



CHAMBER OF REAL ESTATE &  
BUILDERS' ASSOCIATIONS INC

Online Library  
www.ecreba.com

---

**G.R. No. 147589**  
**CREBA's Motion for Reconsideration**  
**Of the Supreme Court Decision**  
**To Limit Party List Participation**  
**Exclusively to the "Marginalized" Sectors**

## **MOTION FOR RECONSIDERATION**

Private Respondent Chamber of Real Estate and Builders' Associations (CREBA), hereinafter referred to as Private Respondent CREBA, by counsel, most respectfully moves for the reconsideration of the Honorable Court's decision dated June 26, 2001 in the above-entitled case ( copy of which was received on July 04, 2001) and, in support thereof, alleges that ~

### **PREFATORY STATEMENT**

It is a primordial rule of construction that when the language of the statute is plain and free of ambiguity, and expresses a single, definite and sensible meaning, that meaning is conclusively presumed to be the meaning which the legislature intended to convey.

On the other hand, when the interpretation of a statute according to the exact and literal import of its words would lead to absurd or mischievous consequences, or would thwart or contravene the manifest purpose of the legislature in its enactment, it should be construed according to its spirit and reason, disregarding or modifying, so far as may be necessary, the strict letter of the law.

And, in construing a doubtful or ambiguous statute, the Courts will presume that it was the intention of the legislature to enact a valid, sensible and just law. " ...xxx... The construction should be in harmony with this assumption whenever possible. ....xxx..." (*Black, Construction and Interpretation of Laws p. 103, 2nd ed.*).

In ruling that participation in the party-list system is limited only to the marginalized and underrepresented sectors, specifically those enumerated under Section 5 of Republic Act 7941, did the Supreme Court NOT depart from these basic rules of statutory construction ?

Herein respondent, with due respect, believes so. And the erroneous interpretation of the law has placed unnecessary restrictions not mentioned by the law or contemplated by its framers. More importantly, said interpretation is contrary to the very constitutional provision that the law was meant to implement. Hence, this motion for reconsideration.

## THE LAW IN QUESTION

Crucial to the resolution of this issue is the correct interpretation of the various sections of R.A. 7941, otherwise known as the Party List Law, which was approved on March 3, 1995 took effect 15 days after its publication in a newspaper of general circulation.

R.A. 7941 promotes the 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. In particular, the pertinent provisions of R.A.7941 state ~

Sec. 2. Declaration of Policy. - The State shall promote proportional representation in the election of representatives to the House of representatives through party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to the marginalized and underrepresented sectors, organizations and parties, 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. Toward this end, the State shall develop and guarantee a full, free and open party list 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.

Sec. 3. Definition of Terms - (a) The party-list system is a mechanism of proportional representation in the election of representatives to the House of Representatives from national, regional and sectoral parties or organizations or coalitions thereof registered with the Commission on Elections (COMELEC). Component parties or organizations of a coalition may participate independently provided the coalition of which they form part does not participate in the party-list system.

(b) A party means either a political party or a sectoral party or a coalition of parties.

(c) A political party refers to an organized group of citizens advocating an ideology or platform, principle 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.

It is a national party when its constituency is spread over the geographical territory of at least a majority of the regions. It is a regional party when its constituency is spread over the geographical territory of at least a majority of the cities and province comprising the region.

(d) A sectoral party refers to an organized group of citizens belonging to any of the sectors enumerated in Section 5 hereof whose principal advocacy pertains to the special interests and concerns of their sector.

(e) A sectoral organization refers to a group of citizens or a coalition of groups of citizens who share similar physical attributes or characteristics, employment, interest or concerns.

(f) A coalition refers to an aggrupation of duly registered national, regional, sectoral parties or organizations for political and /or elections purposes.

Sec. 5. Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system ...xxx... provided, that the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas worker, and professionals.

Sec. 11. ....xxx... For purposes of the May 1988 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. (*Underscoring supplied*)

The provision of the 1987 Constitution touching on the party-list system is found in Section 5 (1) and (2) of Article VI. It reads ~

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 or 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.

## **ASSIGNMENT OF ERRORS**

Private respondent CREBA assigns the following errors in the Decision, to wit:

I

**THE HONORABLE COURT ERRED IN DISREGARDING  
THE CRYSTAL CLEAR MANDATE OF THE CONSTITUTION  
THAT THE PARTY-LIST SYSTEM IS OPEN TO  
ALL SECTORS WHETHER OR NOT MARGINALIZED  
AND UNDERREPRESENTED.**

II

**THE HONORABLE COURT ERRED IN DECLARING  
THAT THE IMPLEMENTING LAW RA 7941 LIMITS  
THE PARTY-LIST TO THE MARGINALIZED AND  
UNDERREPRESENTED.**

## **ARGUMENTS**

I

**THE HONORABLE COURT ERRED IN DISREGARDING  
THE CRYSTAL CLEAR MANDATE OF THE CONSTITUTION  
THAT THE PARTY-LIST SYSTEM IS OPEN TO ALL  
SECTORS WHETHER OR NOT MARGINALIZED AND  
UNDERREPRESENTED**

There is no question that R.A. 7941 was intended to execute the provisions of the Constitution on the members of the House of Representatives who would be elected through a party-list system under Section 5 (1) and (2) of Article VI. Ordinarily,

provisions of the Constitution are self-executing. However, this is one of the exceptions which need legislation to be fully implemented. Hence, the enactment of R.A. 7941.

In determining the correctness of the interpretation of R.A. 7941 given by the Honorable Court when it ruled that participation in the a party-list system is limited only to the marginalized and underrepresented sectors specifically those enumerated in section 5 of RA 7941, it is most relevant to examine the very constitutional provision itself and the intention underlying the provision. Thus, it has been held that the Court in construing a Constitution should bear in mind the object sought to be accomplished by its adoption, and the evils, if any, sought to be prevented or remedied. "...xxx... The object is to ascertain the reason which induced the framers of the Constitution to enact the particular provision and the purpose sought to be accomplished thereby, in order to construe the whole as to make the words consonant to that reason and calculated to effect that purpose." (*Maxwell vs. Dow*, 176 U.S. 581, 20 Sup. Ct. 448, 44L. Ed. 597).

But in so ruling, this Honorable Court relied solely on its own interpretation of RA 7941, without first establishing whether or not such interpretation is consistent with Article VI & 5(1)(2) - the very Constitutional provision that the law seeks to implement.

Ignoring the full import of this Constitutional mandate, this Honorable Court declared:

"Section 5, Article VI of the Constitution, relative to the party-list system, is couched in clear terms: the mechanics of the system shall be provided by law. Pursuant thereto, Congress enacted RA 7941. In understanding and implementing party-list representations, we should therefore look at the law first. Only when we find its provisions ambiguous should the use of extraneous aids of construction be resorted to .... xxx .... The criteria for participation is well defined. Thus, there is no need for recourse to constitutional deliberations. .... xxx...."<sup>1</sup>

It goes without saying that Constitutional provisions are to be operationalized and implemented through law when the provision is not self-executing. However, basic is the rule laid down by no less than this Honorable Court that **the law must be written, and interpreted, consistent with the Constitutional provision that it seeks to implement.**

Yet in construing the Constitutional mandate on the party-list, this Honorable Court focused solely on the single phrase "as provided by law", and declared simply that "it was thus up to the Congress to sculpt in granite the lofty objective of the Constitution"<sup>2</sup> - thereby abdicating its responsibility to determine whether or not the law is consistent with the Constitutional provision it seeks to implement in the first place.

On so fundamental an issue as legislative representation, this Honorable Court found it unnecessary to delve deeper into the textual meaning of the Constitutional provision in its entirety, nor into the intent of the Framers ~ if in its perception the language of the Constitution is unclear ~ as to what the implementing law may or may not provide.

---

<sup>1</sup> Decision, p. 31

<sup>2</sup> Decision, p. 19

And yet this Honorable court, after declaring that “the criteria for participation is well defined” and brushing aside the deliberations of the Constitutional Commission, apparently found it necessary to consult the same in ruling that “Indubitably, therefore political parties - even the major ones - may participate in the party-list elections.”

This Honorable Court, in construing whether or not major political parties may participate in the party-list, gives weight to “extraneous aids of construction” to establish the Framers’ intent, yet disregards the same when it comes to resolving the more fundamental issue of whether or not the party-list is limited only to certain sectors.

With all due respect, we submit that this inconsistent application of the rules of statutory construction is **grave error** on the part of this Honorable Court ~ an error that has resulted in a flawed ruling that, if not reversed, **would amount to a Constitutional amendment**.

### **The Constitutional text in Article VI & 5 (1)(2) is clear that the party-list is open to all sectors**

The Honorable Court declared that “verba legis still prevails.” “The fundamental principle in constitutional construction, however, is that the primary source from which to ascertain constitutional intent or purpose is the language of the provision itself. The presumption is that the words in which the constitutional provisions are couched express the objective sought to be attained.” (*Decision, p. 29*)

And the precise language of the Constitution in Article VI & 5(1) (2) is thus:

Section 5(1). The House of Representatives shall be composed of ... xxx ... and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations;

Sec. 5(2) ... xxx ... *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.*<sup>3</sup> (*Underscoring supplied*)

On its very face, even without need of fathoming the intent of the Framers, the aforesaid Article VI & 5(1)(2) is crystal clear and unequivocal in its language that:

a) The Party-List System is for registered national, regional, and sectoral parties or organizations ~ without any qualification that the sectors to which they belong should be marginalized.

b) However, for only three consecutive terms after ratification of the Constitution, the Party-List seats ~ to the extent of only one-half thereof ~ shall be filled from the sectors specifically enumerated therein and from such other sectors as may be provided by law.

---

<sup>3</sup> Constitution, Article VI Section 5(1)(2)

As the Honorable Justice Vicente V. Mendoza points out:

“The text of Art. VI &5(1)(2) is quite clear. It provides for a party-list system of ‘registered national, regional and sectoral parties or organizations,’ not for sectoral representation. Only for three consecutive terms following the ratification of the constitution and only with respect to one-half of the seats allotted to party-list representatives does it allow sectoral representation. Textually, Art. VI & 5(1)(2) provides no basis for petitioners’ contention that whether it is sectoral representation or party-list system the purpose is to provide exclusive representation for ‘marginalized sectors’ ... xxx ...” (Mendoza Dissenting Opinion p. 8)

**The prescribed three-consecutive term period has already expired as of 1998** ~ the exclusively-reserved seats for the sectors identified in Section 5(2) having been filled by their own chosen representatives appointed to the 8th Congress of 1987 by President Aquino and to the 9th and 10th Congress of 1992 and 1995, respectively, by President Ramos.

Such being the case, based on the text of Article VI &5(1)(2), the party-list is now open to all sectors except the religious sector and those who may be disqualified by law.

**The Record of the Constitutional Commission clearly manifests the Constitutional intent to open the party-list system to all sectors**

Albeit that the Constitutional language is crystal clear on its face, herein Private Respondent CREBA submits excerpts from the Record of the Constitutional Commission to clearly establish that:

a) Precisely the issue of whether the party-list system should be limited to the marginalized sectors, or whether it should be open to all, has been extensively debated upon in crafting the aforementioned Constitutional provision, and all the points raised by Petitioners in this instant case have been thoroughly dissected by the Framers in lengthy deliberations;

b) The meaning and intent of Article VI Sec. 5(1)(2), **as it was expressly clarified and understood by the Framers, is that the party-list system is open to all sectors, except only for 3 consecutive terms after ratification of the Constitution** when one-half, only, of the Party List seats are reserved exclusively for the “marginalized sectors”; and

c) That such should be the Constitutional meaning and intent was agreed upon by all the Framers when they voted unanimously to include in the Constitution the provision as it stands now; and

d) The Framers were categorical that the implementing law to be passed by Congress cannot exclude any sector that is not prohibited by the Constitution.

We note that **no less than the Chief Justice himself**, as former Member of the Constitutional Commission, took part in these extensive deliberations, and **voted along with the entire body to adopt a party-list system that is open to all sectors.**

The nature and purpose of the party-list as an open system was explained thus:

"MR. MONSOD: I would like to make a distinction from the beginning that the proposal for the party list system is not synonymous with that of sectoral representation. Precisely, the party list system seeks to avoid the dilemma of choice of sectors and who constitute the members of the sectors. ...xxx... **Under the party list system, there are no reserved seats for sectors...**

MS. AQUINO: The Committee would like to be clarified on this. Do we understand the proponent correctly that **this party list system is not necessarily synonymous to sectoral representation?**

MR. MONSOD: No, it is not necessarily synonymous, but it does include the right of sectoral parties or organizations to register, but **it is not exclusive** to sectoral parties or organizations.

MS. AQUINO: And that **it does not likewise reserve any institutional seat for any sector?** In other words, it only enables it to be a part of the party list if it has the capacity to do so, but it does not reserve any seat for the sectors.

MR. MONSOD: Yes Madam President, **this is not a reserve seat system.**

MR. DAVIDE: Madam President, before accepting the proposed amendment, the Committee would like to get some clarifications. When the proponent speaks of 'or sectoral parties or organizations', **is he referring to any sector which the law may subsequently define?**

MR. MONSOD: My amendment is that the parties that will be listed may either be national, regional, or sectoral parties or organizations. That means that **any sector or any party may register** provided it meets the criteria of the Commission on Elections and the Constitution on prohibited organizations and the requirements for registration. In other words, the party list system that is being advocated by this amendment is a system that opens up the list to **any** regional, national or sectoral party. **There are no limitations**, except the general criteria and requirements for parties or organizations as we have discussed during the interpellation and debate on the Comelec...xxx..

MR. DAVIDE: Another question for clarification, Madam President. **The law itself which shall implement the party list system cannot exclude a sector**, if the sector would wish to register under the system?

MR. MONSOD: **Yes** Madam President."<sup>4</sup> (*Underscoring supplied*)

The proposal to permanently **limit** even just one-half of the party-list seats to "marginalized" sectors was **defeated**, thus:

"Mr. Tadeo ...xxx.. adverting likewise to the 1973 Constitution, stated that Mr. Marcos gave 14 seats to the sectoral groups which, considering the dictatorship prevailing, was something. He opined that under the new government, it could do better by giving 11 additional seats, or a total of 25 seats. In this connection, **he sought to amend the amendment of Mr. Monsod by deleting the phrase 'that for the first two terms after the ratification of this Constitution.** ...xxx..."<sup>5</sup> (*Underscoring supplied*)

"At this juncture, Mr. Rodrigo invited attention to the fact that the Body should just vote on the issue of whether the sectoral representation would be permanent or not, to which Ms. Aquino agreed....xxx.. Mr. Romulo informed the Body that, as per agreement during the caucus, **the issue to be voted upon would be whether or not the Constitution should contain a provision on permanent sectoral seats.** Submitted to a vote, and **with 19 Members voting in favor and 22 against, the amendment was lost.**"<sup>6</sup> (*Underscoring supplied*)

And the proposal of Mr. Monsod for a **completely open** party-list was **unanimously approved**, thus:

"Thereafter, Mr. Davide restated Mr. Monsod's proposed amendment, as amended, ...xxx..to insert the following: 'Elected through a party list system of registered national, regional and sectoral parties or organizations, as provided by law. The party list representatives shall constitute twenty percent of the total membership of the House of Representatives. For three consecutive terms after ratification of this Constitution, twenty-five of the seats allocated to party-list representatives shall be filled by selection, as provided by law, 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'....xxx.. Thereafter, Mr. Monsod's amendment, as amended, was submitted to a vote and **with 32 Members voting in favor and none against, the same was approved by the Body.**"<sup>7</sup> (*Underscoring supplied*)

And the final provision as it now stands now, is succinctly explained thus:

"MR. OPLE: ...xxx.. There is an **outright constitutional gift for the first two terms** of the sectoral representatives but, **after that, they**

---

<sup>4</sup> Record of the Constitutional Commission, p. 253

<sup>5</sup> Ibid, p. 552

<sup>6</sup> Ibid, p. 562

<sup>7</sup> Ibid, p. 561

will have to earn the seats through participation in the party list system or, even beyond that, to be direct competitors with established and more orthodox parties in the general political arena ...xxx..<sup>8</sup> (*Underscoring supplied*)

As the Honorable Justices Jose C. Vitug and Vicente V. Mendoza explain these proceedings:

"The advocates for permanent seats for sectoral representatives made an effort towards a compromise ~ that the party-list system be open only to underrepresented and marginalized sectors. This proposal was further whittled down by allocating only half of the seats under the party-list system to candidates from the sectors which would garner the required number of votes. The majority was unyielding. Voting 19-22, the proposal for permanent seats, and in the alternative the reservation of the party-list system to the sectoral groups, was voted down. The only concession the Villacorta group was able to muster was an assurance of reserved seats for selected sectors for three consecutive terms after the enactment of the 1987 Constitution .....xxx.." <sup>9</sup>

"The objections raised against the accreditation of private respondents are the same ones raised by Commissioners Villacorta, Tadeo, and Lerum, among others, to the Monsod proposal which became the present Article VI §5(1)(2), namely, that certain sectors, like labor, may not win seats in the House under the party-list system;...xxx.. that the party-list system will not solve the problem of ineffective representation of the 'underprivileged sectors.' These objections, however, did not carry the day, as members of the Constitutional Commission voted 32-0 in favor of the Monsod proposal. To uphold these objections now would be to overrule the Constitutional Commission and in effect amend the Constitution." <sup>10</sup> (*Underscoring supplied*)

**In sum, in both the language of Article VI §5(1)(2) and the deliberations of the Constitutional Commission, the Fundamental Law is crystal clear that the party-list system is, as of 1998, open to all sectors except the religious sector.**

For this Honorable Court to now rule otherwise, would be, in the words of the Honorable Justice Jose C. Vitug, "crossing the limits of judicial review and treading the dangerous waters of judicial legislation, and more importantly, of a constitutional amendment." <sup>11</sup>

---

<sup>8</sup> Ibid, p. 562

<sup>9</sup> Dissenting Opinion of Justice Jose C. Vitug, p. 6

<sup>10</sup> Dissenting Opinion of Justice Vicente V. Mendoza, p. 19

<sup>11</sup> Dissenting Opinion of Justice Jose C. Vitug, p. 13

II

**THE HONORABLE COURT ERRED IN DECLARING  
THAT THE IMPLEMENTING LAW RA 7941 LIMITS  
THE PARTY-LIST TO THE MARGINALIZED AND  
THE UNDERREPRESENTED**

**The provisions of RA 7941 is clear that it does not limit the party-list system to the marginalized and the under-represented**

As earlier discussed, Article VI §5(1)(2) of the Constitution is crystal clear in its mandate that the party-list shall be open to all sectors except the religious sector. The Framers, in the earlier-mentioned plenary session of August 1, 1986 where said provision was unanimously adopted, were unequivocal that the implementing **law cannot exclude a sector**, thus:

"MR. DAVIDE: Another question for clarification, Madam President. The law itself which shall implement the party list system cannot exclude a sector, if the sector would wish to register under the system?

MR. MONSOD: Yes Madam President."<sup>12</sup>

Is RA 7941 consistent with the clear Constitutional mandate? We respectfully submit that it is.

RA 7941 provides thus:

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 the marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole to become members of the House of Representatives....xxx.. Toward this end, the State shall develop and guarantee a full, free and open party list system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives.....xxx..

SEC. 3. Definition of Terms. ~ .....xxx... A party means either a political party or a sectoral party.

A political party refers to an organized group of citizens advocating an ideology or platform, ...xxx..

---

<sup>12</sup> Record of the Constitutional Commission, p. 253

A sectoral party refers to an organized group of citizens belonging to any of the sectors enumerated in Section 5 hereof whose principal advocacy pertains to the special interests and concerns of their sector.

A sectoral organization refers to a group of citizens or a coalition of groups of citizens who share similar physical attributes or characteristics, employment, interest or concerns.

...xxx..

SEC. 5. Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system ...xxx.. provided, that the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.

SEC. 11. ....xxx.. 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. <sup>13</sup> (*Underscoring supplied*)

When examined without preconceived biases, the clear import of all these provisions taken together is as follows:

1. The policy laid down by the law in Section 2 is to promote proportional representation, and not sectoral representation. As the Honorable Justice Mendoza explains:

"What this provision simply states is that the purpose of the party-list system is to promote proportional representation in the election of representatives to the House of Representatives, and that to achieve this end, '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' shall be guaranteed. Contrary to what the majority claims, §2 does not say that the party-list system is intended 'to enable Filipino citizens belonging to marginalized and underrepresented sectors ...xxx..' to win seats in the House of Representatives. What it says is that the policy of the law is 'to promote proportional representation through a party-list system of registered national, regional, and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to the marginalized ...xxx..' to win seats in the House. For while the representation of 'marginalized and underrepresented' sectors is a basic purpose of the law, it is not its only purpose. ....xxx.. the aim of proportional representation is to enable those who cannot win in the 'winner-take-all' district elections a chance of winning. These groups are not necessarily

---

<sup>13</sup> Republic Act 7941

limited to the sectors mentioned in §5 ...xxx... these groups can possibly include other sectors. Indeed, how can there be a full, free and open party system if the election for the party list system is to be limited to the sectors which are enumerated in §5 of the law ...xxx.. " <sup>14</sup>

2. Any organized group of persons may register and participate in the party-list, provided that the specific sectors enumerated in Section 5 shall be included.

The controlling phrase of Section 5 is that "any organized group of persons may register as a party, organization or coalition for purposes of the party-list system." This is consistent with the controlling phrase of Section 2 that the policy is to promote proportional representation through a party-list system of registered national, regional and sectoral parties or organizations, which is in turn consistent with the letter of Article VI Section 5(1) and 5(2) of the Constitution.

The enumeration of the sectors whose inclusion is mandatory under Section 5, is merely a collatilla of the main provision. It is not the controlling phrase or provision itself. By the rules of statutory construction or even by the simplest rule of grammatical construction, this mere collatilla cannot therefore be construed to exclude all other sectors. As the Honorable Justice Mendoza pointed out: **"There would be no need to provide specifically for the sectors if the party-list system is reserved for them."**<sup>15</sup>

3. The candidates are categorized and defined in Section 3 as (a) the political parties ~ a group of citizens advocating an ideology or platform; (b) the sectoral parties ~ composed of "citizens belonging to any of the sectors enumerated in Section 5"; (c) sectoral organizations ~ composed of citizens with similar employment, characteristics, interest or concerns; and (d) coalitions thereof.

It is clear from these definitions that the sectors enumerated in Section 5 ~ i.e. the "marginalized and underrepresented ~ are being placed under the limited category of "sectoral parties", while those who do not belong to the enumerated sectors are being placed under the broad and all-encompassing category of "sectoral organizations" ~ a categorization that fully conforms to the controlling phrase of Section 5 that "any organized group of persons may register."

4. Major political parties are allowed to participate after the May 1998 elections. This Honorable Court itself declares that "political parties ~ even the major ones ~ may participate."

These major political parties cannot by any stretch of imagination be considered marginalized, as majority of their members ~ inclusive of their nominees ~ are moneyed, influential, and are either former or incumbent public officials. Neither are they underrepresented, for these are the very same parties which have dominated the political arena at both local and national levels and which, in the very words of this Honorable Court, "normally controlled 80 percent of the seats in the House."

That under both the Constitution and the law they are allowed to participate, therefore, is **indubitable proof** that the party-list is open to all.

---

<sup>14</sup> Dissenting Opinion of Justice Vicente V. Mendoza, p. 23

<sup>15</sup> Ibid, p. 24

With all due respect, we therefore find it inconsistent and illogical for this Honorable Court to declare that the party-list is exclusive for the marginalized and underrepresented, yet in the same breath declare that it is open to major political parties dominated by the moneyed and the over-represented.

From the foregoing, it should be abundantly clear that **RA 7941 ~ in opening the party-list to all sectors, without distinction as to whether or not they are marginalized and underrepresented ~ is verily consistent with Article VI Section 5 (1)(2) of the Constitution** that it seeks to implement. As it should be.

For if it is not so ~ as appears to be the interpretation of this Honorable Court ~ with all due respect it must of necessity collapse, as null and void as it is unconstitutional.

### III

#### **CONCERN FOR THE MARGINALIZED IS NOT A MONOPOLY OF THE MARGINALIZED**

The linchpin of this case, we respectfully submit, is to preserve the rule of law, to maintain respect for the Fundamental Law, to uphold it as it is and not as it should be.

Be that as it may, since this Honorable Court appears to have taken cognizance of certain non-legal issues, Private Respondent CREBA begs leave to discuss the same, lest it be judged unkindly by posterity for remaining silent in the face of an apparent sully on its motives.

This Honorable Court declared:

"The assertion of the OSG that ...xxx.. even the super-rich and overrepresented can participate desecrates the spirit of the party-list system. ....xxx..<sup>16</sup> This Court, therefore, cannot allow the party-list system to be sullied and prostituted by those who are neither marginalized nor underrepresented."<sup>17</sup>

With this declaration, this Honorable Court has unjustly indicted **all** the non-marginalized and non-underrepresented citizens ~ including our very own President Gloria Macapagal Arroyo and those of her kind ~ as rascals who have no place in civilized society, and therefore are not entitled to any protection under the law and the Constitution.

Our incumbent President is neither marginalized nor underrepresented, if by the term "marginalized" the Honorable Court refers to "Payatas hovel dwellers"<sup>18</sup> and their kind. Our national hero Jose Rizal himself was not part of the "marginalized", neither were our country's luminaries such as Claro M. Recto, Lorenzo Tanada, Jovito Salonga, Ninoy Aquino, and many others ~ yet they sacrificed so much to champion and advance, via the political arena, the cause of the marginalized. They did not label

---

<sup>16</sup> Decision, p. 24

<sup>17</sup> Ibid, p. 28

<sup>18</sup> Ibid, p. 24

themselves as "youth" out to help only the youth, or "laborers" out to help only the laborers. They labeled themselves as "Filipinos" out to help Filipinos.

Yet those who now aspire to follow in their footsteps and emulate the examples they have set, have been undeservedly branded by this Honorable Court ~ in the kind of language anarchists use to foment polarization and class war ~ as despicably unworthy of the people's trust.

Be that as it may, Private Respondent CREBA begs to differ with this Honorable Court when it implies that the interests and concerns of the marginalized can be served or pursued only by the marginalized and no other, thus:

"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."<sup>19</sup>

This is as if to say that only a paraplegic can or will help the paraplegic, that the rich cannot and will not help the poor, that the strong cannot or will not aid the weak ~ otherwise put, to each his own.

With all due respect, such divisive notion should it gain ground cannot but bode ill not only for the marginalized themselves, but for the entire nation as well.

The marginalized are marginalized precisely because they lack the capability ~ economic or otherwise ~ to lift themselves out of their present state. Numbering by the millions, they need all the help they can get, from anyone willing to help. And who would be in a better position to help, if not those whose non-marginalized circumstances allow them to dedicate time, effort, capability and resources in coming up with proper solutions to problems plaguing the marginalized?

It should be borne in mind that if only for their own self-interest, the non-marginalized have a far greater stake in the upliftment of the plight of all the marginalized ~ in ensuring, for instance, that the economy is sound and the masses of our people have sufficient income and purchasing power and are not restive ~ for this is the only means by which businesses can flourish and thus enable them to maintain their non-marginalized status.

Albeit, it would indeed be ideal if, for instance, the homeless urban poor are familiar with the intricacies of housing production, regulation and finance, enough for them to determine the right measures that would enable them and the millions of their equally poor homeless brethren to acquire their own land and decent dwellings.

It would also be ideal if the unemployed and underemployed know enough of business and economics to figure out how to improve the economy so that they can be assured of a continual source of adequate income and lower prices of goods and services. And so on.

But until that ideal is attained, Private Respondent CREBA respectfully submits that this Honorable Court should be the last to spit upon the efforts of the non-marginalized to help the marginalized.

---

<sup>19</sup> Ibid, p. 40

Indeed, the policy of promoting social justice permeates our Constitution. The manner in which this Honorable Court wants the party-list system implemented, however, we respectfully submit, is **not** the means prescribed by the Constitution and the law to attain that policy.

Verily, this Honorable Court's Decision utterly lacks basis whether in the Constitution or the implementing law RA 7941.

### **PRAYER**

**WHEREFORE**, it is respectfully prayed that the Decision be reconsidered and set aside. Other just or equitable relief is likewise sought.

Makati City for Manila, July 12, 2001.

**MANUEL M. SERRANO**

Counsel for Respondent CREBA  
PTR No. 7725693/1-4-01/Makati  
IBP No. 521587/1-4-01/Makati