

POLITICAL PARTIES AND PARTYLIST SYSTEM

BP 881 Section 60	RA 7941 Section 3 (c)
<p><i>Political party.</i> - "Political party" or "party", when used in this Act, means an organized group of persons pursuing the same ideology, political ideas or platforms of government and includes its branches and divisions.</p> <p>To acquire juridical personality, quality it for subsequent accreditation, and to entitle it to the rights and privileges herein granted to political parties, a political party shall first be duly registered with the Commission.</p> <p>Any registered political party that, singly or in coalition with others, fails to obtain at least ten percent of the votes cast in the constituency in which it nominated and supported a candidate or candidates in the election next following its registration shall, after notice and hearing be deemed to have forfeited such status as a registered political party in such constituency.</p>	<p>A political party refers to an organized group of citizens advocating an ideology or platform, principles and policies for the general conduct of government and which, as the most immediate means of securing their adoption, regularly nominates and supports certain of its leaders and members as candidates for public office.</p> <p>It is a national party when its constituency is spread over the geographical territory of at least a majority of the regions.</p> <p>It is a regional party when its constituency is spread over the geographical territory of at least a majority of the cities and provinces comprising the region.</p>

Process:

Section 5. Registration. Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not later than ninety (90) days before the election a petition verified by its president or secretary stating its desire to participate in the party-list system as a national, regional or sectoral party or

organization or a coalition of such parties or organizations, attaching thereto its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require: Provided, That the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.

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

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

Section 4. *Manifestation to Participate in the Party-List System.* Any party, organization, or coalition already registered with the Commission need not register anew. However, such party, organization, or coalition shall file with the Commission, not later than ninety (90) days before the election, a manifestation of its desire to participate in the party-list system.

Section 8. *Nomination of Party-List Representatives.* Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

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

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

Section 10. *Manner of Voting.* Every voter shall be entitled to two (2) votes: the first is a vote for candidate for member of the House of Representatives in his legislative district, and the second, a vote for the party, organizations, or coalition he wants represented in the house of Representatives: Provided, That a vote cast for a party, sectoral organization, or coalition not entitled to be voted for shall not be counted: Provided, finally, That the first election under the party-list system shall be held in May 1998.

The COMELEC shall undertake the necessary information campaign for purposes of educating the electorate on the matter of the party-list system.

PARTY-LIST SYSTEM IS A SOCIAL JUSTICE TOOL

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

Ang Bagong Bayani-OFW Labor Party vs. COMELEC G.R. No. 147589,
June 26, 2001

Facts: Petitioner challenged a resolution issued by the COMELEC. Petitioner seeks the disqualification of certain major political parties in the 2001 party-list elections arguing that the party-list system was intended to benefit the marginalized and underrepresented and not the mainstream political parties, the non-marginalized or overrepresented.

Issues:

- (1) Whether or not political parties may participate in the party-list elections
- (2) Whether or not the party-list system is exclusive to marginalized and underrepresented sectors and organizations

Held: Under the Constitution and RA 7941, major political parties cannot be disqualified from the party-list elections merely on the ground that they are political parties. But 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.***

Eight-Point Guidelines for Screening Political Parties

The Court, therefore, deems it proper to remand the case to the Comelec for the latter to determine, after summary evidentiary hearings, whether the 154 parties and organizations allowed to participate in the party-list elections comply with the requirements of the law. In this light, the Court finds it appropriate to lay down the following guidelines, culled from the law and the Constitution, to assist the Comelec in its work.

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

Second, while even major political parties are expressly allowed by RA 7941 and the Constitution to participate in the party-list system, they must comply with the declared statutory policy of enabling “Filipino citizens belonging to marginalized and underrepresented sectors x x x to be elected to the House of Representatives.” In other words, while they are not disqualified merely on the ground that they are political parties, they must show, however, that they represent the interests of the marginalized and underrepresented. The counsel of Aksyon Demokratiko and other similarly situated political parties admitted as much during the Oral Argument, as the following quote shows:

“JUSTICE PANGANIBAN: I am not disputing that in my question. All I am saying is, the political party must claim to represent the marginalized and underrepresented sectors?”

ATTY. KAPUNAN: Yes, Your Honor, the answer is yes.”^[52]

Third, in view of the objections^[53] directed against the registration of Ang Buhay Hayaang Yumabong, which is allegedly a religious group, the Court notes the express constitutional provision that the religious sector may not be represented in the party-list system. The extent of the constitutional proscription is demonstrated by the following discussion during the deliberations of the Constitutional Commission:

“MR. OPLE. x x x

In the event that a certain religious sect with nationwide and even international networks of members and supporters, in order to circumvent this prohibition, decides to form its own political party in emulation of those parties I had mentioned earlier as deriving their inspiration and philosophies from well-established religious faiths, will that also not fall within this prohibition?

MR. MONSOD. If the evidence shows that the intention is to go around the prohibition, then certainly the Comelec can pierce through the legal fiction.”^[54]

The following discussion is also pertinent:

“MR. VILLACORTA. When the Commissioner proposed “EXCEPT RELIGIOUS GROUPS,” he is not, of course, prohibiting priests, imams or pastors who may be elected by, say, the indigenous community sector to represent their group.

REV. RIGOS. Not at all, but I am objecting to anybody who represents the Iglesia ni Kristo, the Catholic Church, the Protestant Church et cetera.”^[55]

Furthermore, the Constitution provides that “religious denominations and sects shall not be registered.”^[56] The prohibition was explained by a member^[57] of the Constitutional Commission in this wise: “[T]he prohibition is on any religious organization registering as a political party. I do not see any prohibition here against a priest running as a candidate. That is not prohibited here; it is the registration of a religious sect as a political party.”^[58]

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

- “(1) It is a religious sect or denomination, organization or association organized for religious purposes;
- (2) It advocates violence or unlawful means to seek its goal;
- (3) It is a foreign party or organization;
- (4) It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through third parties for partisan election purposes;
- (5) It violates or fails to comply with laws, rules or regulations relating to elections;
- (6) It declares untruthful statements in its petition;
- (7) It has ceased to exist for at least one (1) year; or

(8) It fails to participate in the last two (2) preceding elections or fails to obtain at least two *per centum* (2%) of the votes cast under the party-list system in the two (2) preceding elections for the constituency in which it has registered.”^[59]

Note should be taken of paragraph 5, which 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 x x x to become members of the House of Representatives.” A party or an organization, therefore, that does not comply with this policy must be disqualified.

***Fifth*, the party or organization must not be an adjunct of, or a project organized or an entity funded or assisted by, the government.** By the very nature of the party-list system, the party or organization must be a group of citizens, organized by citizens and operated by citizens. It must be independent of the government. The participation of the government or its officials in the affairs of a party-list candidate is not only illegal^[60] and unfair to other parties, but also deleterious to the objective of the law: to enable citizens belonging to marginalized and underrepresented sectors and organizations to be elected to the House of Representatives.

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

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

In case of a nominee of the youth sector, he must at least be twenty-five (25) but not more than thirty (30) years of age on the day of the election. Any youth sectoral representative who attains the age of thirty

(30) during his term shall be allowed to continue in office until the expiration of his term.”

Seventh, not only the candidate party or organization must represent marginalized and underrepresented sectors; so also must its nominees. To repeat, under Section 2 of RA 7941, the nominees must be Filipino citizens “who belong to marginalized and underrepresented sectors, organizations and parties.” Surely, the interests of the youth cannot be fully represented by a retiree; neither can those of the urban poor or the working class, by an industrialist. To allow otherwise is to betray the State policy to give genuine representation to the marginalized and underrepresented.

Eighth, as previously discussed, while lacking a well-defined political constituency, the nominee must likewise be able to contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole. Senator Jose Lina explained during the bicameral committee proceedings that “the nominee of a party, national or regional, is not going to represent a particular district x x x.”^[61]

ANG LADLAD LGBT PARTY V. COMELEC,

GR No. 190582,

April 8, 2010

This is a Petition for Certiorari under Rule 65 of the Rules of Court, with an application for a writ of preliminary mandatory injunction, filed by Ang Ladlad LGBT Party (Ang Ladlad) against the Resolutions of the Commission on Elections (COMELEC) dated November 11, 2009 (the First Assailed Resolution) and December 16, 2009 (the Second Assailed Resolution) in SPP No. 09-228 (PL) (collectively, the Assailed Resolutions). The case has its roots in the **COMELEC’s refusal to accredit Ang Ladlad as a party-list organization under Republic Act (RA) No. 7941**, otherwise known as the Party-List System Act.

FACTS: Before the COMELEC, petitioner argued that the LGBT (lesbians, gays, bisexuals and transgender) community is a **marginalized and under-represented sector that is particularly disadvantaged because of their sexual orientation and gender identity**; that LGBTs are victims

of exclusion, discrimination, and violence; that because of negative societal attitudes, LGBTs are constrained to hide their sexual orientation; **and that Ang Ladlad complied with the 8-point guidelines** enunciated by this Court in *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*. Ang Ladlad laid out its **national membership** base consisting of individual members and organizational supporters, and outlined its platform of governance. On August 17, 2009, Ang Ladlad filed a Petition for registration with the COMELEC. On November 11, 2009, after admitting the petitioner's evidence, **the COMELEC (Second Division) dismissed the Petition on moral grounds that petitioner tolerates immorality which offends religious beliefs, and advocates sexual immorality.** Petitioner should likewise be **denied accreditation not only for advocating immoral doctrines but likewise for not being truthful when it said that it** ³**or any of its nominees/party-list representatives have not violated or failed to comply with laws, rules, or regulations relating to the elections.** Furthermore, states COMELEC, Ang Ladlad will be **exposing our youth to an environment that does not conform to the teachings of our faith.** When Ang Ladlad sought reconsideration, COMELEC still, on December 16, 2010, upheld the First Assailed Resolution. On January 4, 2010, Ang Ladlad a Petition, praying that the Supreme Court annul the Assailed Resolutions and direct the COMELEC to grant Ang Ladlad's application for accreditation. Ang Ladlad also sought the issuance ex parte of a preliminary mandatory injunction against the COMELEC, which had previously announced that it would begin printing the final ballots for the May 2010 elections by January 25, 2010.

ISSUES: 1. Whether or not the denial of accreditation by COMELEC, violated the constitutional guarantees against the **establishment of religion** insofar as it justified the exclusion by using religious dogma.

2. Whether or not the Assailed Resolutions contravened the **constitutional rights to privacy, freedom of speech and assembly, and equal protection of laws**, of Ang Ladlad, as well as constituted **violations of the Philippines international obligations against discrimination based on sexual orientation.**

HELD: 1. Our Constitution provides in Article III, Section 5 that ³**No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.** At bottom, what our non-establishment clause calls for is ³**government neutrality in religious matters.** Clearly, ³governmental reliance on religious justification is inconsistent with this

policy of neutrality.’ **The Supreme Court ruled that it was grave violation of the non-establishment clause for the COMELEC to utilize the Bible and the Koran to justify the exclusion of Ang Ladlad.** Rather than relying on religious belief, the legitimacy of the Assailed Resolutions should depend, instead, on whether the COMELEC is able to advance some justification for its rulings beyond mere conformity to religious doctrine. The government must act for secular purposes and in ways that have primarily secular effects.

2. The Assailed Resolutions have not identified any specific overt immoral act performed by Ang Ladlad. Even the Office of the Solicitor General agrees that ³there should have been a finding by the COMELEC that the group’s members have committed or are committing immoral acts.’ Respondent have **failed to explain what societal ills are sought to be prevented, or why special protection is required for the youth.** Under our system of laws, every group has the right to promote its agenda and attempt to persuade society of the validity of its position through normal democratic means. Freedom of expression constitutes one of the essential foundations of a democratic society, and this freedom applies not only to those that are favorably received but also to those that offend, shock, or disturb. **Absent of any compelling state interest, it is not for the COMELEC or the Supreme Court, to impose its views on the populace.** Otherwise stated, the COMELEC is certainly not free to interfere with speech for no better reason than promoting an approved message or discouraging a disfavored one. **Laws of general application should apply with equal force to LGBTs, and they deserve to participate in the party-list system on the same basis as other marginalized and under-represented sectors.** This is in accord with the country’s international obligations to protect and promote human rights. The principle of nondiscrimination as it relates to the right to electoral participation, enunciated in the UDHR and the ICCPR should be recognized. The Constitution and laws should be applied uninfluenced by public opinion. True democracy should be resilient enough to withstand vigorous debate due to conflicting opinions. The Petition was GRANTED. The Resolutions of the Commission on Elections dated November 11, 2009 and December 16, 2009 in SPP No. 09-228 (PL) was SET ASIDE and the COMELEC was directed to GRANT petitioner’s application for party-list accreditation.

Grounds for Cancellation of Registration

Section 6. Refusal and/or Cancellation of Registration. The COMELEC may, motu proprio or upon verified complaint of any interested party, refuse

or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition on any of the following grounds:

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

Lawyers- professionals... but marginalized?? –NO! cannot be partylist

Qualifications

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

of the election, and is at least twenty-five (25) years of age on the day of the election.

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

“Represent or belong”

4 inviolable parameters of Philippine-style party-list elections stated in *Veterans* :

1. **20% allocation:** combined number of *all* party-list congressmen shall not exceed 20% of the total House of Representatives membership
2. **2% threshold:** only parties with a minimum of 2% total valid votes cast for the party-list system are qualified to have seat
3. **3-seat limit:** each party shall only have a maximum of 3 seats; 1 “qualifying” seat and 2 additional seats
4. **Proportional representation:** additional seats will be computed “in proportion to their total number of votes”

Veterans Federation Party v. COMELEC
October 6, 2000

Facts: COMELEC proclaimed 14 party-list representatives from 13 parties which obtained at least 2% of the total number of votes cast for the party-list system as members of the House of Representatives. Upon petition for respondents, who were party-list organizations, it proclaimed 38 additional party-list representatives although they obtained less than 2% of the total number of votes cast for the partylist system on the ground that under the Constitution, it is mandatory that at least 20% of the members of the House of Representatives come from the party-list representatives.

Issue 1:

Is the twenty percent allocation for party-list representatives mentioned in Section 5 (2), Article VI of the Constitution, mandatory or is it merely a ceiling? In other words, should the twenty percent allocation for party-list solons be filled up completely and all the time?

Held 1:

It is not mandatory. It merely provides a ceiling for the party-list seats in the House of Representatives. The Constitution vested Congress with the broad power to define and prescribe the mechanics of the party-list system of representatives. In the exercise of its constitutional prerogative, Congress deemed it necessary to require parties participating in the system to obtain at least 2% of the total votes cast for the party list system to be entitled to a party-list seat. Congress wanted to ensure that only those parties having a sufficient number of constituents deserving of representation are actually represented in Congress.

Issue 2:

Are the 2% threshold requirement and the three-seat limit provided in Section 11 (b) of RA 7941 constitutional?

Held 2:

Yes. In imposing a two percent threshold, **Congress wanted to ensure that only those parties, organizations and coalitions having a sufficient number of constituents deserving of representation are actually represented in Congress.** This intent can be gleaned from the deliberations on the proposed bill. The two percent threshold is consistent not only with the intent of the framers of the Constitution and the law, but with the very essence of "representation." Under a republican or representative state, all government authority emanates from the people, but is exercised by representatives chosen by them. But to have meaningful representation, the elected persons must have the mandate of a sufficient number of people. Otherwise, in a legislature that features the party-list system, the result might be the proliferation of small groups which are incapable of contributing significant legislation, and which might even pose a threat to the stability of Congress. Thus, even legislative districts are apportioned according to "the number of their respective inhabitants, and on the basis of a uniform and progressive ratio" **to ensure meaningful local representation.**

Issue 3:

How should the additional seats of a qualified party be determined?

Held 3:

Step One. There is no dispute among the petitioners, the public and the private respondents, as well as the members of this Court that the **initial step is to rank all the participating parties**, organizations and coalitions from the highest to the lowest based on the number of votes they each received. **Then the ratio for each party is computed by dividing its votes by the total votes cast** for all the parties participating

in the system. **All parties with at least two percent of the total votes are guaranteed one seat each. Only these parties shall be considered in the computation of *additional* seats.** The party receiving the highest number of votes shall thenceforth be referred to as the “**first**” party.

Step Two. The next step is to determine the number of seats the first party is entitled to, in order to be able to compute that for the other parties. Since the distribution is based on proportional representation, the number of seats to be allotted to the other parties cannot possibly exceed that to which the first party is entitled by virtue of its obtaining the most number of votes.

Step Three The next step is to solve for the number of additional seats that the *other qualified parties* are entitled to, based on proportional representation.

BANAT v COMELEC

21 April 2009

SUMMARY: BANAT et al. question COMELEC’s allocation of seats reserved for party-list representatives under Sections 11 and 12 of RA 7941. The **Supreme Court interprets the law and formulates a whole new way of determining who gets the seats.** It sets aside COMELEC’s original lineup (as expressed in NBC Resolution No. 07-60) and clarifies that **major political parties cannot participate in party-list elections and that the allocation of 20% of the seats in House of Representatives to Party-List representatives is a ceiling and not mandatory.**

FACTS:

- 14 May 2007 Election included elections for party-list representatives
 - o COMELEC counted 15,950,900 votes cast for 93 parties under the Party-List System
- **Sec. 11 of RA 7941** (Party-List System Act):
 - o Parties will be ranked from highest to lowest number of votes garnered during elections
 - o parties with at least 2% of the total votes for the party-list system are entitled to 1 seat each
 - o **Those with more than 2% can have additional seats in proportion to their total number of votes**
 - o Each party shall be entitled to a maximum of 3 seats

- **Sec. 12 of RA 7941:**

- o COMELEC will rank, tally, and allocate party-list representatives according to percentage of votes obtained against the total nationwide votes cast
- o Additional seats will be allocated in proportion to the percentage of votes obtained by each group:
 - in relation to total nationwide votes
 - After deducting corresponding votes of those allotted seats under 2% threshold rule

- 9 July 2007: COMELEC, sitting as NBC (National Board of Canvassers), promulgated **NBC Resolution No. 07-60**.

- o Resolution proclaimed 13 parties as winners
- o In *CIBAC v COMELEC* and *Veterans v COMELEC*: formula for additional seat with more than 2% votes will be determined only after all party-list ballots have been completely canvassed

NBC Resolution No. 07-72, declaring allocation of additional seats according to *Veterans* formula (First Party Rule)

- o BUHAY has the most number of votes (1,178,747, which is 7.2% of the total votes for the party-list system)

- Therefore, BUHAY is the “first party” according to *Veterans* and *CIBAC*.

- With 7.2% votes, it is entitled to 2 additional seats according to *Veterans* formula for allocating additional seats for the first party

- o Other parties entitled to additional seats follow a different formula, based on number of additional seats allocated to first party

- Bayan Muna, CIBAC, GABRIELA, and APEC entitled to 1 additional seat each

- **27 June 2002: BANAT petitions to Proclaim the Full Number of Party-List Representatives Provided by the Constitution (docketed as NBC No. 07-041 before the NBC) for the following reliefs:**

- o That full number (20%) of Party-List representatives shall be proclaimed

- o Paragraph (b), Section 11 and Section 12 of RA 7941 should be harmonized with Section 4, Article VI of the Constitution: Section 12 of RA 7941 should only be applicable to the first party-list representative seats to be allotted on the basis of their initial ranking

- 3-seat limit prescribed by RA 7941 be applied

- All party-list groups shall initially be given seats corresponding to every 2% vote received and any additional seats will be allocated in

accordance with Section 12 of RA 7941 (in relation to total nationwide votes cast after deducting corresponding votes allotted seats under 2% threshold rule

o **OR alternatively, declare Section 11 of RA 7941 unconstitutional** and that Section 12 of RA 7941 should be the procedure to be followed

- 3 Aug 2007 NBC promulgated **NBC Resolution No. 07-88** , saying through NBC Legal Group Head, Atty.

Alioden D. Dalaig: **BANAT's petition is moot and academic** thanks to the fact that on 14 May 2007, the total number of seats of each winning party was determined to be pursuant to the decision of *Veterans v COMELEC*

- **BANAT filed petition** for certiorari and mandamus **assailing NBC Resolution No. 07-88** ruling (NOT a motion for reconsideration)

- 9 July 2007, **Bayan Muna, Abono, and A Teacher asked COMELEC** (acting as NBC) **to reconsider decision to use Veterans formula** stated in NBC Resolution No. 07-60

ISSUES:

1. Is the 20% allocation for party-list representatives mandatory or a ceiling?
2. Is Section 11 (b)'s 3-seat limit constitutional?
3. Is Section 11 (b)'s 2% threshold to qualify for 1 seat constitutional?
4. How will the party-list representatives be allocated?
5. Does the Constitution prohibit major political parties from participating in party-list elections? Can they be barred from participating there?

HELD:

o Petition is partially granted.

□ 2% threshold in distributing additional party-list seats is unconstitutional, but it's constitutional for determining who gets guaranteed seats

□ Major parties are disallowed from participating in party-list elections

o **Veterans formula to determine number for seats available to party-list representatives does not deviate from the Constitution**, which computes number of seats for party-list representatives from the number of legislative districts

□ There are 55 seats available to party-list representatives

o Constitution: MANNER of allocating seats to party-list reps is left to the wisdom of the legislature

- Veterans: First Party Rule
 - Justice Mendoza's dissent: alternatively, use Germany's Niemeyer formula

- **Petitioners and intervenors have a problem with the *Veterans* formula because it interprets the clause, "in proportion to their total number of votes" to be in proportion to the votes of the first party, which is contrary to RA 7941**

- **SC rules that the 2% threshold as found in Section 11 is unconstitutional ONLY in computing the allocation of additional seats**

- o It makes it mathematically impossible to achieve the maximum number of available party list seats when the number exceeds 50

- o It frustrates the attainment of the permissive ceiling that 20% of the House of Representatives members will be party-list representatives

- **Procedure to be observed for allocation of party-list representative seats under Sec. 11**

- o In computing for additional seats, guaranteed seats won't be included, since they'd already been allocated; fractional seats are disregarded

- o *Veterans* formula is set aside; a NEW FORMULA is expressed for additional seats; allocation of additional seats is not limited to 2%-ers

HELD 2:

- On the participation of major political parties...

- o Framers of the Constitution intended political parties to participate in party-list elections through their sectoral wings and can organize or affiliate with their chosen sector or sectors

- o RA 7941 also intended major political parties to participate in party-list elections. **To exclude major political parties would be against the Constitution and RA 7941**

- o Sec. 9 of RA 7941 offers qualifications for party-list nominees

- Sectoral party/org/coalition nominee must be a member of the sector

- Natural-born Philippine citizen, registered voter, resident of the Philippines for at least 1 year, able to read and write, at least 25 years old, and a bona fide member of the party he seeks to represent for at least 90 days before the day of election

- Youth sector nominees must not be more than 30 on the day of the election

- **RA 7941's 3-seat cap is valid; it prevents any party from dominating the party-list elections**

- **20% allocation is a ceiling; neither RA 7941 nor the Constitution mandates that all 55 seats be filled**
- BUT the Supreme Court has decided that the **ruling in *Veterans* be continued** (8-7 vote)
 - o **Disallowed major political parties from participating in party-list elections**, whether directly or indirectly