

## ONLINE PAPERS

### The 2001 Party-List Elections: Winners, Losers and Political/Legal Contradictions

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Controversies still continue to hound the landscape, conduct and results of the party-list race of May 14. By no means is the party-list race over.

It is more than three months now since the party-list elections. Yet only 3 parties, out of the 10 who made the 2% mark, have been deemed *qualified* and proclaimed to take seats in the House Of Representatives (HOR). These are Bayan Muna (3 seats), Akbayan (1 seat) and BUTIL (1 seat). There is still no clear assurance at the moment if other party-list contenders would add up to the list. Legal flak animates the party-list discourse.

The year 2001 was heralded by a series of convulsions on the state arena. The party-list race, together with the senatorial elections, appeared as the third arena of confrontation this year among political forces, mainly among the elite. The first arena was the EDSA2 that saw the impeachment and eventual ouster of Pres. Joseph Estrada (LAMMP-PMP). Vice-President Gloria Macapagal-Arroyo (Lakas-NUCD) succeeded the ousted Pres. Estrada. The second was the so-called EDSA3 wherein pro-Estrada forces marched and stormed Malacanang in a failed insurrectionary bid against Pres. Macapagal-Arroyo. [1] The unsettling political landscape has a definite synergetic impact on the party list race.

#### The Party-List Arena in General

Established in 1995, the Philippine "Party-List Law" (R.A. 7941) was heralded as a breakthrough in Philippine governance. The party-list system was entrenched after the EDSA 1986 Uprising through the 1986 Constitution in Section 5 of Article VI. Progressive and "marginalized" organizations that had little chances in winning district congressional seats found a window of opportunity to participate in national legislation.

The Party List Law reserves 20% or 52 HOR seats for national, regional, and sectoral parties or organizations. Each participating organization qualifies to get one seat in the HOR if it manages to get 2% of the total party-list votes cast. Additional seats are allotted "in proportion to their total number of votes". [2] A maximum of 3 seats is permitted. A voter is entitled to elect only one organization in the party-list system. This system provides a narrow corridor for progressive parties to participate in national elite governance.

As of July 4, 2001, only 10 out of the 162 party-list contenders hurdled the 2.0% mark. The Commission on Elections (COMELEC) reports as follows: [3]

Rank	CONTENDER	ACRONYM	GRAND TOTAL	PERCENTAGE OF TOTAL VOTES GARNERED
1	Bayan Muna	BAYAN	1,697,578	11.3627
2	Mamamayan			

	Ayaw sa Droga	MAD	1,481,945	9.9193
3	Association of Philippine Electric Cooperatives	APEC	801,587	5.3654
4	Veterans Federation Party	VFP	576,206	3.8568
5	Abag Promdi	PROMDI	422,241	2.8262
6	Nationalist People's Coalition	NPC	385,071	2.5775
7	Akbayan ! Citizens' Action Party	AKBAYAN!	373,595	2.5006
8	Luzon Farmers Party	BUTIL	329,920	2.2083
9	Lakas NUCD-UMDP	LAKAS NUCD-UMDP	325,739	2.1803
10	Citizen's Battle Against Corruption	CIBAC	318,468	2.1317

In the foregoing table, Akbayan ranks 7<sup>th</sup> at 2.5%, enough for one seat in the HOR. Only one elite party passed the 2% hurdle--the ruling elite party, the Lakas-NUCD-UMDP—which ranks 9<sup>th</sup> with 2.2%.

The COMELEC canvassing of votes is not yet through as of this writing, with 99.9% of Certificates of Canvass (COCs) audited. Total registered voters stands at 36,090,966, an increase of nearly a million. Turnout is estimated at 27 million, or a party-list turnout of 55%.

Total party-list votes cast stands at 14,939,975 as compared to the 1998 party-list race's 9.1 million—an increase of nearly 6 million or 60%. [4]

There are many explanations offered to this surge of party-voters. One factor is the participation of big elite parties like LAKAS-NUCD, NPC, LP, and the like. Another is the alleged vote-padding of the Certificates of Canvass (COCs) on the municipal level. [5] Finally, the party-list system was used by many organizations as a "backdoor entrance" to the HOR by pro-administration (BIGKIS), pro-Estrada organizations (KAMPIL [6], MAD [7]), and other religious fronts (CIBAC, BUHAY), thereby draining a lot of potential votes away from progressive organizations.

Current party-list figures pale in comparison with the 1998 party-list results. In 1998, a total of 123 political parties, coalitions and sectoral organizations joined the party-list race. A total of 13 organizations managed to go over the 2.0% mark; 14 HOR seats were captured by the party-list entrants. Total party-list votes cast was considered "low", which was only at 9,155,309 million votes by August 28, 1998. [8]

CONTENDER	GRAND TOTAL	PERCENTAGE OF TOTAL VOTES GARNERED
1. APEC	503,487	5.50%

2. ABA	321,646	3.51%
3. ALAGAD	312,500	3.41%
4. VETERENS FEDERATION	304,902	3.33%
5. PROMDI	255,184	2.79%
6. AKO	239,042	2.61%
7. SCFO	238,303	2.60%
8. ABANSE PINAY	235,548	2.57%
9. AKBAYAN	232,376	2.54%
10. BUTIL	225,643	2.36%
11. SANLAKAS	194,617	2.13%
12. COOP-NATTCO	189,802	2.07%
13. COCOFED	186,388	2.04%

### Highlights and Gleanings: *Bayan Muna*, MAD and Akbayan

Akbayan's performance can best be examined from its electoral target of 1 million votes, which is far cry from its 373,595 actual votes counted. Of the 1 million target votes, 40% is supposed to come from "base votes", 35% from "negotiated votes", and 25% from "market votes".

Akbayan's "base votes" were supposed to come from its 110,000 members. Akbayan "base votes" is supposed to generate votes by at least a factor of 3.6, or 400,000. Such a long shot fell short due to the failure of national infrastructure and communications problems. Aside from the lack of resources, there is the distinct possibility that not all members voted for Akbayan or that the membership estimate is simply bloated. There is the possibility of vote-shaving (*dagdag-bawas*); except that Akbayan's high visibility failed to match votes generated from the "base votes".

As to "negotiated votes", the highly polarized situation (Erap and Gloria divide) provided little room for actual negotiations. The major *de facto* surrogate parties like *Bayan Muna* and MAD benefited most from the highly polarized situation.

As to "market votes", Akbayan's high visibility was not simply converted to votes, owing to obvious weaknesses in the electoral machinery and negotiations.

The May 2001 electoral exercises were deemed one of the dirtiest and most inefficient in history. More than the failure of the COMELEC as an institution, the exercises underscored the offensive of *trapo* politics with the rule of the 3Gs ("Guns, Gold and Goons") rearing its ugly head.

The highly charged and acute political polarization compelled elite factions to use every available means to win the elections. The employ of *trapo* politics was therefore expected to be a key determining factor even in the party-list race.

In the party-list elections, the most notable outcome was the impressive figures chalked up by *Bayan Muna* and *Mamamayan Ayaw sa Droga* (MAD). [9] *Bayan Muna* garnered 11.4% and MAD got 9.9%, both far greater as compared to Akbayan's 2.5%.

Both *Bayan Muna* and MAD directly benefited from the highly charged national political configuration. In terms of political negotiations and resources, *Bayan Muna* immensely benefited from its "tactical alliance" with Pres. Macapagal-Arroyo against former President Estrada. So, too, did MAD with its ardent loyalties with Pres. Estrada. Akbayan shunned an alliance with neither Arroyo nor Estrada.

MAD enjoyed a natural backing from many police units nationwide, including the *Guardians*, a national organization of military and police personnel. On the other hand, Akbayan locals and organizers from the *Partido Demokratiko Sosyalista ng Pilipinas* (PDSP) complained of harassments by the NPA in many parts of the country. [10] The NPA is widely believed to have actively supported *Bayan Muna*.

MAD is still licking its wounds due to its disqualification from the COMELEC. Their appeal to the Supreme Court to reverse the COMELEC decision appears futile now. That is why the focus today of political observers is more on *Bayan Muna*.

*Bayan Muna's* impressive electoral figures goes beyond the 35 years of support it gained from the cadre-based national-democratic (ND) movement. The ND movement's determined entry into the parliamentary arena as a complement to its mass struggles undercores the resurgence of the previously waning ND movement.

Many political forces are now closely monitoring *Bayan Muna's* potential in the barangay, municipal and senatorial elections. But political analysts like Nathan Quimpo views things otherwise. [\[11\]](#) He thinks that the parliamentary arena runs counter to the ND movement's main strategy of "surrounding the cities from the countryside" through armed means, and of combining the "armed struggle" with the "mass movement". Quimpo opines that *Bayan Muna's* party-list victory would only exacerbate splits even more within the ranks of the ND movement over the long haul.

Akbayan's 2.5% was a poor match to its widespread national projection from EDSA2 to EDSA3. Aside from its failure to capitalize on the idiosyncrasies of *trapo* politics on the national and local levels and imperfections of the Party-List Law, its national electoral machinery was not well-honed to meet the demands of the extraordinary situation.

Akbayan's January 2001 Congress did not provide ample time for an efficient leadership transition. It's new leadership felt the full strain of facing two major upheavals (EDSA2 of February and EDSA3 that started in March) and necessary electoral preparations. The Congress was even too close for a May electoral exercise. The highly polarized national balance of forces affected Akbayan's resoluteness in establishing tactical alliances. Whatever political negotiations were employed on both national and local levels were not enough to fill in the electoral coffers and in generating more votes.

### **The COMELEC**

Internal bickering and gross inefficiency animated the COMELEC'S performance even before the actual elections of May 14 started.

The COMELEC never ventured in educating the voters on the party-list system. The youth failed to register as eligible voters due to COMELEC'S inefficiency. Snail-paced vote canvassing and delays in the proclamation of winners hounded the recent elections.

Initially, the SC partially lifted its "temporary restraining order" or TRO in favor of Bayan Muna, clearing the way for the proclamation of Bayan Muna candidates. Due to the COMELEC's inefficiency, the proclamation of Akbayan and Butil have to wait a week later.

Aside from Bayan Muna, Akbayan and Butil, it is not yet immediately clear if other parties deemed qualified by the COMELEC to run in the party-list race (like AMIN, ABA, Partido Manggagawa) will enter the winning circle. A lot will have to depend on the SC legalese and COMELEC's phlegmatic performance.

It is already public knowledge that corruption runs amuck inside the COMELEC. This is the single biggest factor of its inefficiency and internecine conflicts within it. Another is political bickering: the majority of the COMELEC commissioners, 6 out of 10, are known to be former Pres. Estrada's appointees. The media is now closely watching the brazen brawl between COMELEC Chair Benipayo and Commissioner Tantangco over policy issues, as well as the latter's corruption charges against the former.

### **The Supreme Court Versus the COMELEC**

The Party List Law is still so vulnerable to various interpretations that any group can

exploit its possible loopholes and get qualified to participate in the party-list race. Thus prior to the May 14 electoral exercises, party-list contenders mainly from Bayan Muna and Akbayan appealed to the Supreme Court (SC) and the COMELEC to disqualify party list contenders who fail to meet the party-list criteria. The contention, to paraphrase, goes: the party-list system is reserved to the "marginalized" sectors of society and is not "open to all". Topping the complaint list is MAD, religious groups such as CIBAC and BUHAY, as well as all big elite parties like LAKAS-NUCD, NPC, etc.

It was way after the May 14 elections when the SC issued a TRO to the COMELEC (last May 19, 2001), which prevented the latter from proclaiming any winner, pending the resolution of various complaints..

The SC even went farther last June 26, 2001 ordering the COMELEC to conduct "summary evidentiary hearings" on all party-list participants. The SC's ruling is that the COMELEC should disqualify the party-list participants if these organization or their respective candidates do not represent the "marginalized and underrepresented" segments among the Filipino people.

There were mixed reactions to this SC landmark order. On the one hand, there is some sense in hailing it as a significant partial victory for the party-list system. On the other, dangers are posed that the marginalized that have attained some level of people empowerment will no longer be "marginalized" from the standpoint of the law. It is instructive to quote some portions of the Epilogue of the Supreme Court decision promulgated June 26, 2001: [\[12\]](#)

"The linchpin of this case is the clear and plain policy of the law: "to 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.

"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 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 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..."

In partial compliance to the SC decision, the COMELEC last mid-August reviewed the top 24 party list entrants—only seven (7) were qualified; seventeen (17) failed to make it. Of the 7 who were qualified by the COMELEC, only three (3) are in the winning circle, namely: Bayan Muna, Akbayan, and Butil.

These initial round of disqualifications reduced the based votes from 14.9 million to a mere 8.4 million. Once the said disqualifications are deemed with finality, Akbayan will ranked 2<sup>nd</sup> in the party-list race, and increase its percentage from 2.5% to 4.42%. By the *popular* interpretation of the party-list system, 4.42% would mean that Akbayan could take two (2) seats in the HOR.

Just a week ago, the COMELEC finished its "summary evidentiary hearings" on the top 74 party-list contenders. Only 23 out of 74 were deemed qualified by the COMELEC. The total base figure alarmingly dropped from 14.9 million to a mere 6 million! Eleven "qualified" contenders hurdled the 2% mark: Bayan Muna, AKBAYAN, BUTIL, AMIN, ABA, PM, SANLAKAS, AKSYON, ABANSE! PINAY, GREEN PHIL, and AKO. *Bayan Muna's* percentage shoot up to 27.84%, while Akbayan's rose to 6.13%.

To emphasize the complexity of the current situation, here are extrapolations of percentages garnered after COMELEC disqualified 51 out of the 74 contenders (based on COMELEC Report No. 24):

Rank	CONTENDER	ACRONYM	GRAND TOTAL	PERCENTAGE OF TOTAL VOTES GARNERED
1	Bayan Muna Akbayan ! Citizens' Action Party	BAYAN	1,697,578	27.84%
2	Luzon Farmers Party	AKBAYAN!	373,595	6.13%
3	Anak Mindanao	BUTIL	329,920	5.41%
4	Alyansang Bayanihan ng mga Magsasaka, Manggagawang Bukid at Mangingisda	AMIN	251,962	4.13%
5	Partido ng Mangagawa	ABA	241,779	3.97%
6	Sanlakas	PM	214,710	3.52%
7	Aksyon Demokratiko	SANLAKAS	149,278	2.45%
8	Abanse! Pinay	AKSYON	132,431	2.17%
9	Green Phils. Foundation, Inc	ABANSE! PINAY	132,331	2.17%
10	Adhikain at Kilusan ng Ordinaryong Tao Para sa Lupa, Pabahay, Hanapbuhay at Kaunlaran	GREEN PHIL	127,908	2.10%
11	Alagad Senior Citizens/Elderly	AKO	125,025	2.05%
12	Sectoral Party All Trade Union Congress of the Philippines	ALAGAD	117,019	1.92%
13	Maritime Party	ELDERLY	105,196	1.73%
14	Ang Bagong Bayani - OFW Labor Party	ATUCP	102,271	1.68%
15	Aniban Ng Mga Magsasaka, Mangingisda at Manggagawa Sa Agrikultura Katipunan, Inc.	MARITIME	97,152	1.59%
16	Alyansa ng Nagkakaisang Kabataan ng Sambayanan Para Sa Kaunlaran	OFW	95,883	1.57%
17	Alyansa ng may Kapansanan sa Pilipinas	AMMMA	65,589	1.08%
18	Mindanao Federation of Small Coconut Farmers Organization, Inc.	ANAKBAYAN	62,395	1.02%
19	Womenpower Inc.	AKAP	54,021	0.89%
20		MSCFO	49,892	0.82%
21		WPI	46,266	0.76%

Aggrupation and Alliance  
Farmers and Fisherfolks of

22	the Phils. All Workers Alliance Trade	AAAFPI	43,861	0.72%
23	Unions	AWATU	41,815	0.69%

All those who were disqualified by the COMELEC appealed their respective cases to the SC. It would take some time, therefore, before these issues are settled, including the final "base votes" for the total votes cast for the party-list race.

One thing is for sure. The SC landmark order and COMELEC disqualifications has, *de facto*, totally changed the whole party-list ball game. There is more now more confusion than clarity. Total base votes could still go below 6 million. Would the votes of those disqualified by COMELEC be voided or not? The new rules of the party-list system will result to a narrow representation, or bear only three fruits-- *Bayan Muna*, Akbayan and BUTIL--if the base votes is still 14.9 million. Is it also correct to assume that only the first party is entitled to a maximum of three seats?

### **Additional Seats: SC Berates COMELEC**

The formula for computing the additional seats of party list qualifiers also remains controversial. Again, the popular view is: one seat per 2% of total party-list votes cast; and the ceiling is three seats. The Supreme court formula goes :

where  $x_1$  = *Additional Seats of "Other Party"*,  $x_2$ =*Additional Seats of "First Party"*;  $y_1$ = *Total Votes of "Other Party"*, and  $y_2$  = *Total Votes of "First Party"*. The value of  $x_1$  should be an integer; so rounding off is not permitted.

In this formula, the "Other Party" should have amassed at least one-half of Bayan Muna votes to get an additional seat, since Bayan Muna has 2 additional seats ( $x_2 = 2$ ).

The Supreme Court formula for additional seats was actually decided way back in October 6, 2000 through a "Notice of Judgement". The SC upheld the following legal parameters: (1) twenty percent allocation, (2) the two percent threshold, (3) the three-seat limit, and (4) proportional representation. The SC, in fact, berated the COMELEC: "Because the COMELEC violated these legal parameters, the assailed Resolutions must be struck down for having been issued in grave abuse of discretion...." (Please See Appendix I.)

The SC reiterated Section 11(b) of the the Party-List Law (RA7941):

"(b) The parties, organizations, and coalitions receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to one seat each; Provided, That those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes; provided, finally, That each party, organization, or coalition shall be entitled to not more than three (3) seats." (underscoring mine)

### **More Questions Than Answers**

At this juncture, the party list elections are not yet over in a technical sense. Polarized elite politics even continue to threaten state institutions.

As to the party-list system, immediately disturbing are the following:

(1) Only three party-list organizations-- *Bayan Muna*, Akbayan and BUTIL—has so far been proclaimed, raising the specter of a failure of the party-list system;

(2) The "based votes" have alarmingly dipped to the 6 million mark out of 14.9 million or 40.81%--and the figure is still expected to go down, also raising the specter

of a failure of the party-list system;

(3) The SC has no definitive ruling yet on the issue of "base votes";

(4) A "marginalized" national party who can win many mayoralty seats might be stricken off from the "marginalized and underrepresented" category;

(5) A "marginalized" national party who gets government financial assistance can be stricken off from the "marginalized and underrepresented" category;

(6) The chances of filling up the 52 seats reserved for party-list qualifiers remain dim.

The political consequences, therefore, of the SC and COMELEC actions are not altogether positive as they seem. Akbayan joined the party-list system in the hope of empowering its marginalized and underrepresented constituencies, in the main. A logical extension of these is winning seats not only on the municipal level but also on the district level. Indicative of the SC and COMELEC decisions is that Akbayan will get expelled from the party list system if it were able to win mayoralty and congressional district seats. The paradox goes: if we succeed farther in getting representation for our constituencies, then the law says we are no longer entitled to representation.

The party-list system is now threatened with narrow representation. An additional seat appears difficult since only the topnotch is entitled to a maximum of three seats. The entire party-list system is also threatened with ruin. There is the possible disenfranchisement of more than 10 million party-list voters--due to the considerable number of post-electoral disqualifications.

Disturbing questions are wanting for unambiguous answers. Is it a mere accident or sheer stupidity why the SC made decisions that at first favored progressive groups like Akbayan but later on threatened the very pillars of the party-list system itself? Or is this whole mess politically or even ideologically motivated especially by the powers-that-be?

After this dirty and ill-managed election, most are now into campaigning for a revamp of the Philippine electoral system, including revisions to the Party List Law. The 1997 Electoral Modernization Law could be a good start. Akbayan's party-list Rep. Etta Rosales's active participation as Deputy Chair of the HOR's Suffrage and Electoral Reform Committee can immensely push this endeavor. (See Appendix II.)

Uncertainties owing to internecine elite conflicts are also expected to affect the succeeding electoral exercises: Barangay Elections next year, The *Sangguniang Kabataan* (SK), the Municipal Level elections.

Many are also back into their drawing boards after Cong. De Venecia asserted anew his proposal for a Charter Change (*Chacha*). A shift to a parliamentary and federal form of government is being espoused and even supported by a growing number of elite political players.

It is true that political violence, corruption, narco-politics and all sorts of political ills through the decades have been associated with a system that puts great weight on a strong presidency. It is obvious that elite politics has always been associated with the Philippine presidential system. A parliamentary shift offers great hope for party-based politics that shuns personalistic politics and the rule of guns, gold, and goods. (The party-list system is some sort of a "germ" for a parliamentary form of government.) It is in this sense that a parliamentary shift is favored in principle.

There are tasks at hand in this challenge. Should state institutions be strengthened first to serve as foundations for a parliamentary system, or will the parliamentary shift boldly pave the way to strengthen important state institutions (like a strong and independent civil service, real political parties, etc.)? The actual discourse on a

parliamentary shift should ensure that the political-economic-cultural playing field should be leveled between the conservative elite and progressives. The actual form of a parliamentary system should be carefully discerned. Our enthusiasm should be matched with political caution and careful study.

The discourse on the proposed parliamentary shift offers challenges for Akbayan. Akbayan can elevate the discourse beyond studies and proposals to highlight the progressive elements or character of the parliamentary form, but also as an organizing agent and broad coalitional movement for good governance.

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[1] Internecine intra-elite conflicts persists until today in the halls of the Senate regarding the exposes of Col. Victor Corpus against Sen. Panfilo Lacson.

[2] RA 7941, Section 11, *Number of Party List Representatives*.

[3] Commission on Elections, National Tally Sheet, party List Canvass Report No. 24 (BY RANK), July 24, 2001, 2 pm.

[4] Other sources place the unofficial 1998 total party-list votes cast at nearly 16 million.

[5] CPAG, a coalition of party-list complainants, estimates vote-padding at nearly 3 million. CPAG is calling for a "failure" of the party-list exercise.

[6] KAMPIL is associated with Ronald Lumbao, head of the pro-Estrada urban poor coalition PMAP, which led the siege of Malacanang last May 1.

[7] MAD, or Mamamayan Ayaw sa Droga, is an anti-illegal drugs project of an Philippine National Police outfit. It's representatives are the actor Richard Gomez and police official Jewel Canson, both passionate supporters of former Pres. Estrada. MAD is disqualified by the COMELEC for being a government-assisted project.

[8] Commission on Election, *National Tally Sheet, PARTY LIST CANVASS REPORT NO. 16 (By Rank), As of August 19, 1998*. Total registered voters in 1998 were 34,163,465; total voter turnout was only 27.3 million, or 80%. Party-list turnout per total voter turnout was a mere 33.5%.

[9] Precursor of *Bayan Muna* was the *Partido ng Bayan* (PNB), which garnered 2 million votes in the 1988 senatorial race. *Bayan Muna's* affinity to Jose Maria Sison's Communist Party of the Philippines (CPP), to the National Democratic Front (NDF) and the New People's Army (NPA) is well known, although not admitted publicly.

[10] PDSP garnered a measly 0.59% of party-list votes.

[11] He ran a series of articles on The Philippine Star last month about the splits in the ranks of the ND movement

[12] Penned by Associate Justice Artemio V. Panganiban, and concurred by 14 SC justices.

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