results more than “abstract political beliefs.”¹⁰⁴ In addition to all the other reasons used to explain the state of Philippine politics, we should entertain the idea that Philippine voter behavior today is the result of the assimilation of our ancient alliance-building processes with the electoral template imposed by the colonizers.

Perhaps Filipinos practice a form of “folk democracy” where the democratic institutions introduced by the West are now the formal mechanisms by which Filipinos build political alliances.¹⁰⁵ In effect, “traditional politics” is the tradition of politics in this country.¹⁰⁶ Philippine politics today is less about what the colonizers did to the Filipinos, but what the Filipinos did with the colonizer’s institutions to preserve their own culture.

Coercion and violence may sustain the resilience of bossism in Philippine politics, but to some extent it is perfected by popular complicity. The former does not succeed without the latter.¹⁰⁷

In other words, the implantation of formal structures of democracy in the Philippines will not determine its strength. As Putzel argues, the strength of a democracy is determined by “informal institutions” that govern behavior in the state, society, and economy. These are the ways in which human beings have conducted norms of behavior, conventions, or what is commonly called “culture”. These are

¹⁰⁴ See Diana J. Mendoza, *Understanding the Philippine Political Culture*, in *POLITICS & GOVERNANCE: THEORY AND PRACTICE IN THE PHILIPPINE CONTEXT* 19, 34 (1999).

¹⁰⁵ I use “folk democracy” in the same way that Filipinos are said to practice “folk Christianity” in the Philippines, which is the blend of indigenous ancient practices and Christian religion. See ROSARIO M. CORTES, et al., *THE FILIPINO SAGA: HISTORY AS SOCIAL CHANGE* 45 (2000). See also JOHN LEDDY PHELAN, *THE HISPANIZATION OF THE PHILIPPINES* 78-81 (1959) (discussing attempts by Spanish authorities to eradicate pagan practices, and how Filipino folk customs were instead gradually, if not superficially, Christianized), and DAVID JOEL STEINBERG, *THE PHILIPPINES: A SINGULAR AND A PLURAL PLACE* 79-89 (3rd ed., 1994) (discussing how Filipinos selectively grafted features of Roman Catholicism and Islam onto their own traditions).

¹⁰⁶ There are other explanations for the state of Philippine democracy suggested by other authors. They cite poverty, hierarchy in decision-making, extreme familism, a weak sense of public good, and the limited discourse on democracy as reasons for the Philippines’ dysfunctional democracy. See Fernando N. Zialcita, *Barriers and Bridges to Democratic Culture*, in *DEMOCRACY & CITIZENSHIP IN FILIPINO POLITICAL CULTURE* 42-49 (Maria Serena I. Diokno ed., 1997). What I am suggesting is that Philippine politics is historically grounded on alliance-building practices that are antithetical to electoral process introduced by her colonizers. Other problems such as poverty compound the situation and make it harder for Filipinos to change their electoral culture.

¹⁰⁷ The clearest example of the primacy of “personality politics” in the Philippines is no less than Joseph Estrada’s election as President in 1998. When he ran for President, Estrada presented neither a program nor platform of government. He ran on punch lines and still won with 40% of the vote, six million votes more than his closest rival. See Aquino, *supra* note 38, at 7.

"more impervious to deliberate policies" and "connect the past with the present and future."¹⁰⁸

IV. WINDOWS FOR CHANGE

Recognizing the ills of traditional politics, policy-makers took advantage of an opportunity to introduce significant changes in the system by resorting to the law. At the very least, Filipinos have demonstrated a capacity to recognize the problems in their system of government and the potential to change them.

A. THE CONSTITUTION

After the collapse of the Marcos dictatorship, Filipinos ratified a new Constitution that contains a ban on political dynasties¹⁰⁹ and provisions on strengthening local autonomy.¹¹⁰ People were given the power to legislate directly when Congress fails to pass the laws that they demand,¹¹¹ or to remove officials from office.¹¹² The Constitution also enshrined the principle of democratization by recognizing the right of citizens to participation.¹¹³

The changes introduced in the Constitution go beyond elections and representative government. They are designed to address specific issues that have hobbled effective governance in the Philippines. Significantly, the changes were designed to democratize politics circumventing elite control of the national and local

¹⁰⁸ James Putzel, *Survival of an Imperfect Democracy in the Philippines*, in *THE RESILIENCE OF DEMOCRACY: PERSISTENT PRACTICE, DURABLE IDEA* 198 (Peter Burnell & Peter Calvert eds., 1999). Putzel continues:

"Thus in the Philippines we can examine why, despite the formal rules of democracy, politics has long been characterized by shifting coalitions of clan power, appeals to regionally based language groups, the exchange of votes for favours, the appointment of officials or granting of public contracts not on the basis of qualifications to get the job done but on connections to those in positions of power, with all these generally perceived as acceptable practices." *Id.* at 201.

¹⁰⁹ CONST. art. II, sec. 26.

¹¹⁰ CONST. art. II, sec. 25, and art. X.

¹¹¹ CONST. art. VI, secs. 1, 32.

¹¹² CONST. art. X, sec. 3.

¹¹³ CONST. art. XIII, secs. 15-16 provides:

Sec. 15. The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.

People's organizations are *bona fide* associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure.

Sec. 16. The right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making shall not be abridged. the State shall, by law, facilitate the establishment of adequate consultation and mechanisms.

legislatures. Even more significant is the fact that the Constitutional Commission was “predominantly elitist” in composition.¹¹⁴

Pursuant to these mandates, Congress enacted two measures that deserve scrutiny because they have a direct bearing on public office monopoly. These are the Local Government Code’s provisions on local sectoral representation and the Party-List System Act. This study focuses on the debates of the Constitutional Commission to illustrate the intentions of those who drafted the 1987 Constitution, and hopefully, to help bring the political discourse back to the drive towards democratization in the Philippines.

B. LOCAL SECTORAL REPRESENTATION

The Constitution provides that “Legislative bodies of local governments shall have sectoral representation as may be prescribed by law.”¹¹⁵ Pursuant to this mandate, Congress enacted the Local Government Code of 1991¹¹⁶ and provided for the election of sectoral representatives to sit in local legislative bodies.¹¹⁷

Local sectoral representation stirred discussion within the Constitutional Commission, triggered by an attempt by Commissioner Davide to delete the entire mechanism and to replace it with a system of proportional representation similar to the one adopted for the national legislature. Commissioner Davide was under the impression that the Committee on Local Governments intended “only to carry over to the local legislative body sectoral representation under the party list system mandated in Section 5 of the proposed Article on the Legislative/National Assembly.”¹¹⁸

Other Commissioners could not understand why sectoral representation should be applied to local legislative bodies. Commissioner Monsod was adamant:

MR. MONSOD. The reason for my asking is—I would like to raise the point of whether proportional representation which is really the party list system lends itself to application in small bodies like those because I remember the discussion on the Senate where we were talking about 24 Members of which 12 would be elected at any one time, assuming 6 years and 3 years. But when we put a slate of eight people to run for the municipal council, under a party list system we are sure that not all of those eight will be elected, unlike in a

¹¹⁴ Wilfredo V. Villacorta, *The Dynamics and Processes of Writing the 1987 Constitution*, 32 PHIL. J. PUB. ADM. 299, 308 (1988).

¹¹⁵ CONST., art X, sec. 9.

¹¹⁶ Rep. Act No. 7160 (1991).

¹¹⁷ Rep. Act No. 7160 (1991), sec. 41 (c).

¹¹⁸ 3 RECORDS OF THE CONSTITUTIONAL COMMISSION 403 (Aug. 16, 1986).

system that we have installed in the Article on the Legislative/National Assembly where there is a limit of about 50 seats and anybody who gets more than 20 percent of the votes can have all the lineup elected. With this we are sure that not all of them will be elected because it is strictly proportional, and I am not sure that the party list system lends itself well to a small body of eight like this.¹¹⁹

In response, Commissioner Aquino eloquently presented the rationale for the inclusion of sectoral representation at the local government level:

MS. AQUINO. I also object to the deletion of sectoral representation because the pressing imperative of democratizing the political process in the local governments by way of sectoral representation is more than it would be in the national government. We have gone through a lot of public hearings and there is an overwhelming clamor for sectoral representation in the local government where the people believe that their felt needs are more adequately responded to by the local governments. Besides, I have serious doubts about the feasibility of the application of the party system in the local governments, Madam President.¹²⁰

Commissioner Monsod continued:

MR. MONSOD. I believe that we had a very lengthy discussion on the floor regarding the concept of permanent seats. Here we are talking about an eight-man council and I do not know what is in the mind of the Committee but, certainly, the members are probably thinking about two or three reserved seats; about the municipality where universal and equal suffrage is only applicable to five seats out of the eight; and about a situation where there are permanent sectoral seats and where some people who belong to favored sectors would again have two votes, and the rest have only one.¹²¹

Commissioner Sarmiento interjected his support for local sectoral representation by claiming that it "will bolster the claims or the statements of Commissioner Davide about people's power. As a matter of fact, this will supplement the mechanisms of recall, initiative and referendum."¹²²

Commissioner Davide withdrew his proposed amendment, but Commissioner Monsod reasserted it as his own. He pointed out that local sectoral representation "is difficult to operationalize and that it is against the system of

¹¹⁹ 3 RECORDS OF THE CONSTITUTIONAL COMMISSION 404 (Aug. 16, 1986).

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

universal and equal suffrage.”¹²³ Commissioner Colayco supported Monsod’s position and then the following exchange took place:

MR. COLAYCO. ... I support the stand of Commissioner Monsod because the legislative bodies in the local level will deal only with local problems. I do not see how the sectoral area or sectoral representative can be of any special help in protecting the rights of the parties represented by them. For that reason, therefore, I do not see any justification for Section 4....

MS. AQUINO. Madam President I object to the motion of Commissioner Monsod and proceed precisely from the argument of Commissioner Colayco. Regional and other local governments have specific idiosyncracies that are addressed more decisively by their particular legislative assemblies. These would require specific attention to the particular configuration of their problem. When we respect the idiosyncracies of the region, there is likewise a necessity to consider that in certain regions, there are some critical problems that can be best addressed by a definitive configuration in their legislative assembly....

MR. OPLE. Madam President, I object as well to the proposed amendment that would delete sectoral representation in local legislative bodies for the simple reason that this is already an earned right. May I volunteer the information that right now in the municipal councils or sangguniang bayan all over the country, the farmers and the workers and also the youth are already represented. There are usually eight (8) seats in the municipal council or sangguniang bayan, and in the sangguniang panlungsod. In addition to that, these are elected within their political subdivision and each council usually has a member representing the youth sector. Yes, all the barangay associations in the town are represented through the Chairman of the Association of Barangay Captains, and the youth are represented. Optionally, the workers of the trade union may also be represented in the case of the more economically advanced municipalities where there are industries and, therefore, trade unions. Therefore, if we now delete sectoral representation in local bodies then this is a step backwards from what these mass organizations already enjoyed under the old Constitution.

I appeal to the Committee to preserve the principle of sectoral representation in local bodies because it is already a working principle which has been proven by experience to be useful and to be desirable for a community....

MR. COLAYCO. We are speaking here of reserved seats, in other words to guarantee that these sectoral areas shall be insured of their representation. But in the local bodies, these sectoral areas or persons can fight it out on an equal basis. Everybody knows everybody in a municipality. The idea of sectoral representation was important in the higher provincial and national levels because they are at a big disadvantage. Here, they do not need this protection.

¹²³ *Id.*

Secondly, what are the issues covered by the legislation on local matters? Licenses probably, minor violations, that is all. The personal rights as a social member of a unit are not involved in local legislation. Madam President, I do not think there is need, really, for providing special sectoral representation in the municipal level at least.

MR. OPLE. I just wanted to point out that the range of lawmaking duties at the municipal level is much wider than what Commissioner Colayco had suggested. There are social and economic development programs covered by appropriate legislation at the municipal level and it is in this respect that sectoral representation becomes very important. There are problems of fishermen and of farmers in a locality. There are the problems of market vendors and peace and order. If the level of peace in a remote barangay is substandard, then they cannot go out to plant; they cannot harvest when the rice ripens. So, there is a whole range of legislative services now being provided by the sangguniang bayan, Madam President....¹²⁴

MR. SARMIENTO. ... I have been to a number of places and I observed that many of those in the bodies, legislative bodies, belong to the middle and upper classes of our society. In the province where I come from, the council is occupied by those who belong to the middle class or upper class. I, therefore, support that the marginal sectors be represented in the bodies so that their needs and grievances will have a chance to be heard.¹²⁵

Five Commissioners voted to delete local sectoral representation, while 19 voted to retain it.¹²⁶

The proponents of local sectoral representation were clearly in favor of democratizing local governance. They recognized the elite nature of local politics and were of the opinion that local interest groups have historically been placed at a disadvantage.

Those opposed to the idea of sectoral representation were concerned with the difficulties of implementing the system or were under the impression that elections are essentially fair, and that one candidate has an equal chance of winning in an elective office.

The members of the Commission who supported sectoral representation demonstrated their ability to assess the state of democratic politics at the local level. Their own experience showed that electoral exercises are skewed in favor of the middle and upper classes. The proponents, therefore, suggested that the law should

¹²⁴ 3 RECORDS OF THE CONSTITUTIONAL COMMISSION 405 (Aug. 16, 1986).

¹²⁵ 3 RECORDS OF THE CONSTITUTIONAL COMMISSION 406 (Aug. 16, 1986).

¹²⁵ *Id.*

¹²⁶ *Id.*

be changed to accommodate the interests of local interest groups who do not have the means to secure a seat in a legislative body.

Pursuant to the provisions of the Constitution, Congress incorporated local sectoral representation in the Local Government Code of 1991. The Code in part provides that:

In addition thereto, there shall be one (1) sectoral representative from the women, one (1) from the workers, and one (1) from any of the following sectors: the urban poor, indigenous cultural communities, disabled persons, or any other sector as may be determined by the *sanggunian* concerned within ninety (90) days prior to the holding of the next local elections as may be provided for by law. The COMELEC shall promulgate the rules and regulations to effectively provide for the election of such sectoral representatives.¹²⁷

In 1995, Congress amended the Code to stall the election of local sectoral representatives. The law now reads:

(d) For purposes of the regular elections on May 11, 1992 and all general elections thereafter, the regular elective members of the *sangguniang panlungsod* and *sangguniang bayan*, shall be elected at large in accordance with existing laws.

The Commission shall promulgate rules and regulations to effectively implement the provisions of law *which may hereafter be enacted* providing for the election of sectoral representatives.¹²⁸ [Italics supplied.]

Whatever the intention of Congress was when it enacted the Local Government Code, local sectoral representation now remains dormant after the Code was amended. As it reads now, another law is required to implement the constitutional mandate.

The lobby for a new law to implement local sectoral representation enjoyed little support from within the government. Ironically, local sectoral representation was included in the Social Reform Agenda of the Ramos Administration as a flagship program of the Department of Interior and Local Government (DILG). But the DILG itself was reportedly echoing the sentiments of local government units that resisted sectoral representation due to the financial requirements of having several more participants in local development planning and decision-making. Local

¹²⁷ Rep. Act No. 7160 (1990), sec. 41.

¹²⁸ Rep. Act No. 7887 (1995).

executives are opposing local sectoral representation because they claim that local legislatures already represent the people or simply because of budget constraints.¹²⁹

Some point out that many local government units are reluctant to share power¹³⁰ and that local officials argue that paying for the salaries of additional representatives will burden poor municipalities.¹³¹

C. THE PARTY-LIST SYSTEM

The other innovation designed to address the ills of traditional politics is the party-list system for the House of Representatives. The 1987 Constitution introduced the party-list method of representation, wherein any national, regional or sectoral party or organization registered with the COMELEC may participate in the election of party-list representatives who, upon their election and proclamation, shall sit in the House of Representatives as regular members. In effect, a voter is given two votes for the House of Representatives—one for a district representative and another for a party-list representative.¹³²

The introduction of the party list system actually started as a proposal for the representation of basic sectors in Congress. Commissioner Villacorta proposed it as a response to class bias in the electoral system:

Sectoral representation is a necessity, especially in these times when the people are giving the democratic process another chance, if not its last chance. Providing for mechanisms which would enhance the chances of marginalized sectors in electing their Representatives to the National assembly will keep their hopes alive in the principle of peaceful change. This imperative becomes more urgent when this Commission recently adopted a bicameral system of

¹²⁹ ATENEO CENTER FOR SOCIAL POLICY, CASE STUDIES NO. 4, PEOPLE'S PARTICIPATION IN LOCAL GOVERNANCE 80-81 (1995).

¹³⁰ Arnold S. Tenorio, *12 years after EDSA, democracy still wanting*, BUSINESS WORLD, Feb. 27, 1998, <http://codex.bworldonline.com/codex.others.html>.

¹³¹ Cecille M. Santillan, *Comelec may cancel sectoral polls*, BUSINESS WORLD, July 11, 1997, <http://codex.bworld-online.com/codex.others.html>.

¹³² CONST. art. VI, sec. 5, pars. 1-2 provides:

Sec. 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.

legislature. We have heard apprehensions that the Upper House might be monopolized by the moneyed sectors and might protect vested property interests. Therefore, I would like to know if the Committee on the Legislative would consider identifying the mechanics of multiparty and multisectoral representation in the Constitution instead of leaving the mechanics to the legislature and, therefore, unnecessarily make our masses wait much longer before they are sectorally represented in the legislature.¹³³

Commissioner Monsod was quick to point out the difference between sectoral representation and the party-list system by saying that the party-list system should avoid the question of which sectors will be represented in Congress.¹³⁴ He explained that, "we do not even have to mention sectors because the sectors would be included in the party list system. They can be sectoral parties within the party list system."¹³⁵ The Commission, therefore, resorted to a compromise—party-list representatives shall constitute 20% of the House of Representatives, provided that "for the first two terms after the ratification of the Constitution twenty-five of the seats...shall be allocated to party list representatives shall be filled by selection or election, as provided by law from ... sectors."¹³⁶

This compromise, however, triggered a debate on whether party-list representation from sectors would be temporary or permanent.

The proponents of limited sectoral representation suggested that an advantage be afforded to marginalized groups but only for a limited period. They reasoned that these sectors would remain weak because a guarantee of congressional representation will become a disincentive to strengthen their sectors.¹³⁷

Commissioner Bernas pointed out that the redistribution of economic power would take longer than the two-term limit for sectoral representation as suggested by other Commissioners.¹³⁸ He explained that when the gross inequalities of the economic situation have been removed, then the Constitution could be

¹³³ 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 84 (July 22, 1986). Commissioner Aquino, on the other hand, claimed: The problem with Philippine politics now is that the concentration of socioeconomic and political power is in the hands of the few, while the majority of the people are destitute and powerless. Now is the time and the unedited opportunity for us to transfer the center of gravity of socioeconomic power from the people on top to the people below.... We know that traditional politics had denied the people the right to make their own mistakes. Elite politics has been a sure-fire formula for depriving us of the luxury of making our own mistakes. I think that it is now the time to return the power to the people... [I]n other words, let the Filipinos chart their own histories. See 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 566 (Aug. 1, 1986).

¹³⁴ 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 85 (July 22, 1986).

¹³⁵ 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 86 (July 22, 1986).

¹³⁶ 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 561 (Aug. 1, 1986).

¹³⁷ 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 565-566 (Aug. 1, 1986).

¹³⁸ 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 566-567 (Aug. 1, 1986).

amended.¹³⁹ Commissioner Quesada echoed these concerns and said that it would be impossible to determine when these sectors would progress to the point of competing in the political arena.¹⁴⁰

Commissioners Ople, Braid, and Sarmiento once more opposed the permanent representation of sectors and suggested to lengthen the party-list representation up to three or five years. It was feared that permanent representation will discourage self-reliance and genuine political maturity.¹⁴¹ In the end, 19 Commissioners voted for permanent representation and 22 voted against.¹⁴²

There was an attempt to introduce sectoral representation in the Senate as well but that effort did not materialize.¹⁴³

Complying with its constitutional duty, Congress enacted Republic Act No. 7941 or the Party-List System Act.

A total of 123 parties, organizations and coalitions participated in the last party-list elections on May 11, 1998. On June 26, 1998, the COMELEC *en banc* proclaimed 13 party-list representatives from 12 parties and organizations, which had obtained at least two percent of the total number of votes cast for the party-list system.¹⁴⁴

Party-list votes, however, were cast by only 33.5% of the total number of registered voters.¹⁴⁵ Many criticized the COMELEC for failing to educate the voters regarding the innovation in the electoral system. Consequently, both voters and COMELEC personnel did not entirely comprehend the changes introduced under

¹³⁹ 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 567 (Aug. 1, 1986).

¹⁴⁰ 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 578 (Aug. 1, 1986).

¹⁴¹ 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 571, 577 & 579 (Aug. 1, 1986).

¹⁴² 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 584 (Aug. 1, 1986).

¹⁴³ Commissioner Padilla articulated the opposition to sectoral representation in the Senate. Commissioner Padilla, himself a former Senator, argued that the Senators are elected at large by all registered voters throughout the country. He argued that a nationwide election "should no longer distinguish between the people under the parties or some sectoral groups because all qualified and registered voters already vote for the Senators in a senatorial election nationwide." Sectoral representation in the senate lost, 9 votes to 21. 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 596 (Aug. 1, 1986). Commissioner Gascon likewise attempted to extend party-list representation to the Senate but was also defeated. 2 RECORDS OF THE CONSTITUTIONAL COMMISSION 597 (Aug. 1, 1986).

¹⁴⁴ Two of the proclaimed representatives belonged to APEC, which obtained 5.5 percent of the votes. After passing upon the results of the special elections held on July 4, 18 and 25, 1998, the COMELEC *en banc* determined that the Philippine Coconut Planters' Federation, Inc. (COCOFED) was entitled to one party-list seat for having garnered votes equivalent to 2.04 % of the total votes cast for the party-list system. Its first nominee, Emerito S. Calderon was proclaimed as the 14th party-list representative.

¹⁴⁵ AGUSTIN MARTIN G. RODRIGUEZ & DJORINA VELASCO, DEMOCRACY RISING?: THE TRIALS AND TRIUMPHS OF THE 1998 PARTY-LIST ELECTIONS 8 (1998).

the law. Many of these votes were not even counted because the system was deemed too complicated.¹⁴⁶

In any case, the first party-list elections settled one question regarding the law—the formula for the allocation of seats in Congress. On July 6, 1998, the People's Progressive Alliance for Peace and Good Government Towards Alleviation of Poverty and Social Advancement (PAG-ASA) asked the COMELEC to fill up the 20 percent membership of the party-list representatives in the House of Representatives, arguing that this provision of the Constitution was mandatory. In essence, PAG-ASA, later joined by nine other losing candidates, claimed that the COMELEC should proclaim 52 winners in the 1998 party-list elections.

The COMELEC's Second Division granted PAG-ASA's petition and ordered the proclamation of an additional 38 representatives to join the 14 who were earlier proclaimed. The 14 winners objected to the proclamation and argued that only parties, organizations or coalitions garnering at least two percent of the votes for the party-list system were entitled to seats in the House of Representatives. They added that additional seats should be allocated to those which had garnered the two-percent threshold in proportion to the number of votes cast for the winning parties. On January 7, 1999, the COMELEC *en banc* affirmed the Resolution of the Second Division. The case was elevated to the Supreme Court.

The Supreme Court nullified the COMELEC Resolution¹⁴⁷ saying that it violated two requirements of Republic Act No. 7941: (a) the two percent threshold, and (b) the proportional representation requirement.

The Court added that filling the 20 percent seat allocation in the House of Representatives provided in section 5 (2), article VI of the Constitution is not mandatory. The twenty-percent allocation "merely set a ceiling" for party-list seats in Congress. Thus, there is no legal necessity to complete the full complement of 52 party-list seats in the Lower House. In the end, the Supreme Court identified the "inviolable parameters" of the Philippine party-list system:

First, the twenty percent allocation — the combined number of all party-list congressmen shall not exceed twenty percent of the total membership of the House of Representatives, including those elected under the party list.

Second, the two percent threshold — only those parties garnering a minimum of two percent of the total valid votes cast for the party-list system are "qualified" to have a seat in the House of Representatives.

¹⁴⁶ *Id.* at 8-9.

¹⁴⁷ See *Veterans Federation Party, et al. v. Commission on Elections, et al.*, G.R. Nos. 136781, 136786 & 136795, 342 SCRA 244 (2000). Justice Reynato S. Puno wrote a separate concurring opinion, which focuses on the constitutionality of the Party-List Law. Justice Vicente Mendoza dissented from the majority, and was joined in his dissent by Justice Santiago M. Kapunan and Justice Leonardo A. Quisumbing.

Third, the three-seat limit — each qualified party, regardless of the number of votes it actually obtained, is entitled to a maximum of three seats; that is, one "qualifying" and two additional seats.

Fourth, proportional representation — the additional seats which a qualified party is entitled to shall be computed "in proportion to their total number of votes."¹⁴⁸

The party-list elections in 1998 produced less than satisfactory results. None of the party-list representatives managed to push any of their proposed measures into law, and most of the party-list representatives remained inaudible throughout their terms.¹⁴⁹

Nevertheless, the system achieved some of its goals. The 11th Congress of the Philippines presented striking changes in the character and composition of the House of Representatives. The introduction of term-limits¹⁵⁰ and the party-list elections dented the control of political families in the chamber and brought together a wider range of families, groups, social classes and political leanings compared to the two previous Congresses after the ouster of Ferdinand Marcos.¹⁵¹ Twelve of the 14 party-list representatives had no political experience and were drawn largely from non-governmental organizations rather than political families.¹⁵² The poorest members of the House of Representatives include four party-list representatives.¹⁵³ While the House of Representatives remains a male-dominated millionaire's club, the party-list elections promoted a measure of democratization in what was once an exclusive bastion of the elite.¹⁵⁴

Many groups were apparently encouraged by the party-list elections since 143 sectoral groups and 27 political parties filed petitions for registration to participate in the party-list elections on May 14, 2001. The new aspirants include groups identified with the political left¹⁵⁵ and the extreme right.¹⁵⁶

¹⁴⁸ *Id.* at 255.

¹⁴⁹ See Gemma Bagayaua, *Mixed Reviews*, NEWSBREAK, Aug. 29, 2001, at 23.

¹⁵⁰ The Philippine Constitution provides that "No Member of the House of Representatives shall serve for more than three consecutive terms." See CONST. art. VI, sec. 7, par. 2.

¹⁵¹ See Yvonne T. Chua & Vinia M. Datinguinoo, *Families Remain Strong in Congress, but their Influence is Waning*, <http://www.pcij.org/stories/2001/ties.html> (Mar. 29-30, 2001).

¹⁵² *Id.*

¹⁵³ See Yvonne T. Chua & Vinia M. Datinguinoo, *New Wealth Emerges Dominant in the House*, <http://www.pcij.org/stories/2001/ties2.html> (Mar. 29-30, 2001).

¹⁵⁴ *Id.*

¹⁵⁵ Bayan Muna, a group composed of leftist organizations wanted to present an alternative to traditional parties and pointed out that the few progressive candidates who were elected to Congress were usually forced to join traditional parties and ultimately were swallowed up by the system. See Pia Lee-Brago, *Leftist group to join May elections*, PHIL. STAR, Jan. 8, 2001, at 14.

¹⁵⁶ Anti-communist groups under the banner of the National Alliance for Democracy (NAD) sought party-list accreditation to thwart the reelection of party-list groups Akbayan and Sanlakas, and the election of

However, the deluge of new participants alarmed certain sectors. Representative Loretta Ann Rosales of the party-list organization Akbayan criticized the COMELEC for its failure to issue guidelines for the accreditation of these groups, saying that unless the COMELEC is careful, the number of participants in the next party-list elections could rise to 266.¹⁵⁷ Rosales claims that many of these aspirants cannot be considered as representing the interests of marginalized sectors and are not among the sectors enumerated in either the Constitution or Republic Act No. 7941. She said that the organizations include 25 business groups, eight security agencies, three military related organizations, five big professional organizations, 17 quasi-government groups, and 11 that her party claims did not fit the criteria of party-list groups. Among those included in the list are the Federation of Filipino-Chinese Chamber of Commerce and Industry Inc., the Guardians Center Foundation, the Philippine Medical Association, the United Architects of the Philippines, the Chamber of Real Estate and Builders Association, and the Philippine Dental Association.

Subsequently, the COMELEC accredited 162 groups/parties for the 2001 party list elections—reflecting a 31.7 % increase from the 123 participants in the 1998 elections. Of the new set of aspirants, 78 are organizations/coalitions, 57 are sectoral groups, and 26 are political parties.¹⁵⁸

Akbayan asked the COMELEC to reconsider its decision to include some of these organizations.¹⁵⁹ Rosales said that their inclusion is unconstitutional, adding, “the elite sector is muscling in on what little is left for the unrepresented sectors of society.”¹⁶⁰ She added, “Ultimately, the big and the moneyed ones will gobble up even the 20 percent of the membership in the House of Representatives that the Constitution intended for the marginalized sectors.”¹⁶¹ Bayan Muna nominee Satur Ocampo said, “These are not marginalized groups, but party-list groups of Estrada cronies and political patrons who want to bring back the dark days of the Estrada regime.”¹⁶²

Bayan Muna. The alliance, which includes anti-communist vigilante groups formed in the 1980s, accused the militant organizations of being fronts of the Communist Party of the Philippines and its splintered groups. See Jowel F. Canuday, *Anti-Red group joins party-list race*, PHIL. DAILY INQUIRER, Dec. 13, 2000, at A15.

¹⁵⁷ Martin P. Marfil, *Marginalized sector getting too crowded*, PHIL. DAILY INQUIRER, Feb. 10, 2001 at A1.

¹⁵⁸ COMMISSION ON ELECTIONS, CERTIFIED LIST OF POLITICAL PARTIES / SECTORAL PARTIES / ORGANIZATIONS / COALITIONS, PARTICIPATING IN THE PARTY LIST SYSTEM FOR THE MAY 14, 2001 ELECTIONS (2001).

¹⁵⁹ Karlos Baylosis, *Party-list pretenders must be purged*, TODAY, Feb. 19, 2001, at 1.

¹⁶⁰ *Id.*

¹⁶¹ *Solon questions hasty OK of party list accreditations*, MALAYA, Feb. 19, 2001, at 2.

¹⁶² Gerald G. Lacuarta, *Party-list system going to the dogs*, PHIL. DAILY INQUIRER, April 5, 2001, at A1.

The COMELEC claimed that it was powerless to stop the accreditation of these groups because the qualifications under the party-list law are very lax.¹⁶³ Some, however, claimed that the fault lies with the COMELEC, "whose closest brush with political will appears to be the willful ignorance with which it would allow the law to be bastardized."¹⁶⁴ Party-List groups filed petitions with both the COMELEC¹⁶⁵ and the Supreme Court¹⁶⁶ for the disqualification of party list groups, which allegedly do not represent marginalized groups.

Before the Supreme Court could decide the case, the elections were held and the votes for the party list candidates produced the following results:

¹⁶³ Jay B. Rempillo, *Comelec to ask Congress to review party-list law to prevent backdoor entry*, MALAYA, April 6, 2001, at 2.

¹⁶⁴ Paulynn P. Sicam, *The trapos are coming, the trapos are coming*, CyberDyaryo, at <http://www.codewan.com.ph/CyberDyaryo/> (Feb. 13, 2001).

¹⁶⁵ Akbayan and Bayan Muna filed separate petitions with the COMELEC to disqualify 17 groups participating in the party-list elections, which include major political parties, business associations and interest groups identified with ousted President Joseph Estrada. See Gerald G. Lacuarta, *Ban bogus party-list bets, Comelec asked*, PHIL. DAILY INQUIRER, April 11, 2001, at A2.

¹⁶⁶ The Philippine Association of Retired Persons Inc. (PARP) filed the case with the Supreme Court. Unlike the petitions filed by Akbayan and Bayan Muna with the COMELEC, PARP only challenged the participation of political parties in the party-list elections because it would "defeat the very purpose for which the party-list system was instituted." See *Party-list ban on parties sought*, PHIL. DAILY INQUIRER, April 12, 2001, at A2.

May 14, 2001 National and Local Elections
 PARTY LIST CANVASS REPORT NO. 25 (by Rank)
 As of August 13, 2001 2:20 PM

POLITICAL PARTY/ COALITIONS/ SECTORAL ORGANIZATIONS	ACRONYM	GRAND TOTAL	PERCENTAGE OF VOTES GARNERED
Bayan Muna	BAYAN	1,708,252	11.3157
Mamamayan Ayaw sa Droga	MAD	1,515,682	10.0401
Association of Philippine Electric Cooperatives	APEC	801,921	5.3121
Veterans Federation Party	VFP	580,771	3.8471
Abag Promdi	PROMDI	422,430	2.7982
Nationalist People's Coalition	NPC	385,151	2.5513
Akbayan! Citizens' Action Party	AKBAYAN!	377,850	2.5029
Luzon Farmers Party	BUTIL	330,282	2.1878
Lakas NUCD-UMDP	LAKAS NUCD- UMDP	329,093	2.1800
Citizen's Battle Against Corruption	CIBAC	323,810	2.1450

The Supreme Court, in *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections, et al.*¹⁶⁷ decided on, among others, the following issues: (a) whether political parties may participate in the party-list elections and (b) whether the party-list system is exclusive to “marginalized and underrepresented” sectors and organizations.

After examining the law, the Supreme Court ruled that political parties are clearly allowed to run in the party-list elections. It added, however, that these parties or organizations must satisfy the purposes of the party-list system, as laid down in the Constitution and Republic Act No. 7941.

At the outset, the Supreme Court recognized the purpose under the “party-list system.” It said that:

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

¹⁶⁷ *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections, et al.*, G.R. No. 147589, June 26, 2001.

democracy. Thus, allowing all individuals and groups, including those which now dominate district elections, to have the same opportunity to participate in party-list elections would desecrate this lofty objective and mongrelize the social justice mechanism into an atrocious veneer for traditional politics.¹⁶⁸

Participation of Parties

Under the Constitution and Republic Act No. 7941, parties cannot be disqualified from the party-list elections, merely on the ground that they are political parties. The Supreme Court pointed out that under section 5, article VI of the Constitution, members of the House of Representatives may "be elected through a party-list system of registered *national, regional, and sectoral parties or organizations.*" The Court also pointed to sections 7 and 8, article IX (C) of the Constitution, which provide that political parties may be registered under the party-list system.¹⁶⁹

The Court also resorted to the Records of the Constitutional Commission and noted that the Commissioners were clearly contemplating the participation of political parties. During the deliberations in the Constitutional Commission, Commissioner Monsod pointed out that the participants in the party-list system may "be a regional party, a sectoral party, a national party, UNIDO, Magsasaka, or a regional party in Mindanao." This was also clear from exchange between Commissioners Jaime Tadeo and Blas Ople.

The Court then analyzed Republic Act No. 7941 saying that it provides for "a party-list system of registered national, regional and sectoral *parties or organizations or coalitions thereof...*" Section 3 states that a "party" is "either a political party or a sectoral party or a coalition of parties." More to the point, the law defines "political party" as "an organized group of citizens advocating an ideology or platform, principles and policies for the general conduct of government and which, as the most immediate means of securing their adoption, regularly nominates and supports certain of its leaders and members as candidates for public office."

¹⁶⁸ *Id.* at 3.

¹⁶⁹ The Constitution provides:

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

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

Finally, Section 11 of Republic Act No. 7941 is a basis for the participation of political parties. It provides that “for purposes of the May 1998 elections, the first five (5) major political parties on the basis of party representation in the House of Representatives at the start of the Tenth Congress of the Philippines shall not be entitled to participate in the party-list system....”

Parties of Marginal Groups

Clearly, parties may participate in these elections, but the Court pointed out that this does not mean that *any* political party or any organization or group may do so. The requisite character of these parties or organizations must be consistent with the purpose of the party-list system, as laid down in the Constitution and Republic Act No. 7941. Section 5, article VI of the Constitution, provides as follows:

(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. [Italics supplied.]

The provision is studded with phrases like “in accordance with law” or “as may be provided by law”. This means that it was up “to Congress to sculpt in granite the lofty objective of the Constitution.” Republic Act No. 7941 was enacted and it laid out the statutory policy in this way:

SEC. 2. *Declaration of Policy.* — The State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives. Towards this end, the State shall develop and guarantee a full, free and open party system in order to attain the broadest

possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible.

In analyzing the provision, the Court held that the State was promoting proportional representation by means of the party-list system, which will “enable” the election to the House of Representatives of Filipino citizens,

- (1) who belong to marginalized and underrepresented sectors, organizations and parties; and
- (2) who lack well-defined constituencies; but
- (3) who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole.

The Court then explained the key concepts in this provision.

“Proportional representation” does not refer to the number of people in a particular district, because the party-list election is national in scope. Neither does it allude to numerical strength in a distressed or oppressed group. It refers to the representation of the “marginalized and underrepresented” as exemplified by the enumeration in section 5 of the law, namely, “labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.”¹⁷⁰

However, it is not enough for the candidate to claim representation of the marginalized and underrepresented, because representation is easy to feign. The party-list organization or party must factually and truly represent the marginalized and underrepresented constituencies mentioned in Section 5. Concurrently, the persons nominated by the party-list candidate-organization must be “Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties.”¹⁷¹

“Lack of well-defined constituencies” refers to the absence of a traditionally identifiable electoral group, like voters of a congressional district or territorial unit of government. It refers to those with disparate interests identified with the “marginalized or underrepresented.” The COMELEC should see to it that only those Filipinos who are “marginalized and underrepresented” become members of Congress under the party-list system.¹⁷²

¹⁷⁰ Ang Bagong Bayani-OFW Labor Party v. Commission on Elections, et al., G.R. No. 147589, June 26, 2001, 20.

¹⁷¹ *Id.* at 21.

¹⁷² *Id.*

The Court held that the intent of the Constitution is to give genuine power to the people, not only by giving more law to those who have less in life, but more so by enabling them to become lawmakers themselves. Consistent with this intent, the policy of the implementing law is also clear: “to enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties...to become members of the House of Representatives.”¹⁷³

The marginalized and underrepresented sectors to be represented under the party-list system are enumerated in section 5 of Republic Act No. 7941. The enumeration of marginalized and underrepresented sectors in this section is not exclusive. “It demonstrates the clear intent of the law that not all sectors can be represented under the party-list system.” According to the Court:

Indeed, the law crafted to address the peculiar disadvantages of Payatas hovel dwellers cannot be appropriated by the mansion owners of Forbes Park. The interests of these two sectors are manifestly disparate; hence, the [Office of the Solicitor General’s] position to treat them similarly defies reason and common sense....

While the business moguls and the mega-rich are, numerically speaking, a tiny minority, they are neither marginalized nor underrepresented, for the stark reality is that their economic clout engenders political power more awesome than their numerical limitation. Traditionally, political power does not necessarily emanate from the size of one’s constituency; indeed, it is likely to arise more directly from the number and amount of one’s bank accounts.

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.

Because the marginalized and underrepresented had not been able to win in the congressional district elections normally dominated by traditional politicians and vested groups, 20 percent of the seats in the House of Representatives were set aside for the party-list system. In arguing that even

¹⁷³ *Id.* at 22.

those sectors who normally controlled 80 percent of the seats in the House could participate in the party-list elections for the remaining 20 percent, the OSG and the COMELEC disregard the fundamental difference between the congressional district elections and the party-list elections.¹⁷⁴

It would be illogical, according to the Court, to open the system to those privileged sectors that have long dominated the congressional district elections. “The party-list system [is]...not for the non-marginalized or overrepresented who already fill the ranks of Congress.” Said the Court:

...[A]llowing the non-marginalized and overrepresented to vie for the remaining seats under the party-list system would not only *dilute*, but also *prejudice* the chance of the marginalized and underrepresented, contrary to the intention of the law to *enhance* it. The party-list system is a tool for the benefit of the underprivileged; the law could not have given the same tool to others, to the prejudice of the intended beneficiaries.¹⁷⁵ [Italics supplied.]

In the end, the Court remanded the case to the COMELEC to determine whether the 154 parties and organizations comply with the requirements of the party-list law. The Court went so far as to lay down guidelines for the COMELEC to screen the party-list applicants:

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.

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

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

Fourth, a party or an organization must not be disqualified under Section 6 of Republic Act No. 7941, which enumerates the grounds for

¹⁷⁴ *Id.* at 26.

¹⁷⁵ *Id.* at 28.

disqualification...¹⁷⁶

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

Sixth, the party must not only comply with the requirements of the law; its nominees must likewise do so.

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

Eighth, the nominee must likewise be able to contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole.¹⁷⁷

The Supreme Court continued:

Crucial to the resolution of this case is the fundamental social justice principle that those who have less in life should have more in law. The party-list system is one such tool intended to benefit those who have less in life. It gives the great masses of our people genuine hope and genuine power. It is a message to the destitute and the prejudiced, and even to those in the underground, that change is possible. It is an invitation for them to come out of their limbo and seize the opportunity.

Clearly, therefore, the Court cannot accept the submissions of the COMELEC and the other respondents that the party-list system is, without any qualification, open to all. Such position does not only weaken the electoral chances of the marginalized and underrepresented, it also prejudices

¹⁷⁶ Rep. Act. No. 7941 provides the following grounds for disqualification:

- (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.

The Court added that paragraph 5 disqualifies a party or group for violation of or failure to comply with election laws and regulations. These laws include section 2 of RA 7941, which states that the party-list system seeks to "enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties...to become members of the House of Representatives." A party or an organization, therefore, that does not comply with this policy must be disqualified.

¹⁷⁷ *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections, et al.*, G.R. No. 147589, June 26, 2001, 33-40.

them. It would gut the substance of the party-list system. Instead of generating hope, it would create a mirage. Instead of enabling the marginalized, it would further weaken them and aggravate their marginalization.

In effect, the COMELEC would have us believe that the party-list provisions of the Constitution and RA 7941 are nothing more than a play on dubious words, a mockery of noble intentions, and an empty offering on the altar of people empowerment. Surely, this could not have been the intention of the framers of the Constitution and the makers of RA 7941.¹⁷⁸

The COMELEC submitted a partial report to the Supreme Court saying that 17 of the first batch of 24 sectoral organizations, political parties, and coalitions that participated in the last party-list elections were disqualified under the guidelines issued by the Court.¹⁷⁹ Only three of the seven party-list organizations initially evaluated by the COMELEC as "qualified" possess all the requirements to merit them seats in Congress. They were Bayan Muna, Akbayan and the Luzon Farmers Party or Butil.¹⁸⁰

Under the 2001 elections, only five representatives from three organizations ultimately qualified for seats in Congress.¹⁸¹ Overall, the picture is not very encouraging. Of the 214 members of the 12th House, half belong to established

¹⁷⁸ *Id.* at 41.

¹⁷⁹ See E. T. Suarez & Rey G. Panaligan, *Comdec finds 17 disqualified in party-list polls 7 make it in 1st batch*, MANILA BULLETIN, July 28, 2001, <http://www.mb.com.ph/MAIN/2001-07/MIN072801.asp>. According to the COMELEC, the following organizations met the standards of the Supreme Court: Bayan Muna (Bayan Muna), Akbayan! Citizens Action Party (Akbayan), Luzon Farmer's Party (Butil), Anak Mindanao (AMIN), Alyansang Bayanihan ng mga Magsasaka, Manggagawang Bukid at Mangingisda (ABA), Partido ng Manggagawa (PM), and Sanlakas. Those which did not meet the standards were Mamamayan Ayaw sa Droga (MAD), Association of Philippine Electric Cooperative (APEC), Veterans Federation Party (VFP), Abag Promdi (Promdi), Nationalist People's Coalition (NPC), Lakas-NUCD (Lakas), Citizen's Battle against Corruption (CIBAC), Laban ng Demokratikong Pilipino (LDP), Buhay Hayaang Yumabong (Buhay), Cocofed-Philippine Coconut Producers Federation Inc. (Cocofed), Cooperative Natcco Network Party (COOP-NATCCO), National Confederation of Irrigators Association (NCIA), Asosasyon Para sa Kaunlaran ng Industriya ng Aklal (Aklal), The True Marcos Loyalist (For God, Country, and People) Association of the Philippine Marcos Loyalist, Chamber of Real Estate and Builders Association Inc. (CREBA), Bigkis Pinoy Foundation (BIGKIS), and Aksyon Demokratiko (AKSYON).

¹⁸⁰ Delon Porcalla, *MAD, other parties disqualified from party-list polls*, PHIL. STAR, July 28, 2001, at 3. The Anak Mindanao or AMIN, Partido ng Manggagawa, Sanlakas and Alyansang Bayanihan ng mga Magsasaka, Manggagawang Bukid at Mangingisda or ABA—passed the test but they failed to get the two-percent required vote in the elections last May 14.

¹⁸¹ As this article was being prepared for publication, the Supreme Court lifted a restraining order on the proclamation of the Association of Philippine Electric Cooperatives (APEC) and the Citizen's Battle Against Corruption (CIBAC) as winners in the 2001 elections. This raised the number of party-list representatives in the House of Representatives to eight. See Michael Lim Ubac, *2 more party-list groups make it*, PHIL. DAILY INQUIRER, Jan. 31, 2002, at A3. See Vinia M. Datinguinoo & Avigail Olarte, *Back with a Vengeance*, i: THE INVESTIGATIVE REPORTING MAGAZINE, Oct.-Dec. 2001, at 18-19.

political clans. Many of the other representatives are starting power networks of their own and have close relatives in elective posts. About 105 of the representatives are holdovers from the last one. Ninety percent of the 108 who were “newly elected” have either previously held elective positions or are members of political clans. Of this number, 26 inherited their seats from a parent, sibling, or spouse or were no longer barred from running by constitutional term limits.¹⁸²

Only 11 representatives (5%) do not belong to political families and are neophytes in public office. Three are party-list representatives.

If the party-list system was designed to give marginalized groups a chance to legislate, then the Philippine experiment is discouraging. The present composition of the House of Representatives shows that the evil that the party-list system is attempting to expunge is regaining its foothold. After two attempts at party-list representation, traditional politicians continue to dominate the House of Representatives.¹⁸³

Finally, even the party-list elections are beginning to take on the hue of traditional politics. The 2001 party-list elections were marred by the use of vote-padding,¹⁸⁴ mudslinging¹⁸⁵ and violence.¹⁸⁶

V. CONCLUSION

...in every Filipino President beats the heart of a tribal chief.

— Onofre D. Corpuz¹⁸⁷

The eviction of Presidents may seem like a novel¹⁸⁸ derogation of the basic principles of democracy but it may simply be a manifestation of the ancient Filipino practice of shifting allegiance from one leader to another. In this article, I attempted to illustrate how the loss of popularity in pre-conquest Filipino society could trigger

¹⁸² *Id.* at 21.

¹⁸³ In 2001, 26 of 90 first-termers are returning legislators. Of this number, 13 were third-termers in the 10th House. More than half of this consists of representatives who fielded their relatives as proxies to warm their seats in the 11th House. See Julio C. Teehankee, *The Limits of Term Limits*, 1 NEWSBREAK, August 8, 2001, at 21-22.

¹⁸⁴ Gerald G. Lacuarta, *8,966 cast 25,597 votes for party-list in Lanao town*, PHIL. DAILY INQUIRER, June 23, 2001, at 2.

¹⁸⁵ Andrea Trinidad-Echavez, *Party-list leftists bicker*, PHIL. DAILY INQUIRER, May 15, 2001, at A2.

¹⁸⁶ Tonton Antogop, *Party-list head shot dead in headquarters*, PHIL. DAILY INQUIRER, May 3, 2001, at A14.

¹⁸⁷ CORPUZ, *supra* note 65, at 573.

¹⁸⁸ See Randolph S. David, *People Power and the Legal System: A Sociological Note, Lecture Delivered at the Supreme Court Centennial Lectures (May 24, 2001)*, in REFLECTIONS ON SOCIOLOGY & PHILIPPINE SOCIETY 245-246 (2001).

the abandonment of leaders in favor of another. Datus were not guaranteed a fixed term of office but were always at the risk of recall. They served at the pleasure of the people.

Most analyses of Philippine elections point out that the introduction of elections in this country was skewed to serve the mutual interests of the colonizers and potential allies from the local elite. These studies could explain elite monopoly in electoral politics, but not the manner in which Filipinos cast their votes. As this article attempted to illustrate, power relations in pre-conquest Filipino society required shifting alliances depending on who could best protect the interests of particular communities. Inevitably, this led to importance of personality and ceremonialism in Philippine politics. The fusion of western elections and pre-conquest guidelines for selecting leaders produced the perennially maligned version of democracy in the Philippines. Ultimately, this brand of democracy marginalized groups that could not compete in electoral exercises and ensured the elite's monopoly of power.

Filipinos attempted to remedy the situation by ratifying a Constitution that skewed elections to favor the underrepresented groups of society. Local sectoral representation and the party-list system are two attempts to democratize Philippine politics. There are those, however, who do not see the need to change the system that serves their interests well. Despite the constitutional mandate, local sectoral representation is inoperative. The party-list system has produced a handful of representatives from marginalized sectors who probably cannot put a dent on the elite-dominated system that pervades national legislation. Even if there were more party-list representatives in Congress, the fact is that sectoral representation by marginalized groups is only a temporary accommodation. Eventually, all parties will be allowed to vie for seats under the party-list system.

This article did not attempt to excuse "traditional politics", but rather, to explain it. The framers of the 1987 Constitution correctly introduced reforms that would provide a remedy to the quality of electoral exercises that are conducted in the Philippines. Elite resilience, however, is rendering the innovations ineffectual. Even if these laws were fully operational, Filipinos may yet look at a candidate's personality rather than a party's platform. In a sense, Filipinos get the government they deserve. In any event, it does not really matter because the Filipino's choice is perpetually under the threat of recall—the exercise of the reserved sovereign power to evict leaders—on a whim.

PHILIPPINE LAW JOURNAL

Published by the College of Law, University of the Philippines
Diliman, Quezon City, Philippines

VOLUME 76

DECEMBER 2001

No. 2

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