

## The Veterans Formula of the Supreme Court Contradicts the Principle of Proportional Representation

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On 13 April 2007, the Supreme Court denied the petition of CIBAC Party-List for a second seat in Congress following the 2004 party-list election. The high court emphasized that the formula to compute the additional number of party-list seats must be consistent with its decision in *Veterans Federation Party, et al v. COMELEC* ( G.R. No. 136781).

The Veterans Formula allocates one seat to the parties with at least 2% of the total party-list votes. Then the additional number of seats of a party is determined by the integer part of

$$\frac{\text{no. of votes of the concerned party}}{\text{no. of votes of the first party}} \times (\text{no. of additional seat of the first party})$$

or

$$\frac{\% \text{ of votes of the concerned party}}{\% \text{ of votes of the first party}} \times (\text{no. of additional seat of the first party})$$

where the “first party” is the party with the highest votes in the election. The first party has one additional seat if it garnered at least 4% but less than 6% of the total number of party-list votes, or it has two additional seats if it obtained at least 6% of the total number of party-list votes. The said formula imposes a 3-seat cap consistent with the Party-List System Act (RA 7941).

The Veterans Formula shall allocate one seat each to the 16 parties with at least 2% of the total number of party-list votes in the 2004 election. BAYAN MUNA is the first party with 9.458493% of the total number of party-list votes and shall be awarded two additional seats.

APEC with 7.349462% of the total party-list votes has 3 seats in the present Congress due to the COMELEC simplified formula. However, it will be awarded two seats if the Veterans Formula was used since  $(7.349462\% \times 2)/9.458493\% = 1.55404$  means one additional seat only.

CIBAC with 3.892429% of the total party-list votes and 1 seat at present shall have no second seat with the Veterans Formula since  $(3.892429\% \times 2)/9.458493\% = 0.82305$ .

The total number of seats with the Veterans Formula on the 2004 party-list election shall be 21 (See Table 1) in contrast to the 24 seats allocated by the simplified COMELEC Formula.

<b>Table 1. The Panganiban-Veterans Formula on the top 18 parties of the 2004 Party-List Election</b>					
	Winning Party- list Participants	% Share Of Votes	Guaranteed Seat	Additional Seats	Total Seats
1	BAYAN MUNA	9.458493%	1	2	3
2	APEC	7.349462%	1	1	2
3	AKBAYAN	6.700803%	1	1	2
4	BUHAY	5.547341%	1	1	2
5	ANAKPAWS	4.232024%	1	0	1
6	CIBAC	3.892429%	1	0	1
7	GABRIELA	3.651845%	1	0	1
8	PM	3.522038%	1	0	1
9	BUTIL	3.374160%	1	0	1
10	AVE	2.700042%	1	0	1
11	ALAGAD	2.680225%	1	0	1
12	VFP	2.678512%	1	0	1
13	COOP-NATCCO	2.129783%	1	0	1
14	AMIN	2.120351%	1	0	1
15	ALIF	2.117167%	1	0	1
16	AN WARAY	2.107884%	1	0	1
17	ABA-AKO	1.977660%	0	0	0
18	ANAD	1.919022%	0	0	0
Total			16	5	21

The 1987 Philippine Constitution mandates that 20% of the total number of members of the House of Representatives must come from the party-list. This means that out of 5 representatives, 1 comes from the party-list and 4 from the congressional districts. Hence, the total number of party-list seats is 1/4 of the total number of congressional districts. Since there are 212 congressional districts in the 2004 election, there are  $212/4 = 53$  party-list seats.

With 21 seats allocated by the Veterans Formula out of 53, the number of seats not filled up is 32.

The Party-List Law (RA 7941) declares that the State shall promote proportional representation in the election of members to the House of Representatives through the party-list system.

**Does the Veterans Formula contradict this principle when it cannot fill up the entire number of party-list seats?**

The principle of proportional representation asserts that the share of seats of a party must be equal to the share of votes of the party which means that

$$\frac{\text{no. of seats of a party}}{\text{total no. of party - list seats}} = \% \text{ share of votes of the party}$$

or no. of seats of a party = (% share of votes of the party) × (total no. of party - list seats)

This is the ideal number of seats that a party may receive consistent with the proportionality principle. The difference between this ideal number and the actual number of seats allocated by an allocation formula is called as the **seat allocation error of the formula** which can be computed as:

$$\text{error} = (\% \text{ share of votes} \times \text{total no. of party - list seats}) - (\text{actual no. of seats allocated})$$

For example, BUHAY had 5.547341% of the total party-list votes and 2 seats by the Veterans Formula, thus, the seat allocation error of the Formula is (5.547341% x 53) – 2 = 0.94009048.

The total value of the errors of the Veterans Formula on all the party-list groups in the 2004 election is 32. The Veterans Formula can only allocate 21 seats because

$$(\text{total no. of party - list seats}) - (\text{total value of seat allocation errors}) = 53 - 32 = 21.$$

The absolute error is defined as the positive value of the error. The absolute error of the Veterans Formula on BUHAY is 0.94009048. This is not significant since it does not make sense to distribute a fraction of a seat. However, the absolute errors of the Veterans Formula on BAYAN MUNA, APEC, ANAKBAYAN, ANAKPAWIS, CIBAC, ABA-AKO and ANAD are significant see Table 2.

	<b>Party</b>	<b>%votes</b>	<b>% votes x 53</b>	<b>Seats Allocated</b>	<b>Absolute Error</b>
1	BAYAN MUNA	9.458493%	5.01300154	3	2.01300154
2	APEC	7.349462%	3.89521474	2	1.89521474
3	AKBAYAN	6.700803%	3.55142583	2	1.55142583
4	ANAKPAWIS	4.232024%	2.24297246	1	1.24297246
5	CIBAC	3.892429%	2.06298758	1	1.06298758
6	ABA-AKO	1.977660%	1.04815998	0	1.04815998
7	ANAD	1.919022%	1.01708142	0	1.01708142

The absolute error of the Veterans Formula on BAYAN MUNA is at least two seats and on the other 6 parties is at least one seat each. This means that out of 32 seats that the Veterans Formula failed to allocate, at least 8 seats are the direct result of the contradiction of the Veterans Formula on the principle of proportional representation. Since 12,721,952 voted for the party-list election in 2004, about (8/53) x 12,721,952 = 1,920,295 voters are denied of representation in the House of Representatives as a result of the contradiction of the Veterans Formula on the principle of proportional representation.

The contradiction on

- BAYAN MUNA is due to the 3-seat cap,
- APEC, AKBAYAN and CIBAC is due to the first party rule,
- ABA-AKO and ANAD is due to the 2% as winning minimum threshold.

The following theorem explains the root of the contradiction of the Veterans Formula on the principle of proportional representation.

### **Theorem**

Suppose that the seat allocation method used in a given party-list election is the Veterans Formula and let  $1/(\text{total no. of party-list seats})$  be called the simple quota.

Then the Veterans Formula negates the principle of proportional representation on a party-list group if the total number of party-list seats is greater than 50 and

1. if the percent share of votes of the party-list group is greater than or equal to the simple quota but is less than 2% of the total votes;
2. if the percent share of votes of the concerned party-list group is at least twice as large as the simple quota but is less than one-half of the percent share of votes of the first party.
3. if the percent share of votes of the concerned party-list group is at least three times as large the simple quota but is less than the percent share of votes of the first party.
4. if the percent share of votes of the concerned party-list group is at least four times as large as the simple quota.

For the proof of this theorem please see my article “On the Negation of the Party-List System Act on the Principle of Proportional Representation” in the book on political parties and party-list groups to be published by the Center of People Empowerment in Governance (CenPEG) in May 2007 or visit my web page in <http://www.math.admu.edu.ph/~fpmuga>.