



Case Study

Participation and Representation of Disadvantaged Groups in Parliamentary Processes in the Philippines

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Towards Inclusive Governance

Promoting participation of disadvantaged groups in Asia-Pacific

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Introduction

Disadvantaged groups and the Philippine Congress

If democracy is indeed the government of, by and for the people, the voice of the majority who are poor, underserved and otherwise disadvantaged should be the dominant voice in society. However, most countries are still saddled with an unequal economic structure that privileges those who already have power and wealth not only in business and industry but also in affairs of the State. Nevertheless, believing that democratic governance is a work in progress, many members of the disadvantaged sectors have taken that idea seriously and have undertaken to have their views heard in the corridors of power. At the same time, the State, and individual political leaders have also opened avenues for their participation and representation in the parliamentary and other decision making processes. These efforts on both sides can go a long way towards making democracy realizable as the rule of the people.

Theoretical framework and literature review

The role of the State in societal affairs is usually seen from two conflicting perspectives: the liberal view which regards the State as balancing the interests of relatively equal groups that bring their demands upon it; and the Marxist (or elitist) view, which sees the State as the executive committee of the elite, and therefore one that regularly decides in their interest. The liberal view falls flat in the face of a grievous lack of equality in societies, a requirement for the State to manage the balance. The elitist view flies against popular belief in the democratic credo which assigns to people sovereignty - despite their lack of actual power.

This study tends towards a third view that takes into account both the empirical power distribution and the power of ideas and ideals in shaping human action. This perspective posits the State as a “playing referee,” with the State playing on the side of the elite but from time to time opts to have the other teams score (Carino 1992). The inclination toward the elite is due to the power equation, and the identity of many leaders of government as members of the elite themselves.

Yet some policies may lean in the other direction. Many reasons are cited to explain these exceptions. First is the need to legitimize the State, because its being a democracy is not just rhetorical but is enshrined in law. The State may do this because it has to deal with people who move into a democratic space which they presume is there. In W.I. Thomas’ classic statement: “if people perceive situations as real, they are real in their consequences” (Thomas and Znaniecki 1918). Or the State may allow the disadvantaged to gain ground in the process that Piven and Cloward (1993) called “regulating the poor.” In those times that the poor are able to get concessions, Piven and Cloward find the State acting “generously” only as a way to control political unrest. Thus, they see the welfare system as a stabilizing force to retain the status quo and placate the poor in the process.

This study seeks to understand how the State positions itself between the power of power and the power of ideals and system preservation in situations when disadvantaged groups place their demands upon it. It will lay out what avenues of access are available and are actually used, and identify what forces are mustered by the interest-bearers to produce their desired policy. The principal arena for the struggle of interests in this study is Congress, the national-level legislative body of the State.

Studies of interest group politics have tended to use either the liberal or the elitist view. However, towards the end of the twentieth century, two factors have made both citizens and scholars view the State as capable of more responsiveness to, and permeability by, non-elites (though not yet the balancer of liberal dreams). The first is the show of people power, manifested dramatically in the Philippines in EDSA I,¹ also called the People Power Revolution of 1986 that toppled the dictatorship of Ferdinand E. Marcos. It was repeated a scant fifteen years later in EDSA II, where the people finished a failed impeachment process of alleged corruption by another sitting president, Joseph Ejercito Estrada. The EDSAs however are merely a tip of the iceberg. Thousands of organizations in villages and cities had worked with great difficulty during the Martial Law period to conscientize, build capacity, organize, and empower people.

The first EDSA saw a new democratic space opened by Marcos' departure. From one perspective, this was a uniquely Filipino event: masses of men, women and children stopping tanks with flowers and religious symbols, pushing to the presidency a widow in yellow. However, it was also the start of an international wave of democratization that saw popular participation - and changes in governments –in South Africa, Eastern Europe, and closer home, Thailand, Indonesia, and South Korea. It in turn has been part of the growth of globalization, which, beyond the international economic linkages, also has political and social manifestations and repercussions, helped along by international covenants, ICT and media, and, increasingly, by global civil society linkages and movements.

The factor introduced above is shown in action, but a second factor is more conceptual, though triggered and sustained as well by practice. This is the acceptance of the paradigm of governance, where the management of societal affairs is seen no longer as the monopoly of government, but as shared by it with institutions of the market and civil society. The shift in the label “interest groups” to “civil society” signifies the recognition of stakeholders other than “the usual suspects.” Pre-governance, that would have been chambers of commerce, industry associations, professional organizations, and the like. Civil society includes these as well as all other organizations that have political and social agenda to bring before the State. Many of these were unorganized, or if organized, unknown and ignored before the “legitimation” brought about by the governance paradigm. The term “interest group” is hardly used now because many civil society organizations believe that they represent the public interest rather than smaller individual interests. In this study, we have focused on “disadvantaged groups” to emphasize the fact that these are organizations representing people outside the elite. However, there is no necessary prejudgment that it is their position that redounds to the long-term benefit of the greatest deserving number in the State.

Theoretical approach of the literature

¹ EDSA stands for Epifanio de los Santos Avenue, where most of the people congregated in 1986 to protect military mutineers from the wrath of the ruling power.

The literature on the participation and representation of disadvantaged groups in parliamentary processes in the Philippines is largely subsumed under the rubric of State-civil society relations, rather than, as alluded to above, the more popular topic in the middle of the last century, interest group politics. Most of them take a perspective similar to ours. The one closest to an interest group politics perspective is also the first, the State of the Nation Research Report of the Third World Studies Center (TWSC). Its *Policy Issues, Responses and Constituencies: State-Civil Society Relations in Policy Making* (1994) studied five policy issues and identified the policy actors and their corresponding views on each issue. It found that “strong” constituencies have tended to win the debate. These tend towards conservative views and their policy demands tend to coincide with the policy later promulgated by the State. Meanwhile, the NGO-PO sector is among the “weak” constituencies, being “unable to penetrate the policy making structures of the State, and whose positions are thus, marginalized” (173-174). Yet, despite a finding that reinforces the elitist view, the study asserts that:

It has long ceased to be useful for adequate analysis of the political environment, as well as of competent democratic intervention, to view the State as a monolith. For as long as the State-as-monolith view² prevails, political involvement of the masses shall remain restricted and political action by transformative groups shall remain trapped in an apocalyptic paradigm (1994: 174).

The other studies have tended to look at civil society as organizations espousing views alternative to the elite. After a series of case studies on the role of such NGOs in the Philippine State, G. Sidney Silliman and Lela Garner Noble conclude thus:

It is our contention... that the Philippines is more democratic because of the political actions of NGOs... NGOs have increased the capacity of middle- and lower-class Filipinos to act autonomously; consequently, **the State is less completely captive of elite interests than previously** (1998: 306; emphasis supplied).

Marlon Wui and Glenda Lopez likewise locate their study of State-civil society relations in the context of the democratic transition. They recognize “the backdrop of this intersection” as “a reformed legal/policy environment that offers greater possibilities for civil society intervention in policy making but whose openness and hospitality to actual civil society participation remain to be tested” (1997: 3). The opened-up democratic space is also the starting point of the studies of the Ateneo Center for Social Policy and Public Affairs (ACSPPA 1997). In its focus on the policy success of NGO involvement in six movements, the ACSPPA adds to the literature the concern for social capital and the discourse of resistance.

The terrain for civil society intervention

The Constitution of 1987, promulgated in the wake of the People Power Revolution, explicitly recognizes civil society’s important role in State and society. That is evident from the following:

² What we have called earlier the elitist or Marxist view.

The State shall encourage nongovernmental, community-based or sectoral organizations that promote the welfare of the nation. (Article II, Section 23)

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

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

In addition, the Constitution provided for a party-list system of registered national, regional, and sectoral parties or organizations [Art. VI, Sec. 5(1)]. Its intent to have the party-list represent groups other than the usual members of Congress may be gleaned from the transitory provision attached to Sec. 5(2):

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.

This “publicly NGO-friendly State” (David 1997: 43) notwithstanding, some civil society groups have found a “chilling effect” (Wui and Lopez 1997: 5) in perceived State biases against civil society intervention. Some of these are “normal” parts of the policy process – governmental red tape, long and often delayed judicial litigation, slow legislative processes. But others reflect the legislative composition and the substantive interests of an elitist State. Against this, civil society groups have to maneuver between a defeatist adversarial stance and the danger of cooptation and surrender of deeply held views.

Why civil society intervenes

The open door provided by the Constitution does not explain why civil society enters it. It is interesting to note two conflicting explanations. The first highlights the positive circumstances that have made this possible – that it is a positive use of the democratic space widened by EDSA, the new view of the post-dictatorship State held by some organizations, the perceived openness of policy makers to the sector’s entry, the success of previous efforts that now is expected to breed new success. An instance of the last may be seen in new laws such as the Local Government Code that mandate citizen representation in many local decisions. The second sees its roots in the failure of the State. Aver Silliman and Noble:

Most simply, citizen activism in the Philippines has been caused by deteriorating socioeconomic conditions and the failure of the State (and the market) to address them... Citizens have organized in response to these circumstances to compensate for the State’s failures and to pressure the State to correct its policies (1998: 283).

This issue is not a central concern in the literature nor of this study. However, it is important to recognize the second view which may support an adversarial and arrogant attitude that could inhibit the success of civil society intervention.

Where civil society intervenes

TWSC provided what it called “a modified flowchart for intervention” (1994: 168) where it detailed important nodes in the policy making process where civil society might intervene. The chart centered on the legislative process but also identified the executive, the judiciary and the media as other points of intervention. This chart has been our point of departure in finding the avenues of access for disadvantaged groups.³

Wui and Lopez (1997) provided their own matrix of formal and informal venues of interaction, which is a list of points of intersection between civil society and Congress, the executive branch, the judiciary, local government units and autonomous regions, and informal venues. The matrix found relative unevenness in the utilization of venues and means, a relative underutilization of formal venues and means, and a corresponding increased use of informal means. It also pointed out the need to consider the time element and appropriateness in choosing a particular venue for intervention.

Factors affecting the effectiveness of civil society intervention in policy making

The literature presents case studies of various policy areas where State and civil society have intersected. Civil society has not been effective in all of these, even in the six case studies of ACSPPA which specifically looked for “what constitutes success in policy influence.” However, there is convergence on the importance of the capacity of the civil society group, what TWSC called “adeptness.” That monograph explains its importance as follows:

The emergence of new global and national conditions signals greater complexity in the mode of governance and greater diversity in societal demands. It is part of the nature of open, pluralistic, and democratic political processes that the views and interests of the more politically adept groups prevail. The challenge of broadening the base of participation and raising the quality of representativeness of governance lies not in the diminution of democracy but *in raising the level of political adeptness of presently marginalized groups* (Third World Studies Center, 1994: 174-175, emphasis supplied).

What constitutes “adeptness” or “capacity”? Valerie Miller and Henedina Razon-Abad, writing the synoptic paper for ACSPPA (1997), Edna Estefania A. Co, reporting on the work of the Advocacy Working Group (1990), Patricia Anne Paez, writing the synthesis paper on State-Civil Society Relations focusing on access of civil society to the legislature (1997) and Alex Brillantes, Jr., writing the counterpart paper on access to the executive (1997) attribute success to several qualities that CSOs must possess. We classify their list into this study’s categories of internal capacity and capacity for external linkages or alliances. Elements of internal capacity that they identify are:

- Organization: a coalition structure, full-time secretariats, and professional staff (Miller and Razon-Abad); grassroots membership (Paez). Brillantes

³ It is reproduced here as Annex 1.1.

recommends a coalition to avoid wasteful competition and duplication of efforts. He also suggests that NGOs must specialize and focus to be more effective advocates. Paez emphasizes, on the other hand, the necessity of civil society to speak with one voice, so as not to divert congressional attention away from the issues they are advocating.

- Management processes: speedy and quick decision making processes, “effective grassroots education and organizing efforts” (Miller and Razon-Abad); monitoring and constant evaluation of their experiences (Brillantes); “strengthening their organization and management for advocacy work (Co); resource advantage (Paez).
- Vision and strategy: “a combination of modest but strategic short-term policy goals with comprehensive long-term goals” (Miller and Razon-Abad 1997: 203).
- Knowledge and capacity building: “know the power grid in Congress and the workings of the legislative mill... the executive branch,... the media and legislators’ constituents” (Paez); “increased appreciation of government rules and procedures” (Brillantes); acquisition of negotiation skills, conduct of policy research (Brillantes, Co); developing the discipline for advocacy (Co);
- Attitude enhancement: flexibility and willingness to compromise, unity, credibility (Paez).

For Miller and Razon-Abad, this capacity will be manifested in a coalition, strategy and tactics, and on how the issue is framed. Coalition is a form of organization already discussed above. We will discuss here only the last two factors. The first, strategy and tactics, are loan words from the military (which may have been unintended) and connote purposiveness and forcefulness (which may have been). The groups they studied combined mass action and legislative tracks at both national and local levels, a rich arsenal (another military term) which we will meet again in the cases we discuss.

The second additional internal element is how the issue is framed. Miller and Razon-Abad noted whether or not it is connected to other grassroots concerns, and if its definition connects it to both narrow and long-term goals. We think that in this dry academic language they may be subsuming vision, passion and commitment which, as we shall see, seem to have propelled the efforts of civil society groups.

It may be instructive to include the list drawn up by NGOs as their capability needs for advocacy. These include advocacy itself, understanding government, staff development and such “special skills” as research/writing, social marketing and community organizing, negotiation, lobbying and conflict management, and paralegal skills (Alfiler 2001)⁴.

Elements of the capacity for external linkages identified by the earlier studies include:

- An open perspective on relating with the State: “a more dynamic and less monolithic view of the State,” “willingness and capacity to negotiate with government and to accept the validity of incremental reforms” (Miller and Razon-Abad); “take advantage of formal mechanisms made available to civil society,” “find ways to maintain continuous dialogue between government and civil society” (Brillantes) .

⁴These are organizations within the Christian Aid network which the Center for Leadership, Citizenship and Democracy of the National College of Public Administration and Governance, University of the Philippines assisted in strengthening their capability for advocacy. For a detailed discussion of their concerns see Ma. Oliva Z. Domingo (2001).

- Building allies among influential policy makers and powerbrokers (Miller and Razon-Abad)
- “A concrete effective strategy aimed at opposition players (to) counter their potential impact on a campaign” (Miller and Razon-Abad).

Focus of the study

The literature described above looks at State-civil society relations in policy making. Though rich, it is still small. More than that, the substance of the literature suggests that the subject of the case studies, particularly the successes, may have been exceptions. With an estimated number of a quarter to half a million organizations, the nonprofit sector and civil society in the Philippines – encompassing all organizations between the space and the market – it may be fair to surmise that the intervention of civil society in policy making has yet to take root in many areas of the country, “area” being understood as both geographic and substantive divisions.

Our concern takes a smaller piece of the field. Rather than looking at all policy making, it is focused only on parliamentary processes and only on the access of disadvantaged groups.

The focus on the legislature is intended to highlight the importance of this institution to the State. In the Constitution, it is the first branch of government introduced. We maintain that that placement is not accidental. The legislature is a collegial body composed of people selected by the citizenry to represent them, and thus, more than any other branch, is the one symbolizing popular sovereignty. It also is charged with making law, giving to people symbolically the weapons with which to govern themselves. Yet the branch in the popular mind is subordinate to the Executive, when the latter is the one supposed to be getting its orders (the laws) from the former. It is probably also the branch where the distance of government from the citizenry is most marked, since the socio-economic status of its members is so different from the population (Coronel, Chua, Rimban and Cruz 2004). It is appropriate that non-governmental groups that purport to also be the people’s representatives engage it, and through their intersection give substance to the rule of the people in society.

Also, rather than studying all of civil society, this paper only focuses on disadvantaged groups. As listed in Art. XIII, Sec. 16 of the Constitution, these would include “labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector,” a list that is as close as we can get to a constitutional definition of what are disadvantaged groups. In a developing country like the Philippines, the majority of citizens fall under this rubric and it is important to document their power (or lack of it).

Disadvantaged groups are but a subset of “civil society,” which is composed of all organizations between the State and the market. The latter term includes organizations of the elite (such as chambers of commerce and planters’ associations), as well as associations of the poor that do not engage the State or the market in any meaningful degree (such as couples’ clubs found in most villages of the country). Adopting the Johns Hopkins criteria, they would be private, self-governing, institutionally separate from government, not profit distributing, and voluntary (Salamon and Anheier 1991).

Adapting that to the Philippine context, we have reserved the term “nonprofit sector” to refer to organizations more oriented to the market, and “civil society” to refer to organizations more involved in political and social activities (Cariño 2002: 22-25).

The more common usage in the Philippines, however, does not follow this technical distinction. Instead there is a tendency to refer to “civil society” as organizations that engage the State and have a political agenda to push, usually in behalf of the marginalized and underserved groups. Thus, “civil society organizations” (CSOs) are usually a shorthand way of referring also to disadvantaged groups in the literature we have used. In that literature, NGOs and POs are distinguished from each other. NGOs are organizations that mediate between the State and the disadvantaged groups, being primarily composed of concerned citizens from the middle and upper classes. Meanwhile people’s organizations (POs) are those whose members are the same as the beneficiaries of their campaigns and causes. Again, conceivably, elite citizens can have POs (the Employers’ Confederation of the Philippines or planters’ associations come to mind), but they never take the name POs. Rather, people’s organizations have been reserved, again, for organizations coming from sectors disadvantaged by society.⁵ This is a usage that pervades the literature.

At the same time, a caveat is in order. The groups to be studied are not necessarily associations composed of all the disadvantaged; certainly no organization, no matter how big a coalition, can have all the poor in that sector as members. It is not even feasible that an organization include all the people under one category of the disadvantaged. For instance, organized labor groups contain no more than ten percent of persons eligible to be members. People’s organizations (POs) are therefore membership associations of a group of persons, claiming to represent them but having in their roster only the more active and articulate among those qualified to be members.

Another wrinkle is that some groups may claim to represent the disadvantaged even though they are not disadvantaged themselves. These are organizations which mediate between the people and the State, espousing their demands without being one of them. Many NGOs are such intermediary organizations. Both POs and NGOs are representatives of the people they speak for, although they are not elected to be their agents as legislators are. Their legitimacy comes from the acceptance by their principals, and by the effectiveness of their acts of representation. A study of the access of the organizations of disadvantaged groups to the legislature thus in a sense pits the claims of two representatives of the people (elected parliamentarians and CSOs) to bring real democracy to the citizens.

With these clarifications in mind, and guided by the literature, this study analyzes the capacity of the disadvantaged groups – or their assumed organizational representatives - as the main factor to look for in analyzing the access of disadvantaged groups to parliamentary processes. “Capacity” is defined broadly to include the ability for internal management as well as capability to build linkages with external forces and institutions. Internal capacity includes administrative capacity to manage resources and logistics, knowledge of strategy and tactics, knowledge of policy making processes and coalition building within civil society, and the use of such knowledge to advocate the causes of

⁵ Emmanuel E. Buendia (2005) sees the people’s organizations as the proper surrogate of citizens in their sovereign role in a democracy. Thus, when he discusses “people’s participation in governance,” he focuses on POs and excludes NGOs. His “POs” follows the popular use and excludes membership associations of the elite.

the people claimed to be represented. It also includes the crucial element of the credibility of the groups to be recognized as the spokespersons of the cause of the disadvantaged. External capacity refers to building alliances with legislators, their staffs, other parts of the State (the executive, judiciary, etc.) and other political forces, including media, international organizations, fund-providers, and other institutions, whether or not they are involved directly in legislative policy making.

The ability to penetrate the legislative process does not depend on the capacity of the disadvantaged groups alone. There are always the opposing forces and the tools they bring to make the policy hew to their interests. In addition, other factors affect the clash of interests. These include the environment in which the legislative processes take place, as well as what we call here as “content,” the significance and salience of the issue and its connection to other important concerns the State and society are dealing with concurrently.

Objectives

The following are the objectives of the study:

1. To describe the current state of the art – what avenues of access are provided for by the state, what strategies are currently used by disadvantaged groups, what policies have been forged since the restoration of Congress in the post-Marcos period (1987 onwards) that have direct effects on disadvantaged groups, and what role they have played, if any, in their initiation and enactment,
2. To identify and analyze the factors that facilitate or hinder participation and representation of disadvantaged groups in parliamentary processes,
3. To identify the effective strategies of disadvantaged groups that enable them to make parliaments take notice, listen and adopt the policies they advocate, and
4. To make recommendations for both further research and action, including the development of educational campaigns, training programs and other areas of future assistance.

Methodology

Given time and resource limitations, the study defines as its scope only the national parliamentary level, including both Houses of Congress, since 1987. This covers all the years of existence of the post-Martial Law Congress, from the Eighth to the current Thirteenth. The major part of the study focuses on the passage of bills that had been participated in by disadvantaged groups. Seven of the bills we studied intensively have become law, although three met with defeat in the first Congress in which they were introduced. (One did not become a law, but that outcome was what the sectoral groups desired.)

The study used the following methods:

1. An extensive review of the literature
2. A study of current processes of the Philippine Congress

3. A focus group discussion with ten heads of secretariats of the House Committees with active NGO-PO participation in their hearings
4. Case studies on the passage of seven laws and one set of bills with marked participation of disadvantaged groups.

Inclusions and limitations

In the original proposal, we expected that we would need to make only three (3) cases, assuming that we could draw on published material to re-analyze as many as nine (9) other cases. Upon embarking on this project, we found outstanding studies on the Comprehensive Agrarian Reform Law (Putzel 1992, 1998), the Urban Development and Housing Act (Carroll 1998 and Karaos, Gatpatan and Hotz 1995), the Anti-Rape Law (Reyes 1997) and the Anti-Terrorism Bills (Diokno 1997), all of which we could use for, and did re-analyze in, this study.

Most of the other extant cases gave us much insight into the research problem but were not as useful for our purposes as case studies. For instance, the TWSC studies identified the protagonists and their respective stand on the issues, but did not describe how they acted in the legislative process. Three cases in the ACSPPA volume (1997) focused on civil society participation in executive policy making as did Jocelyn F. Cajuiat and Aurora A. Regalado's case on the GATT-UR debate (in Wui and Lopez 1997). Teresita Ang See's article in the same book zeroed in on the criminal justice system. Others in the Wui and Lopez volume, such as that of Jocelyn Angeles and of Juan Climaco Elago II were local government cases. The generics drug act was a law to benefit the disadvantaged, but the most active in its passage were groups of medical professionals and government agencies (Co 2002).

The studies of the National Coalition of Fisherfolk for Aquatic Reform (NACFAR) and the Ethnic Studies and Development Center (ESDC) Research Team, both in ACSPPA (1997), walked us through the intervention of their respective groups in legislation. However, they were confined to the failure of the Fisheries Code and the Indigenous Peoples Rights Act, respectively, to pass in the Eighth Congress. Therefore we needed to do two new cases to describe the successful passage of those laws. They occurred, as it turned out, both in the Tenth Congress. Thus, although we introduce only two other laws (The Social Reform and Poverty Alleviation Act, and the Anti-Child Labor Law), in a sense we are presenting four cases as studies made specifically for this project.

The voice in all the cases is primarily that of the disadvantaged groups, speaking either directly to us, or through the papers and documents we were able to gather to write up their cases. A more comprehensive case would have included more of the opposing forces, and the legislators and government officials participating in the process. Because of the period of our study, it was difficult to set interviews with legislators; this is a grave limitation we acknowledge. Had there been more time and resources, we would have also sought spokespersons for the opposing forces. Nevertheless, with our limitations, we opted to hear the usually unheard rather than the more prominent groups.

Although not in the original proposal, we opted to make a study of the party-list system. However, it is not as extensive as we would have liked. The period of study coincided with a period of tension among PL members that it was not appropriate to interview

them. We also found that even such a basic datum as the number of party-list representatives in a given Congress is so fraught with error⁶ that this portion of the study took more time than an analysis of documents and published papers implies. In the end, we managed to only skim the surface of this important innovation in Philippine representation.

The structure of this report

This chapter has introduced the issues and scope of this study. Chapter II describes the legislative process and the avenues allowed by law for the intersection of civil society, particularly disadvantaged groups there, and the legislature. Chapter III, IV and V present eight cases of the journeys of proposed legislative measures in the Philippine Congress. Chapter III presents four cases - two enactments and two failures - in the Eighth Congress, the first after the People Power Revolution. The first two are the Comprehensive Agrarian Reform Law and the Urban Development and Housing Act. The two that failed of enactment are the Indigenous Peoples Rights Act and the Fisheries Code. Chapter IV takes up where the latter two cases left off, and follows them to their successful passage into law. It also discusses the Social Reform and Poverty Alleviation Act and the Anti-Rape Law, which like the first two in this Chapter, belong to the bills under the Social Reform Agenda. Chapter V describes the fate of one set of bills introduced in 1995 but not part of the SRA – all on anti-terrorism – as well as another law passed in the Twelfth Congress (The Anti-Child Labor Law). Chapter VI presents the synthesis of the findings, and the conclusions and recommendations of the study.

The Points of Access to the Legislature

The Philippines entered the period of re-democratization in 1986, with the overthrow of the dictatorship of President Ferdinand E. Marcos. Between 1986 and 1987, his successor, President Corazon C. Aquino governed under a revolutionary government with executive and legislative powers combined in her person. One of her earliest acts was to create a commission to draft a new Constitution, which was overwhelmingly ratified by the Filipino people the next February. This paved the way for the return of a bicameral legislature. Elections were first held in May 1987. That installed the Eighth Congress, continuing the interrupted count of 1972, the Seventh Congress.⁷

This Chapter discusses the avenues available to disadvantaged groups, and indeed, all citizens, to access Congress. It starts with a description of the legislative process, followed with a discussion of formal and informal points where outside groups may intervene⁸. In any other country, that would be sufficient. However, the Philippines had instituted, under the 1987 Constitution, a party-list system aimed specifically at providing

⁶ For instance, even so basic a reference as the House of Representatives website omitted some party-list representatives in the list of House members that it did include in its list of authors of bills and resolutions. Other references such as Datinguino and Olarte (2001b) and Sy Egco (2006) cited fewer members than were actually in the Congresses they studied.

⁷ The Eighth Congress ran for a period of five years, from 1987 to 1992, being the transitional Congress. After that, all Congresses ran for three years. Under the 1987 Constitution, members of the House of Representatives serve for a term of three years, and it is their terms that provide the legislative numbering. The Philippines is now on its Thirteenth Congress.

⁸ Informal points of access are included because, even if not ordained by law, they are not disallowed.

an additional point of access for disadvantaged groups. That system forms an important part of the access issue in this country and is discussed in the latter part of this Chapter.

The legislative process

Congress is composed of the Senate or the Upper House and the House of Representatives or the Lower House. The Senate has 24 members elected at large nationwide and serve staggered terms of six years each. The House of Representatives is now composed of 236 members elected by single-member districts, and of 24 party-list members. Except for the manner of their election, Representatives whether from single-member districts or party list are treated the same; each serves for a term of three years.

The process of legislation starts with the introduction of a bill in either the House or the Senate. A bill may be proposed only by a Member(s), and must only have one subject. Once accepted by the Secretary General of the proper House, the bill is calendared for first reading. In the first reading, the bill, with its assigned number, title and author(s) are read before the chamber. It is then assigned to the appropriate committee for study and recommendation. In studying the bill, the committee may conduct public hearing(s), invite heads of appropriate government departments, and/or solicit position papers. A committee may approve a bill and allow it to proceed to second reading with or without amendments. Alternatively, it may amend by substitution through a new bill dealing with the same subject proposed and now authored by the committee. If there are several bills on the same subject, the committee may also consolidate them into one, which it may author. A committee may also disapprove a bill by making an unfavorable report on it and returning it to the authors. This is rarely done. Instead, bills likely to get a disapproval are simply allowed to “pend in the committee.” As will be shown later, this is the likely fate of most bills.

Once approved, the bill is transmitted to the Committee on Rules which calendars it for second reading. It is in the second reading that the bill is deliberated upon by the whole Chamber. Such deliberation will include a sponsorship speech by the author, interpellations by other members, and debates on the substance of the bill. Amendments are proposed, concurred in, or rejected. The bill as read or amended is then subjected to a vote. If passed, the bill is calendared for third reading. If not, it is shelved.

Three days before third reading, final copies of the bill must be printed and distributed to Members. If it is a bill certified as urgent by the President, the three-day rule is waived and the bill may go directly into third reading. On third reading, the bill is voted upon by the House and rejected or passed.

If passed, the bill is transmitted to the other House where it undergoes the same process. The second House may reject the bill, in which case it is shelved. It may approve the bill without amendments, in which case it is enrolled or authenticated, and sent to the President for approval. However, the second House may approve an amended version of the bill and substantially alter the bill passed by the first House. In that case, a bicameral Conference Committee (shortened to “bicam” in Philippine usage), with members from both Houses, is created to reconcile the two conflicting

versions of the bill. A bicameral committee may also tackle similar versions of bills which were simultaneously deliberated upon by both Houses. The bicam then creates a unified version which is deliberated and voted upon separately by each House. If approved, the unified bill is sent to the President.

If the President signs the bill, it is enacted into law. If s/he rejects the bill, the Congress must override the veto by a vote of two-thirds of all the members of each House, voting separately, and it becomes a law. (If the overriding is not successful, the bill does not become a law.) A bill lapses into law if the President fails to act on it thirty days after transmittal by Congress.

Points of access

Any citizen or civil society group may intervene in legislation through formal and informal points of access. Formal points are interventions within the formal legislative process and usually take place in appropriate offices within the halls of Congress. Informal points are interventions outside the formal process, although it does not preclude that such interaction may physically take place within congressional offices.

Formal points of access

Formal access to the legislative process may take place at any step, from drafting to approval. At the bill drafting stage, the best way for disadvantaged groups to get their ideas into a bill is for them to draft it themselves and submit it to a Representative or Senator to sponsor. According to House committee secretaries, groups with concrete proposals have better chances of being involved and represented in legislation. The committee secretary or the technical staff of the legislative sponsor may even assist in crafting an acceptable form of their proposal (FGD 2006). This intervention is welcomed even by legislators. According to one senator:

While legislators have their own perspective of things, they normally derive their insights and legislative proposals from outside the halls of Congress – from the people and organizations that bring out the country's different problems and who know best what they need in terms of legislation (Senator Juan Flavio, quoted in Paez 1997: 43).

The next stage of active intervention can take place at the committee level. The committee studies the bill, solicits comments and positions from experts and stakeholders on the policy, evaluates these initial inputs, and summarizes the points for discussion at a committee public hearing. Most committee secretariats have a list of people and organizations that they may call on for opinions and comments regarding a pending bill. These include those with known expertise or stake on the subject of a bill. A group may ask the committee to be placed on that list or signify its interest in speaking during the public hearing (FGD 2006).

Attendance at committee hearings is at the discretion of the chair in coordination with the secretary. Two to three NGOs/POs are usually invited to meetings on bills that are known to have originated from them, or those that fall within the interest of their sectors. In instances where there are too many NGOs/POs seeking representation or wishing to

be heard, the committee secretaries arrange for meetings with the Chair prior to the committee hearing or meeting. Committees try to have all sides represented in public hearings. In the Eighth Congress, committees even went to provincial cities to solicit the comments of those outside Metro Manila (FGD 2006). Following the public hearing, the committee may introduce amendments to the bill, substitute it with an entirely new one, consolidate different proposals into one bill, or allow a bill to pend.

In addition to the study of specific bills, committees screen and prioritize all legislative proposals it receives. Prioritization may be in consonance with a set agenda, such as those certified as urgent by the President, or those articulated by the House leadership, the committee or its head. Without such an agenda, “the committee normally exercises its discretion in the prioritization of bills and other proposed measures” (TWSC 1994: 161).

The committee stage is one of the most important points of access. Not only is it here that formal study of the bill takes place but it is also here that interested citizens may have their opinions heard on a measure within the halls of Congress. The committee also serves a significant gate-keeping role where bills may proceed or not in their transformation into law. The last entry of most bills in the Bills and Index Divisions in the House of Representatives and in the Senate has the notation “pending in committee.” This was the TWSC finding for the Eighth and Ninth Congress. For the current (Thirteenth) Congress, as of the end of March 2006, the record for the committees likely to be of interest to disadvantaged groups is shown in Table 2.1. As may be noted, only three percent in the Senate, and 24.5 percent of bills in the House have gone beyond “pending in committee.”

The second reading is an occasion for the groups to follow the progress of their bill and to show their interest in its passage. They are allowed to sit in the gallery on a first-come, first-served basis. Since only legislators are allowed to speak during floor deliberations, the most direct intervention they can do is to slip in questions and answers favorable to their cause through the technical staff of the legislator or the legislator him/herself.

During the period of amendments, legislators can introduce amendments to the bill favorable to certain sectors or interests. If accepted by the chair of the committee sponsoring the bill, this amendment, called a “plenary amendment” will be incorporated into the measure and in the committee report. Better still, the sectors can work out with the Chair their preferred amendment which can be introduced as a “committee amendment” and incorporated into the final version or third reading version of the bill (Silang 2006).

In the third reading, the legislators vote for the approval or rejection of a bill. This may also be attended by concerned groups.⁹ If it is a bill widely discussed even outside the halls of Congress, Members may take the time to explain their votes. Otherwise, a simple “yea” or “nay” would suffice.

After approval, the bill is sent to the other House, which conducts the same process. To reconcile the Senate and House bills, a conference committee composed of members of

⁹ The rule for their entry is quiet listening as the Chair may rule that a noisy gallery be vacated or individual noisemakers be removed by the Sergeant of Arms (FGD 2006). As we shall see later, a loud show of emotion was allowed the gallery during the UDHA deliberations.

both Houses is created to hammer out a version acceptable to both groups. The conference committee has generally conducted meetings attended only by legislators. However, it may become a point of formal access if the conferees agree to have observers to provide clarificatory points. The bicam may also take a break to allow the technical working group of stakeholders and government agencies to thresh out “wrinkles within the measure and make the bill more acceptable.” A break may also be called when the conferees reach an impasse and the committee chair deems that informal meetings by themselves or with outsiders are needed to resolve the conflict (Silang 2006).

Table 2.1 Status of bills in house and senate in the Thirteenth Congress

A. Status of bills in 23 selected house committees*

Bill Status	Number of Bills	Percentage (%)
Pending in committee	589	75.5
Substituted	146	18.7
Consolidated	7	0.9
On business	12	1.5
Resolution reported out	8	1.0
Adopted resolution	2	0.2
Approved on second reading	1	0.1
Approved by the House	7	0.9
Bill reported out	1	0.1
Printed copies distributed to members	6	0.8
Unfinished business	1	0.1
Total	780	100.0

*Includes the following committees: Agrarian Reform, Agriculture and Food, Aquaculture and Fisheries Resources, Cooperatives Development, Ecology, Health, Housing and Urban Development, Human Rights, Labor and Employment, Muslim Affairs, National Cultural Communities, Natural Resources, People Participation, Population and Family Relations, Poverty Alleviation, Rural Development, Small Business and Entrepreneurship Development, Social Services, Women, Youth, Education and Welfare of Special Persons, Millennium Development Goals, and Peace, Reconciliation and Unity. Source: House Records.

B. Status of bills in 13 selected senate committees*

Bill Status	Number of Bills	Percentage (%)
Pending in committee	1,317	97.0

Consolidated/Substituted	28	2.1
Adopted resolution	1	0.1
Pending second reading	6	0.4
Pending in House of Representatives	1	0.1
Pending in conference committee	1	0.1
Passed by both Houses	1	0.1
Total	1,355	100.0

*Includes the following committees: Agriculture and Food; Basic Education and Culture; Cooperatives; Cultural Communities; Education, Arts and Culture; Environment and Natural Resources; Health and Demography; Justice and Human Rights; Labor, Employment and Human Resources Development; Peace, Unification and Reconciliation; Social Justice, Welfare and Rural Development; Urban Planning, Housing and Resettlement; and Youth, Women and Family Relations. Source: Senate Records.

Informal points of access

Informal interventions may occur before a bill is drafted and at all phases of the legislative process. Some of these are personal, in that it takes advantage of interrelationships between the legislator and representatives of concerned groups. Such relationships may include blood or ritual kinship, friendship, common provincial origins, or school or business ties. In the early post-Marcos years, newly elected politicians were approached by their colleagues in civil society with whom they marched side by side against the dictatorship. (This has earned the lofty title, “the parliament of the streets.”) Some relationships may be created in pursuit of a bill, as when interest groups study the expertise, track record, ideological leanings and interests of legislators, and cultivate relationships with the ones they can convert from opponent or passive spectator to sponsors of, or sympathizers to, their cause.

A legislator’s sponsorship of a bill drafted by concerned groups may not always be effective, since s/he may merely accommodate their request, then allow it to languish in committee. TWSC calls this an “extreme scenario” although staffers “confirm the existence of said practice” (TWSC 194: 158).

Personal contacts may not be all that effective despite the sincerity of their sponsors for groups battling the status quo. This is because opponents of their measure may have their own stronger relationships with even more legislators or be legislators themselves.

Much lobbying for legislative proposals does not necessarily occur at the lobby or any other part of Congress. TWSC lists the modes of articulation at the pre-drafting stage, as follows:

- Presentation of position papers, policy studies, official statements and the like, in support or rejection of a proposed legislative measure
- Submission of ‘lobby’ letters and petitions for sponsorship of a particular bill
- Mass mobilization or a limited demonstration or picket to press for a specific measure; and
- Use of local government mechanisms such as initiative or referendum, or similar advocacy instruments like signature campaigns endorsed by local

officials (for instance, in the concerned Representative's district) and the like (1994: 158).

These are all done in the hope that legislators or their staff may see the merits of their position and incorporate it as a single measure or as part of a bill. However, while such intervention is common as well as quite convenient, TWSC warns that "it is *observed* in this study to be the least effective and complete in terms of its ability to radically affect policy outcomes" (1994: 158). There is need therefore for continuous pressure on legislators throughout the legislative process. This may require the formation of advocacy or lobby teams that regularly meet with sympathetic members of both Houses and apprise the media corps of developments. Big rallies to show that large masses of people are behind them may also be used to impress legislators.

In the case of the agrarian reform, the main civil society group even tried to undertake a people's initiative, following Art. VI, Sec. 32 of the Constitution. The Congress for People's Agrarian Reform (CPAR), after it failed to have an agrarian reform law with its preferred reforms, campaigned for three million signatures to recall the Comprehensive Agrarian Reform Law (CARL, RA 6657) and replace it with the People's Agrarian Reform Code (PARCode). However, it also failed in that attempt (Miller and Rzaon-Abad 1997: 184).

The party-list system

A special access point for disadvantaged groups is the party-list system created by the 1987 Constitution. Its intent is clearly stated in the Declaration of Policy of the enabling law (Rep. Act No 7941, Sec. 2):

The State shall 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 marginalized and underrepresented sectors, organizations and parties, and who lack well-defined 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.

The party-list system thus attempts to balance the scales, since many legislators are members of the elite and may be expected to protect their positions. With the party-list, marginalized sectors may be represented in Congress with their own full-time members.

Party-list representatives

The system allows for up to twenty percent of the membership of the House of Representatives to be elected through voting for a party-list. The electorate votes for an organization (the party-list) which has earlier designated three members who will represent it if it gets the required number of votes. A party-list organization gets one seat if two (2) percent of the voters voting for the party-list system selects it. No more than three (3) seats may be filled by any one party-list.

In Section 5, twelve sectors were identified as possible registrants, showing the intent of Congress of which groups are to be represented. Of these, labor, peasant, urban poor, indigenous cultural communities, women, and youth were sectors specifically described in the Constitution as “marginalized.” To that list, Section 5 added fisherfolk, elderly, handicapped, veterans, and overseas workers, and professionals. Except for professionals, these may be assumed to be sectors poorly represented in single-member districts.

From 1987 to 1998, party-list seats were filled by presidential appointment. Except in one case, Presidents Aquino and Ramos appointed sectoral representatives from the same sectors later listed in Rep. Act 7941. (See Table 2.2.)

For the Eighth Congress, President Aquino appointed fourteen people who represented the following sectors: labor (3), peasant (2), disabled (2), youth (2), fisherfolk (1), urban poor (2), veteran/elderly (1) and farmer (1). The identification of the last one as separate from the peasant sector suggests that he was probably a landowner.

Table 2.2 Sectors represented in the Lower House, 1985 to 1998

Sector	8 th	9 th	10 th
Labor	3	7	10
Peasant	2	2	5
Youth	2	2	3
Urban poor	2	1	2
Disabled	2	0	0
Fisherfolk	1	0	0
Farmer	1	0	0
Veterans/elderly	1	0	0
Women	0	2	2
OFW	0	1	0
Cult communities	0	0	2
Total	14	15	24
Source: House			

In the Ninth Congress, with 15 sectoral representatives, the number of sectors decreased from eight to six. Seven came from labor. Peasants and youth each continued to have two representatives, the urban poor dropped to one. The disabled, fisherfolk, farmer and veteran/elderly lost seats. However, the sectors of women (with two representatives) and OFWs (with one) were introduced into the party-list system.

In the Tenth Congress, the number appointed rose to twenty-four, but the sectors represented remained six. Labor continued its prominence with ten representatives, peasants increased to five, and youth got one more (to three). Women retained their two representatives. The urban poor got one more representative to go back to two, its Eighth Congress level. Two sectoral representatives to represent the cultural communities were appointed for the first time.

Thus for the three transitional congresses, the presidents kept sectoral representation (except for “farmer”) to what seems to be generally accepted as marginalized. Neither appointed a sectoral representative for professionals.

There are some interesting sidelights. Two people from labor served all three terms – they are Romeo Jabar, Jr. and Alejandro Villaviza. President Ramos appointed thirteen people for two terms: seven labor representatives (Zoilo de la Cruz, Temistocles Dejon, Sr., Andres Dinglasan, Jr., Paterno Menzon, Ernesto Verceles, plus Jabar and Villaviza), two for women (Minerva Laudico and Leonor Luciano), two for peasants (Leonardo Montemayor and Vicente Tagle), one for youth (Edgar Avila), and one for the urban poor (Ariel Zartiga). Arturo Olegario¹⁰ served as fisherfolk representative in the Eighth and re-surfaced as peasant representative in the Tenth.

Since 1998, party-list members were elected following Republic Act No. 7941. Section 3 enumerates the party-list system as composed of political parties, sectoral parties, sectoral organizations and coalitions. A “sectoral party” is “an organized group of citizens belonging to any of the sectors enumerated in Section 5 hereof whose principal advocacy pertains to the special interest and concerns of their sector.” This is the only type of association in the list that is clearly connected to the disadvantaged groups. A “sectoral organization” is defined “as a group of citizens or a coalition of groups of citizens who share similar physical attributes or characteristics, employment, interests or concerns,” without stating that these should be the concerns of the marginalized groups identified in Section 5. The definitions of “political party” and “coalition” are similarly generic, although reading Section 3 and 5 together would seem to limit any party-list group to the already identified sectors. Section 6 repeats the prohibition of the Constitution by giving the Commission on Elections (COMELEC) the power to refuse or cancel the registration of organizations organized for religious purposes.

The Supreme Court ruled on June 26, 2001 that the COMELEC should disqualify party-list organizations if they “or their respective candidates do not represent the ‘marginalized and underrepresented’ segments among the Filipino people.” It stresses further:

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... 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... (Quoted from Llamas 2001: 5).

¹⁰ The fisherfolk representative was identified as Antonio Olegario in the House website. However, he was introduced in NACFAR (1997) as Arturo Olegario, the same name held by the sectoral rep for peasants appointed in 1995. See House of Representatives 2006 and NACFAR 1997.

Those considerations would allow us to appreciate better the list of sectors represented in the three Congresses covered in Table 2.3.

Table 2.3. Organizations and sectors¹¹ elected to party-list, 1998 to 2007

Party List	Sector	11th	12 th	13th
ABA Alyansang Bayanihan ng mga Magsasaka, Magbubukid at Mangingisda	Peasant	1	1	
Abanse! Pinay	Women	1	1	
AKBAYAN Citizen's Action Party	Pol party	1	2	3
AKO Adhikain at Kilusan ng Ordinaryong Tao	Urban Poor	1		
ALAGAD		1		1
ALIF Ang Laban ng Indiginong Filipino	Indigenous			1
AMIN Anak Mindanao	Organization		1	1
AN WARAY				1
AP Anakpawis				2
APEC Association of Phil Electric Cooperatives	Organization	2	3	3
AVE Alliance of Volunteer Educators	Organization			1
BAYAN Bayan Muna	Pol party		3	3
BUHAYBuhay Hayaan Yumabong	Organization		1	2
BUTIL Luzon Farmers Party	Peasant	1	2	1
CIBAC Citizen's Battle against Corruption	Organization		2	1
COCOFED Phil Coconut Producers Federation	Peasant	1	1	
COOP-NATCO Cooperative NATCO Network Party	Organization	1		1
GABRIELA	Women			1
NFSCFO Natl Fed of Small Coconut Farmers, Organization, Inc.	Peasant	1		
PM Partido ng Manggagawa	Labor		1	1
PROMDI ABAG PROMDI	Pol party	1		
SANLAKAS	Organization	1	1	
VFP Veterans Freedom Party	Veterans	1		1
Total		14	19	24

Sources: COMELEC 1998, 2004, cyberdyaryo 2001, Congress, 2006.

In the Eleventh Congress, thirteen party-list organizations got into Congress on the party-list system. One of them, an organization of electric cooperatives, had enough votes for two seats, so that there were 14 party-list Representatives. Of these, only three

¹¹ Sectors appear as the organizations have identified themselves before the COMELEC. Not all lists put the sectors.

were from sectors identified in the law as marginalized (peasants, veterans, and women). This is not to say the others should not have been allowed, because one can argue that cooperatives (COOP-NATCO, APEC), a regional political party (PROMDI), and national progressive organizations (AKBAYAN¹², SANLAKAS) are not adequately represented in Congress and deserve a place in the party-list. It is also worth noting that in the National Anti-Poverty Commission, cooperatives and non-government organizations are recognized as basic sectors.

In the Twelfth Congress, the number of party-list representatives increased to 19¹³, but coming from only 12 organizations. One party (BAYAN) and one organization (APEC) had three representatives each, while three others (AKBAYAN, BUTIL and CIBAC) managed two each. Labor was added to peasants and women among the original identified sectors. Those identifying themselves as simply “organization,” and “political party” increased.

There are 24 party-list members in the Thirteenth Congress, coming from sixteen organizations. The identifiable sectors are labor, peasants, women, cooperatives, and veterans. The rest identify themselves as political parties or organizations, without identifying a sector.

Comparison of single-member district and party-list representatives

The explicit objective of the party-list system is “to enable the marginalized... to become members of Congress” as RA 7941’s policy declared. The latent assumption is that most of the other elected representatives come from sectors and socio-economic levels different from those of the marginalized. We will examine that assumption in this section.

The sectors of the party-list system are already identified above. Here we will bring out the sectors of the single-member district representatives. Table 2.4 shows the business interests these congresspersons have, based on their own reporting in their Statement of Assets and Liabilities. Since they are not elected by sectors, this is the best surrogate index. The interests they represent are very different from those of the party-lists. Note, particularly, the number of congresspersons in the agricultural, logging and mining sectors (but are not peasants, lumberjacks and miners). That number would help explain the difficulty of passing the laws we will discuss in the next chapters. It should also be observed that the number of landowners has been decreasing, from a high of 58 percent in the Ninth, to only 38 percent in the Twelfth.

The totals are more than the number of congresspersons, signifying multiple interests. Dual roles seem to be well-accepted. As Ramon Durano, Sr., from one of the most prominent political families stated:

No combination can work better for a person than for him to be in politics and business at the same time (quoted in Datinguinoo and Olarte 2001b: 1).

The second issue is the socio-economic levels of the two types of congresspersons. How much are the party-list representatives like “the people”? Seven sectoral

¹² AKBAYAN calls itself a political party; Sanlakas, an organization.

¹³ Twenty-one actually served as sectoral representatives, but two of them replaced Crispin Beltran and Liza Maza who resigned as representatives for BAYAN before their term was up.

representatives have net worth of ten million pesos or higher, as of December 31, 2005, the date in the latest Statement of Assets and Liabilities. This is a high 29 percent of the party-list legislators. These include the BUHAY representative (P30.9 million) followed by ALIF, AVE, APEC, and CIBAC representatives (Sy Egco 2006). The richest among the party-list group would be at a par economically with what Sheila Coronel describes as “the typical Filipino legislator” (quoted by Escobar 2004: 2). However, the rest of them tip the scales at lower levels: six would still be millionaires (representatives of AN WARAY, ALAGAD, AKBAYAN, COOP-NATCO and GABRIELA while five report less than P373,000 (BAYAN and ANAKPAWIS representatives) (Sy Egco 2006).

Table 2.4. Business interests of representatives

	12th		11th		9th	
	No.	percent	No.	percent	No.	percent
Agricultural enterprises	34	16	35	16	54	27
Agricultural landholdings	82	38	92	42	116	58
Banking	14	6	11	5	42	21
Communication	17	7	20	9	7	3
Construction	12	5	13	6	18	9
Financial services	17	7	8	4	40	20
Hotel, recreation and restaurants	28	13	19	9	23	12
Logging	2		3	1	17	9
Mining	4	1	3	1	14	7
Power and energy	11	5	9	4		
Real estate development	45	21	38	17	45	22
Schools	6	2	7	3		
Manufacturing and trading	32	15	25	11	50	25
Travel and transportation	13	6	20	9	4	2

Source: Statements of Assets and Liabilities as tabulated in Datinguino and Olarte 2001b.

Many congresspersons elected from single-member districts have net worths that dwarf the above list. For 2001, the top ten House members in terms of net worth reported at least P103 million or three times what the richest party-list representative had in 2004. Regular members also tend to come from political families.¹⁴ By contrast, only one party-list representative comes from a political clan.¹⁵ However, two are scions of the leaders of two competing but politically influential religious groups.

¹⁴ In the Ninth Congress, fully 72 percent belonged to political clans. This declined to 35 percent in the 11th but moved up again to 50 percent in the 12th (Datinguino and Olarte 2001: 2-3).

¹⁵ This is Eulogio Magsaysay of the Alliance of Volunteer Educators who is from the influential Zambales clan. He also is unlike the others in having earned a Ph.D.

The data suggest that indeed the party-list system has brought in people generally unlike the regular congresspersons. They are not as disadvantaged as the sectors they represent however. We should also be alert to the danger that the party-list representatives may become more like their single-member counterparts in wealth and family connections.

Problems in implementation

In analyzing RA 7941, David Wurfel (1998) notes that the cap of three per organization may encourage the division of mass-based organizations rather than the formation of coalitions. However, he did not foresee that an organization may get around the cap by fielding its people using some of its component-associations. For instance, BAYAN's Crispin Beltran and Liza Maza resigned from the Twelfth Congress but re-surfaced in the Thirteenth as representatives of ANAKPAWIS and GABRIELA, respectively, effectively increasing BAYAN's representation to six (3 from BAYAN, 2 from ANAKPAWIS and one from GABRIELA).

In its implementation, the law's intentions may also not be realized by the recognition of a category called "organizations." The registration of some, like the Philippine Chamber of Commerce and Industry and CREBA (Chamber of Real Estate and Builders Association) has been disputed because of their big-business membership (AKBAYAN 2001, Wurfel 1998). MAD (*Mamamayan ayaw sa Droga*, Citizens against Drugs) was also questioned, being an association organized by government and backed by the Philippine National Police. As of July 4, 2001, two months after the election and before it was disqualified by COMELEC following the Supreme Court decision, MAD had garnered 9.9 percent of party-list votes and stood next only to BAYAN (Llamas 2001). Meanwhile, the Estrada-backed JEEP (Citizens' Movement for Justice, Economy, Empowerment and Peace) and OSMENA (Organized Support for the Movement to Enhance the National Agenda) were among the groups "created by big politicians who want extra seats in Congress" (Akbayan 2001).¹⁶

The party-list system is also not strengthened by the recognition, in 2001 and 2004, of the Philippine Federation of Coconut Producers (COCOFED), an organization of elite coconut planters, as a representative of the peasant sector. Moreover, three organizations associated with religious groups have been allowed seats, skirting the prohibition against the religious sector. These are ALAGAD (associated with the Iglesia ni Cristo, 11th the Citizen's Battle against Corruption (CIBAC, associated with the Jesus Is Lord Movement), (12th and 13th Congresses), and BUHAY (associated with El Shaddai, 12th and 13th) (Inq7.net 2004b). One of the representatives named by CIBAC and BUHAY happened to be sons of the founders of the religious organizations.

Another problem is that, as Wurfel (1998) warned, RA 7941 does not shut the door on traditional politicians who want to get in through other means. The law does not have any provisions that will allow COMELEC to refuse to register parties or groups around unnamed sectors. Instead, they may get in through this passage in Section 3:

¹⁶ None of these groups got a seat through the party-list system.

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.

Wurfel claims that this effectively makes the prohibition against the participation of the “top five” coalitions or parties in Section 11 unenforceable¹⁷. Indeed two major political parties, the Nationalist People’s Coalition, and the LAKAS-NUCD-UMDB (the ruling coalition at that time), were getting more than two percent of the votes in the party-list as of July 4, 2001 when COMELEC moved to disqualify them.

A continuing problem is that the party-list system is hardly known by the electorate. Pulse Asia reported in March 2004, nine weeks before the last elections, that 54 percent of its respondents (1,800 potential voters) have not heard of the party-list system. This may explain why only about half of registered voters had participated in the system in previous elections (inq7.net 2004a). There is also little awareness of what each organization stands for. This may account for the preference, among both organizations and voters, for acronyms starting with the first letters of the alphabet. If one looks at the list of winners, the dominance of A’s, followed by a few B’s and C’s, suggest that many voters may vote for the first organizations they see, rather than for what the organizations stand for.

Benefits and accomplishments of the party-list system

These problems aside, the party-list system has provided some beneficial effects, in terms of political recruitment, causes and costs.

First, whatever one’s view of the merits of their representatives, the system has put a new type of political recruitment into Congress. Leaders from peasant, labor, women and non-traditional parties and organizations now walk the halls of Congress as representatives co-equal with elite politicians.

Clearly the most successful organization is BAYAN. There are two views about BAYAN’s participation in the party-list arena. One is that its prominence in the “parliamentary struggle” complements its armed struggle, contributing to the “resurgence of the previously waning ND (National Democratic) movement.” On the other hand, other commentators opine that it may split the movement over the long haul (Llamas 2001). It is too early to state which path will win.

Second is the contribution of the party-list system to the public agenda. As we shall show in the cases in the next chapters, the appointed party-list members contributed much to advancing a variety of causes of disadvantaged groups in Congress. Since the Eleventh Congress when party-list members have been elected, three bills chiefly sponsored by them have been passed:

- Republic Act No. 9208 (An Act to institute policies to eliminate trafficking in persons, especially women and children, establishing the necessary institutional mechanisms for the protection and support of trafficked persons, providing penalties for its violations and for other purposes), sponsored by

¹⁷ However, RA 7941, Section 11 seems to prohibit the participation of major political parties only in the May 1998 elections.

Liza Maza of GABRIELA and Patricia Sarenas of Abanse Pinay, among others;

- Republic Act No. 9262 (An Act defining violence against women and their children, providing for the protective measures for victims, prescribing penalties therefore and for other purposes), also by Maza and Sarenas, among others; and
- Republic Act No. 9344 (The Juvenile Justice and Welfare Act), by Maza, among others.

The first two came from the Committee on Women during the Twelfth Congress and the last one from the Committee on Justice during the Thirteenth Congress (Silang 2006). These numbers should be appraised against the total number of laws passed during these Congresses. For the Twelfth when only 66 laws were passed, the party-list representatives got three percent. For the Thirteenth, with only nine laws passed as of April 30, 2006, RA 9344 alone accounts for eleven percent of the total.

Note that these are all issues of the women's sector. No law addressing issues of other disadvantaged sectors or chiefly sponsored by their sectoral representatives in Congress has been enacted.

It may be recalled that in Table 2.1, we showed the status of bills in 23 House committees most likely to have bills affecting disadvantaged groups. We made a similar study of the status of all bills authored by party-list representatives and found that they had the same percentage (0.9 percent) as the bills approved by the House from selected committees.

Third, the party-list system allows a person to be elected by a nationwide constituency with relatively few votes. Unlike the other congresspersons, party-list representatives are elected nationwide. Because only a small percentage of the electorate chooses to vote in the party-list system, an organization can get a seat at so much less votes – and cost - than a member of the Senate who also has a national constituency. For instance, in the 2004 elections, with only 13 million voters in the party-list system, an organization could have gotten one representative for as few as 264,000 votes¹⁸. BAYAN had the most number of votes (1,203,305) for which it got the maximum number of three representatives.¹⁹ By contrast, the votes garnered by the twelfth senator to be elected were 10,635,270 – 45 times more than what a party list organization needed to get one seat, and almost nine times what the organization with the highest votes got (COMELEC 2004 a and b).²⁰ The party-list system may also have translated to lower cost of elections since the organizations have not been seen in big-ticket campaigns like television and other mass media advertising.

¹⁸ AN WARAY got a seat with the lowest number of votes, 268,164. That number represented 2.11 percent of the people voting in the party list box, almost 4,000 votes more than the minimum required.

¹⁹ Because three is the most a party-list organization can get, BAYAN MUNA needed only around 792,000 votes to get the same number of representatives they now have.

²⁰ Depending on the size of their district, single-member Representatives can get by with even less votes than a party list Congressperson. However, the expenses for their election cannot be compared to party list seats.

On the Wings of the People Power Revolution: Cases of Intervention of Disadvantaged Groups in the Eighth Congress

This chapter and the next two will discuss cases of intervention of disadvantaged groups in the parliamentary processes of the Philippines since the restoration of the bicameral Congress in 1987. Each case will present circumstances surrounding the legislative consideration of the bill, its main thrusts, specifically, the stand taken by disadvantaged groups; the strategies they have used to advance their advocacy; the strategies of opposing forces; and the outcome of their intervention.

This Chapter will be concerned with four sets of bills introduced during the Eighth Congress when the People Power Revolution was still fresh in everyone's minds. Leaders and members of disadvantaged groups and many members of Congress had walked side by side in the parliament of the streets during the last days of the Marcos regime. The reinstatement of a real parliament after an overwhelming approval of the Constitution augured well for the continuation of the alliance. Groups that had been ignored or neglected before felt that now they had a chance to taste real democracy. What follows below is the chronicle of the efforts of four such groups – peasants and landless tenants, the urban poor, fisherfolks and indigenous peoples.

The Comprehensive Agrarian Reform Law (CARL, Rep. Act No. 6657)²¹

When Ferdinand Marcos was ousted from power, hopes rose among the poor that a democratic government will be able to deliver on the failed “centerpiece of the New Society,” agrarian reform. Lobbying for a comprehensive redistributive agrarian reform program began in the Constitutional Commission of 1986-1987. When that failed, and a February 1987 demonstration of peasants ended with the death of nineteen protesters in the so-called Mendiola Massacre, advocates asked President Corazon C. Aquino to issue an executive order on agrarian reform prior to the re-opening of Congress. She was the lone legislator under the provisions of the Freedom Constitution set up by the Revolutionary Government and was thought to be more responsive than the Congress to be elected under the Constitution of 1987. However, President Aquino opted to issue Executive Order 229 in July 1987, which deferred all major decisions on reform to the first post-Marcos Congress that would convene in the following week. It also provided a ninety-day deadline for congressional action on agrarian reform.

The Eighth Congress²² was convened amidst military rumblings which, among other things, warned against “Communist” programs like agrarian reform. This stayed Aquino's hand in supporting her liberal allies, if she indeed had any such inclinations.

²¹ This section is primarily based on Putzel (1992, 1998), Third World Studies Center (1994), and Villanueva (1998).

²² The Sessions of the Philippine Congress resumed the count from the pre-Martial Law period when 1970-1973 was the Seventh Congress. The Eighth was, in effect, a transition congress and covered five years, 1987-1992. Thereafter, each Congress would only have a duration of three years, e.g., the Ninth was from 1992-1995.

Main thrusts

Agrarian reform is a contentious issue and clear lines of division mark even its definition and rationale. To peasants and their allies, it is redistribution of land, following the land-to-the-tiller principle. They see it primarily as a social justice and equity measure, a means of substantiating democracy for the greater majority of the population, a sine qua non for upliftment of the rural poor and for the country's social development. Moreover, agrarian reform answers the insurgency problem, and is thus a primary instrument for peace in the countryside. A bill following these lines would cover all agricultural lands, exclude non-land transfer options, put the right of the tiller to own land above any retention right of the landowner, and provide for the participation of small farmers and erstwhile tenants in policy making and program implementation.

To their antagonists, agrarian reform is not the answer to the country's problems. Land is already too scarce to be distributed without reducing productivity. Moreover, small size of farmlands will be aggravated because farmers lack technical competence and are dependent on their landlords. Agrarian reform violates the right to private property and aggravates rural insurgency as it foments landlord-peasant conflicts (TWSC 1994). They would consent to agrarian reform only if it includes "all other arrangements alternative to the physical redistribution of lands such as production or profit-sharing, labor administration, and the distribution of shares of stock, which will allow beneficiaries to receive a just share of the fruits of the land they work," options that were included as part of the definition of agrarian reform in the resulting Comprehensive Agrarian Reform Law. That concept of "comprehensive agrarian reform" is perhaps best expressed by Rep. Hortensia Starke "who personally owned sugar and rubber plantations in Negros and Mindanao" (Putzel 1998: 265):

'Agrarian'...refers to anything that has to do with agriculture, and as you know agriculture also refers not only to land, but also to the labor that works on the land and to the machinery... and to all the other inputs ... that go into production... So it is not necessarily referring to privately owned lands... As for 'reform,' when it refers to the farmer, it means to improve his economic status, while 'comprehensive' refers not only or necessarily to all lands, but 'to all components: marketing, organization, infrastructure, irrigation and credit facilities' (Quoted in Putzel 1992: 265).

Strategies

The campaign for comprehensive agrarian reform was led by the Congress for a People's Agrarian Reform (CPAR), created in May 1987 by over 200 people representing 70 people's organizations of national farmers and fisherfolks, and non-governmental organizations, including church and business groups. CPAR united "peasant organizations and NGOs from across the center and left political and ideological spectrum, and was the broadest coalition yet to be formed in the Philippines" (Putzel 1998: 90). Decision making was based on a consensus of a national consultative council of 13 peasant federations, supported by a working committee of NGOs, academic institutions and the social action units of the Roman Catholic and Protestant churches. CPAR prepared "The People's Declaration of Agrarian Reform" to be

incorporated in President Aquino's executive order. When that failed, CPAR turned to Congress.

CPAR had a full-time secretariat contributed by its component NGOs to provide support for the Council, prepare for its mass actions in the streets and activities towards maintaining unity of the disparate groups within the coalition, and make the technical work for Congress itself. Coming out of a church-based Rural Congress, CPAR was not dominated by NGOs and POs influenced by the Communist Party, but managed to attract and keep organizations and leaders who were national democratic sympathizers. This made unity-building an important aspect of CPAR's work, and it established an informal political caucus that regularly met to keep the diverse forces together (Putzel 1998: 95).

CPAR proceeded on a two-track strategy: the mass movement track, and the legislative track (Villanueva 1997). Mass actions consisted of the rallies, demonstrations and pickets that were the stuff of the "parliament of the streets" during Martial Law. In addition, CPAR had innovative techniques. When Congress opened, it established a "tent city" behind the legislative buildings to make the presence of the farmers and fisherfolks felt throughout the parliamentary deliberations. Under the tent, various exhibits, workshops and discussions were held to disseminate information about agrarian reform. It also had an Agrarian Reform Express consisting of peasants and their supporters moving from Northern and Southeastern Luzon and converging in Manila in April 1998.

In the House, the head of the Agrarian Reform Committee was a former military man who was forced into exile during Martial Law for his anti-dictatorship posture. He supported the peasant groups throughout the congressional deliberations. The first peasant bill was sponsored by one of only two congressmen from the left-leaning *Partido ng Bayan* (People's Party), embodying "almost to the letter," the CPAR bill (Putzel 1992: 263). Landowners in Congress introduced their own bill, with high retention limits, exemption of export crops from agrarian reform, payment at market value, and non-land-transfer options. Another liberal congressman acted to give the Chair authority to consolidate all bills into one. This was House Bill 400, based on the CPAR Bill but with a compromise retention limit (higher than the peasants' demand, lower than the landlords'), and stock options pending final land transfer. HB 400 was the basis of the congressional debate. This was made possible by the Chair of the House Committee on Agrarian Reform and other allies in the House, who have been street parliamentarians themselves. Three members of CPAR's Working Committee joined the Technical Group of the House Committee.

The House debates produced amendment after amendment, such that 14 of the original 22 sponsors of HB 400 withdrew their support for the bill. Sponsorship passed to a landowner-congressman and the original supporters ended up voting against the bill. What remained of HB 400 was approved on April 21, 1988. The Third World Studies Center (1994) found that the voting patterns on HB 400 as amended showed that party affiliations did not account for the votes. However, most of the 47 who voted "no" were supporters of the original version (called the "progressive bloc" by TWSC). Meanwhile, most of those who voted "yes" supported the original pro-landlord bill.

Consideration was simultaneously going on in the Senate. The Upper House did not have to worry about local conservative constituencies but had liberal versus conservative

debates anyway. Former Secretary of Agrarian Reform (Heherson Alvarez) introduced the conservative bill, while Sen. Agapito Aquino, the brother of Ninoy Aquino, pushed for the CPAR-favored bill. Public hearings were held throughout the country, with both sides represented, in August and September 1987. While the conservative view was the basic bill, certain amendments were introduced by the liberal group, making it more pro-landless than the House version. It passed on April 28, a week after the House passed theirs. There were no negative votes, but opponents of redistributive reform abstained. The Conference Committee met in May and produced the further compromise that became Rep. Act No. 6657. In Putzel's judgment (1992: 271, 272):

Many legislators themselves painted the law as a 'tolerable compromise' between the interests of the landless, represented most closely in the Senate bill, and the interests of the landowners, which dominated the House version. Others argued that the Senate represented a more urban and industrially based section of the ruling class, and was biased in favor of plantations operated by the TNCs and a new breed of corporate and commercial local farm-owners, while the House represented local plantation owners.

...

What was most striking about the Senate–House confrontation and the legislative process as a whole was the emergent alliance between both chambers around an essentially conservative approach to reform.

Putzel (1998: 103) analyzed incisively the internal factors accounting for the failure of CPAR, as quoted below:

- The full potential of NGOs can be met only by establishing them as genuinely autonomous organizations. CPAR appeared to work until the alliance grew to a point where it began to encroach on the exclusive terrain of POs and the political organizations behind them, particularly in securing access to foreign funds.
- The lack of a culture of accountability within the NGO sector was also evident in alliance building. Those that served on the CPAR secretariat, who made enormous personal sacrifices to keep the coalition going for so many years, nevertheless did not relinquish their own organizational connections, at times acting as spokespersons for CPAR and at times speaking in the name of their own NGO alliances. This created suspicion among member organizations, which is destructive to any delicately balanced coalition.

However Putzel also recognized that further strengthening of the peasant groups would probably not give them more and to expect more from the Eighth Congress would be unrealistic (Putzel 1992: 272).

In their external alliances, the disadvantaged groups also had problems. An NGO leader thought this might have been due to the lack of determined advocates of agrarian reform in the urban areas. Another felt that the groups were not as forceful as they could have been in insisting on their demands. This could also have resulted from the fact that not all the groups actually believed that they could actually get something from government. Instead, they saw their involvement as largely a means to oppose it, just like old times (Putzel 1992: 272).

Opposing forces

CPAR was not the only group with a draft bill. HB 941 presented the landlords' side and was supported by a majority in the House Committee on Agrarian Reform. Thus, while its Chair used HB 400 as the working draft, the rest of the Committee managed to have parts of HB 941 inserted into that draft.

The pro-landlord bill was supported by other organizations that may also be classified as people's organizations, except that they represent the richer, rather than the poorer, people. They are mostly landowners and groups outside Luzon. COLOR, the Council of Landowners for Orderly Reform, argued that "taking property was outright injustice" (Putzel 1992: 263). COLOR was joined in hearings by the National Federation of Sugar Planters, and the Council of Agricultural Producers of the Philippines (CAPP). The conservatives met the peasant force with equally impressive numbers in their conventions, CAPP with a thousand delegates in March 1988 while the National Federation of Sugar Planters (NFSP) had 800. TWSC (1994) lists as "the conservative bloc" the Land's Utmost Producers Association, the Fruit Growers Foundation of Davao, the Western Visayas Federation of Fish Farmers, the Panay Landowners' Alliance for Democratic Reform and Democratic Alliance for a Truly Unified Panay, the Movement for Better Mindanao, the South Cotabato Farmers Association, the Samar-Leyte Landowners' Association, and the Concerned Citizens of Mindanao. Even some government officials from DAR, past and present, surprisingly lined up with the landlords.

Moreover, the forces against the CPAR draft did not need much help from outside lobbies since their constituency was well-represented in Congress itself. Several outspoken representatives came from the landed class. Landlords and economic elites dominated the Congress in the 1980s and still do so now.²³

Despite what the disadvantaged groups see as a victory for the landowners, landowners themselves remain unhappy with CARL. There is no end to the number of bills in Congress seeking to suspend agrarian reform for one reason or another. For instance, Datinguinoo and Olarte (2001b) state that 27 representatives, all landowners, have filed a bill seeking its suspension in Mindanao.

Results

Despite all its efforts, what became the Comprehensive Agrarian Reform Law contains many provisions CPAR did not want and it rejected the law. It then sponsored a multi-sectoral conference with 600 participants from peasant, worker, student and other organizations nationwide. The conference adopted "The People's Agrarian Reform Code" (PARCODE) and aimed it to be the first people's initiative for legislative action. However, that campaign did not succeed either for many reasons, both internal to CPAR and external problems²⁴. CPAR declared itself inactive in 1992.

²³ "Of the 200 members elected, 129 were members of traditional clans, while another 38 were related to them...When the 204 representatives 141 registered ownership of agricultural and residential land valued at P293.7 million...However, even these figures almost certainly underestimated holdings since they did not reflect the amount of land owned by corporations in which these families had a major stake" (Putzel 1998: 260). Putzel clarifies that data do not distinguish between ownership of agricultural and urban land. (The 204 members of the Lower House mentioned in the second sentence included sectoral representatives appointed by President Aquino.)

²⁴ For extended discussions of these, see the original sources of this case.

The Urban Development and Housing Act (UDHA, Rep. Act No. 7227)²⁵

The urban poor face a constant threat of eviction and summary resettlement to newly opened-up sites with no livelihood opportunities. Thus community organizing developed from the 1960s onward so that they could meet their adversaries with unity and effectiveness. Honculada (1985) mentioned that 40 seminars were made in preparation for the first convention of the Zone One Tondo Temporary Organization (ZOTTO, which later dropped “Temporary” and became ZOTO), which brought together 725 delegates from 53 organizations, representing 20,000 members. During Martial Law, Marcos promulgated Presidential Decree No. 772 which made squatting a criminal offense, combining demolitions with harsh repression, although, from time to time, he gave concessions. As in agrarian reform, the People Power Revolution gave fresh hope for change, especially since the Constitution of 1987, in Article XIII (Social Justice and Human Rights) included the following provisions:

Sec. 9. The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing, which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas....

Sec. 10. Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner.

Main thrusts

The bill was supposed to provide the enabling legislation for the constitutional provisions quoted above. The demands of some of the urban poor were radical – including retention limits on urban land, progressive taxation on urban land, and a moratorium on demolitions. The moderate view was for socialized housing and consultation on demolition and relocation. UDHA is actually not urban land reform but is a law regulating demolition and relocation of illegal settlers. It also provides a mandate for all local governments to provide land for socialized housing. It also provided for a moratorium on demolition for three years, to give the local governments time to list qualified beneficiaries, inventory available land, and provide for relocation.

Strategies

The campaign for an urban land reform law occurred in the wake of the failure of the disadvantaged groups to get the agrarian reform law they wanted and amid the continuing fear of their urban counterparts about demolitions. People’s organizations in the urban areas united under the National Congress of Urban Poor Organizations (NACUPO) as soon as President Aquino took power. However, urban land reform was secondary to more immediate demands to stop demolitions and amortization payments to the National Housing Authority and to create the Presidential Commission for the Urban Poor (PCUP). NGOs like the Institute on Church and Social Issues (ICSI), the Foundation for Development Alternatives and the Bishop-Businessmen’s Conference²⁶

²⁵ This section is primarily based on Carroll (1998) and Karaos, Gatpatan and Hotz (1995).

²⁶ Especially its Urban Land Reform and Housing Committee. It is telling that this committee changed its name from the Committee on Relocation and Resettlement in March 1987 (Karaos, Gatpatan and Hotz 1995: 21).

took up the broader concept of urban land reform. In addition to these church-related organizations, organizations with social democratic tendencies joined together into BIGKISAN and also advocated urban land reform.

It may be said that the Roman Catholic Church played a key role in the UDHA's passage. The key proponent of urban land reform in the Constitutional Commission was the executive secretary of the Bishop-Businessmen's Conference (BBC), an organization of Catholic bishops, business executives, academics and other sectors. BBC had played a key role in the middle-class opposition to Marcos and some of its members were recruited into the cabinet of President Aquino. BBC initiated a campaign to implement this constitutional provision with conferences with NGOs, people's organizations of the urban poor (UPOs) and government agencies beginning in March 1987. The main conference in September 1987 was co-sponsored with PCUP and produced a BBC-PCUP draft bill. This bill was the subject of regional consultations to elicit reactions from the urban poor and the private sector in cities other than Metro Manila. A four-day meeting was held in November 1987 with four objectives: "(1) to review the urban poor positions... previously articulated in the context of NACUPO; (2) to review existing ULR legislation; (3) to gain an understanding of the meaning of urban land reform and its elements; (4) to assess the proposed BBC-PCUP draft bill; and (5) to come up with a draft ULR proposal and an action plan for lobbying" (Karaos, Gapatan and Hotz 1995: 23). With sessions on lobbying and the legislative process, the Betania²⁷ consultation showed a much more conscious strategy for legislative lobbying than had occurred under CPAR.

Betania formed a committee to draft the bill and forge the ULR lobby and strategy. From this emerged a new coalition of UPOs, launched in June 1988 called *Pambansang Kilusan ng mga Samahang Maralita para sa Panlungsod na Reporma sa Lupa* (National Urban Poor Movement for Urban Land Reform, with the acronym PAKSA-LUPA, this time meaning: The subject is land). PAKSA-LUPA linked with other organizations such as the Urban Poor Forum, then the broadest network of NGOs and POs on urban poverty. However, lobbying for the bill was not a priority of everyone, and portions of the Forum and the *Kongreso ng Maralita ng Lunsod* (KPML, Urban Poor Congress) turned either to community organizing or to another bill, the Magna Carta for the Urban Poor. Thus, despite the agreements in Betania, only FDA, ICSI, BBC and PAKSA-LUPA continued to espouse the Betania Bill.

BBC played a crucial role in the public hearings, as it sponsored consultations throughout the country that the Senate and House Committees on Housing piggy-backed on. It also got two forms of support from President Aquino. She formed an Ad Hoc Working Group on the ULR draft bill which transmitted an Administration bill to Congress in January 1989. She also appointed two sectoral representatives of the urban poor to Congress, including Hernani Panganiban, a PAKSA-LUPA leader, and Rey Magno Teves, in May 1990. They were confirmed in September 1990.

In December 1989, the coup attempts "consolidated support of the NGO and PO community for President Aquino – a point noted by the President" (Carroll 1998: 127). However, they did not stop a brutal demolition in Bagong Silangan, Quezon City in

²⁷ The locale of the meeting, attended by representatives of 28 alliances of UPOs from 12 cities and municipalities of Metro Manila, was the Betania Retreat House, hence the name "Betania consultation." (Karaos, Gapatan and Hotz 1995: 23-24)

September 1990. The latter made Jaime Cardinal Sin, a hero of the People Power Revolution, become vocal in his support of urban land reform, with the media reporting both his strong statement of support and the cruel events that forced it. It was under this pressure that the House worked on what later became the UDHA.

Learning from the CPAR debacle, the fight for urban land reform was less in the streets and more within the halls of Congress. This was quite a change for the urban poor who had taken to the streets even during Martial Law and were quite adept at large-scale mobilizations. During this legislative engagement, nevertheless, two groups managed to get land for organized urban dwellers in the National Government Center and Fort Bonifacio, through direct access to President Aquino. In addition, ULR had a rally with some 5,000 urban poor people and church leaders in February 1991. Dubbed *Tipan ng Bayan* (Covenant with the People), it was joined by the two sectoral representatives and Congresswoman Consuelo Puyat-Reyes, chair of the Committee on Urban Planning and Development.

Representative Reyes then created an ad hoc committee to complete a legislative draft. The resulting House Bill 34310 consolidated nineteen (19) House bills, two House resolutions and one administration bill. Representatives of BBC, various government agencies, development NGOs and urban poor groups then met at the ICSI to study it. Finding “gross weaknesses” in the draft, the group decided to propose changes on the floor of the House, over the PCUP’s objections (which included, among others, that they might get worse provisions than before). Marathon meetings in March 1991 established the Urban Land Reform Task Force (ULR-TF). Its secretariat was composed of development NGO workers and staff members of the urban poor representatives in Congress. ICSI served as the nerve and communications center; Caritas Manila, the social action center of the metropolis’ archdiocese, had a network of urban poor groups that also played a key role in congressional lobbying. Various NGO workers volunteered to the secretariat.

On April 17, 1991, the Task Force’s draft was finished. Urban poor leaders and representatives then went daily to Congress from April 22, the day of the resumption of Congress to attend the sessions in the gallery, to meet with individual legislators and to draft further amendments. Consultations with PO leaders occurred simultaneously. Cardinal Sin informally intervened to have the bill calendared. On June 4, 1991, the bill was presented on first reading to the floor of Congress. What follows is Carroll’s account (1998: 128):

With some two thousand urban poor in the galleries – the first time every that those galleries had been filled – and more waiting outside, the bill was presented on the floor with no less than twelve congresspersons making sponsorship speeches. Two days later the bill was passed on second reading by the House, with all of the House members as cosponsors. The urban poor in the gallery erupted in thunderous applause, some of them breaking down in tears.

HB 34310 was approved on third reading on August 15, 1991, the same day the counterpart bill in the Senate, SB 234, nominally sponsored by Senator Jose Lina, Jr. was reported out of his office. The Senate was then deliberating on the expulsion of US military bases and the Local Government Code. In any case, urban land reform may be of secondary interest to people elected on a national ticket. To convince senators of its importance and urgency, ULR-TF convened 17 mass mobilizations, an overnight vigil,

and letters and telephone barrages from distant provinces. Task Force members also worked with individual senators and their staffs. Women's organizations also joined in the campaign since housing is supposed to be "basically a woman's issue" (Karaos, Gapatan and Hotz 1995: 38).

The legislative staff at the Senate and the House assisted greatly in the campaign at various points of the process, including calendaring, floor deliberations, even the orderly admission of people into the gallery. They also maintained constant contact with ULR-TF and other allies.

With the help of BBC, compromises were worked out with the main opponent of the bill, the Chamber of Real Estate Builders' Associations. Still, UDHA passed in record time. On December 9, 1991, it passed the Senate with 20 affirmative votes, no negatives, and no abstentions. "Non-negotiables" like the progressive tax on urban land were dropped so that the bill would pass. The ULR-TF then worked on amendments which attempted to harmonize the House and Senate versions. These were generally approved by the conference committee on February 3, 1992.

Opposing forces

As mentioned above, CREBA worked out a compromise with BBC assistance. Their opposition centered mainly on the effects of socialized housing on market prices. They also feared that just demolition would encourage squatting. As it was, socialized housing did not become part of the bill. There were also creative compromises in that they allowed provisions on the demolition process to stand as long as the incentives they wanted got incorporated into the bill. This may be why the congresspersons with real estate interests acceded to the bill.

Results

Signed on March 24, 1992, UDHA was the last piece of social legislation of President Aquino's administration.

The Fisheries Code (Rep. Act No. 8550): Part I²⁸

The Philippines has a coastline of 17,640 kilometers, one of the longest in the world. The Philippine waters are seven times the size of its land area, and make the country among the largest fish producers of the world. However, water resources are very unequally distributed, with large commercial vessels and sprawling fishpens controlled by a few, while most of the six million fisherfolks live in abject poverty, at or below the poverty line.

A law itself perpetuated this poverty and inequality. Presidential Decree No. 704, the Fisheries Decree of 1975, granted to the highest qualified bidder the exclusive privilege to construct and operate fish corrals and oyster and culture beds. When it declared fisheries as a preferred area of investment, vast hectares of mangroves were converted

²⁸ Part I of the Fisheries Code is based primarily on NACFAR (1996).

to fishponds for prawn exportation. Moreover, illegal fishing methods of the poor like dynamite fishing and fishing with electricity were heavily penalized, while the wealthy could get away with their similarly illegal modes, like the use of trawl, *sudsud* and *galadgad*, deemed more destructive to corrals and fish, with much lighter penalties.

Again, the People Power Revolution gave hope to the poor groups that the unequal situation could be rectified. Two bills were presented to the Eighth Congress - a Fisheries Reform Bill that came out of the Fishery Committee (Fish Com) of CPAR,²⁹ and a bill called the Fishery Code of the Philippines (Senate Bill No. 1354). SB 1354 was supported by the Department of Agriculture and had come out of the consultations of *Bigkis Lakas*, a fisherfolk network in Luzon. Recognizing that two different bills could sow dissension among their ranks, a working group of representatives from both sides was created and produced what they called a Unity Bill. The bill was ratified in a so-called Unity Congress of fisherfolks' organization in January 1990. Although representatives of Bigkis-Lakas withdrew from participation before the Congress, as reported by NACFAR (1997: 72):

the good turn-out of participants from various parts of the country encouraged the congress' steering committee to rule that the ratification of the Unity Bill, dubbed the Comprehensive Fisheries Reform Code of 1990 or the Fish Code, is final and binding.

That Congress also created the lobbying arm for the Fish Code, the Nationwide Coalition of Fisherfolks for Aquatic Reforms (NACFAR). NACFAR is composed of the eight biggest fisherfolk federations, with a constituency of almost 600,000 people.

Main thrusts

As agrarian reform calls for land to the tiller, so the Fish Code seeks to give the marginal and subsistence fishers a fair and just share in the management, control and use of the country's aquatic resources. It had the following features:

- Philosophy of sustainable fisheries through proper management, conservation and protection by both people and government
- Preferential use of municipal fishing grounds to subsistence fisherfolks
- Increased scope of municipal fishery from seven to fifteen kilometers from the shoreline
- Reservation of the exclusive right for the enjoyment, use and protection of the fishery resources only for natural-born Filipinos
- Limited access to fishery and aquatic resources to fisherfolk and legitimate fishery operators, following criteria of productivity, ecological soundness, and sustainable growth
- Popular and equitable participation of male and female genders in all levels of decision making

²⁹ Fish Com was composed of eight organizations under the *Kapatiran ng Malayang Maliliit na Mangingisda ng Pilipinas* (KAMMMPI, Fraternity of Free Small Fisherfolks of the Philippines) and the *Pambansang Lakas ng Kilusang Mamamalakaya sa Pilipinas* (National Force of the Fishers' Movement in the Philippines, known as Pamalakaya-Pilipinas).

- Full benefits of the labor laws to fishworkers
- Establishment of community-based Resource Management Councils (RMCs) composed of representatives from the fisherfolks, NGOs and the government
- Prohibition of the conversion of mangroves into fishponds, and the immediate conservation of mangroves
- Creation of a Fishery Loan and Guarantee Fund to finance the development of ancillary industries
- Creation of the Municipal Fisheries Grant Fund to finance municipal development projects (NACFAR 1997: 73-74).

Strategies

The first order of business was to stop the Senate from continuing to consider SB 1354 and to support the Fish Code instead. In a meeting with Senate President Jovito Salonga and the three senators most identified with the Bigkis-Lakas draft, NACFAR managed to get the Fish Code into the Senate's agenda and it was scheduled for first reading. However, the process for SB 1354 continued. NACFAR went to the extent of "gatecrash(ing) a public hearing on SB 1354" (NACFAR 1997: 74). However, its knowledge of the issues persuaded Senator Agapito Aquino, its proponent, to postpone the approval of SB 1354, and consider certain provisions from the Fish Code, especially the establishment of RMCs. Its lobby with other senators also failed to stop the bill, squeezing from them only the promise that they would amend it with the Fish Code's provisions in mind.

NACFAR then turned to the Lower House. It selected as a sponsor a ranking personality – Representative Gregorio Andolana, a human rights activist and vice chair of the Committee on Revision of Laws (CRL), which was then handling the fisheries bills. However, the House had also introduced a rival measure supported by the Department of Agriculture, known as the Acosta bill. At the same time, NACFAR had to battle both its lack of experience and the prospects of disunity in the ranks of the fisherfolks sector.

To strengthen its internal capacity, NACFAR transformed itself from a "ragtag group" (NACFAR 1997: 74) to a formal lobby with eight experienced fisherfolk leaders and four secretariat workers contributed by NGOs serving the fisheries sector. It got SALAG, a legal NGO assisting fisherfolk, to provide a crash course on lobbying. Volunteers from members' federations also joined their efforts.

It then proceeded to lobby on several fronts. It showed its mass support through a rally attended by more than a thousand fisherfolks and their sympathizers that marched to the Senate. The demonstration attracted media coverage and made their issues well known to the public. Further popularization occurred with its Mass-Based Education Campaign (MBEC) in Luzon. However, lack of funds did not permit the expansion of the campaign to Visayas and Mindanao, which legislators supporting large-scale commercial fishing represented. Later, local members sent letters to Congress and media. They also had a Fishery Express on October 22, 1991. However, while it succeeded as mass action, it was not able to present issues adequately and did not manage to get converts among the legislators.

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NACFAR also tried to network with other NGOs. Their goal was to get non-fishing organizations to incorporate fishery issues into their own programs. However, this did not work well either.

NACFAR also lobbied in Malacanang, although somewhat by accident. A sympathetic congressional staffer told them about President Aquino's impending certification of the Acosta bill. The NACFAR team managed to stop the Acosta bill's certification but was not able to get the President to substitute their bill instead. Nevertheless, the Malacanang meeting managed to get NACFAR and Bigkis-Lakas together again. The two tried to work with the DA to hammer out a compromise code, but that attempt failed.

NACFAR then sought to implement a three-year plan. It was able to initiate the creation of a Fisherfolk Agenda for Peace and Development. It piloted its concept of the Resource Management Council in Pacasao, a municipality in Camarines Sur. The officials of Pacasao endorsed the RMC concept. However, although the idea was piloted in other areas, success at the local level could not convince the national legislators to put the RMC into the fisheries bill they were considering.

In the House, NACFAR got a break with the appointment of one of their leaders, Arturo Olegario, as sectoral representative of the fisherfolk. Olegario, with only year left before the election of regular party-list representatives, tried to bring NACFAR and Bigkis-Lakas together. They agreed on five amendments to the House's version of the Code. Certain representatives agreed to amend the proposed code to include the 15-kilometer municipal fishing area and the creation of RMCs. Later, they again went to Malacanang and got President Aquino to refer them to the DA, the Bureau of Fisheries and Aquatic Resources, the Department of Environment and Natural Resources and the Presidential Management Staff. As a result, the protection of the mangrove was incorporated into the administration's proposal.

Following the success of UDHA, NACFAR sought the assistance of Cardinal Sin to include their key demands. However, the House passed a Fisheries Code without the 15-kilometer fishing area and the RMCs. Those provisions were included again by Senator Aquino in the bicameral conference committee meetings. However, at the last minute, the question of a quorum was raised in the bicam meeting, and the Eighth Congress adjourned without a fisheries code.

Opposing forces

NACFAR'S fish code was hampered by a rival bill that was sponsored by no less than the administration. Despite efforts at Malacanang and the executive departments, NACFAR did not succeed in substituting this with its unity bill.

Like the CPAR, the opponents of NACFAR were firmly entrenched in Congress. Amendments to incorporate the 15-kilometer line and the RMCs, minimal demands when seen from the perspective of the total vision of the fisherfolks' groups, could not get past the opposition of what was called the Visayas bloc that was also allied with commercial fishing interests.

Results

NACFAR's intervention in Congress was not a total failure. Its demand for the 15-kilometer municipal fishing area was actually legislated, not in a Fish Code but in the Local Government Code. The LGCode was authored by Sen. Pimentel who incorporated it into his bill after being convinced by the arguments of NACFAR.

Other gains are not in the legislative arena. The appointment of Olegario as a party-list representative, though short-lived, is a sign of NACFAR's growing recognition and influence in government circles. Then, too, its local initiatives have been upheld. For instance, DA issued Fishery Administrative Order No. 175 which mandates a closed season in Manila Bay, part of NACFAR's campaign to Save Manila Bay. In addition are the piloting of RMCs in several municipalities. Besides, while the RMCs have not been legislated, DENR has launched an Environmental Monitoring Training for fisherfolks in which trainees become deputized as environmental officers to implement environmental law and apprehend pollutants.

NACFAR (1997: 80) itself cites as "the biggest gain" as its "self-confidence" and "political maturity." It also realizes that it was not able to use its links with the church leadership in an effective and systematic way. Moreover, it also had "no definite plan to harness the media" (NACFAR 1997: 84) which when their news came out, were generally supportive of NACFAR's efforts. Still, it recognizes the limitations of its power:

It can only go as far as the vested interests of politicians would allow. And that really, is not too far.

...

The absence now of a pro-fisherfolk law is also a clear indictment of these same politicians who used every available weapon to subvert the interest of the marginalized fisherfolk (NACFAR 1997: 84).

A Fisheries Code is now in the books, but it would not be legislated until the Tenth Congress. The journey of that bill – and a more mature NACFAR – will be discussed in the next Chapter.

The Indigenous Peoples Rights Act (IPRA, Rep. Act No. 8371): Part 1³⁰

Indigenous peoples account for sixteen to eighteen percent of the Philippine population, occupying hilly areas and forests in which their communities have lived for centuries. However, these areas have become smaller through the centuries, as lowland population growth, mining, logging and agriculture have pushed them further and further into the interior. Spanish colonization of the Philippine Islands introduced the Regalian Doctrine where all lands belong to the Crown (or its successor, the Philippine State) unless private persons acquire a title. Communal ownership and ancestral domains were ignored, resulting in loss of land, desecration of burial grounds and other sacred sites, and virtual decimation of the *katutubos* (indigenous people³¹). The state had sought to assimilate them through such devices as the Commission on National Integration during the early Independence period. Despite these, the IPs have managed to maintain their

³⁰ This is based primarily on Bennagen (2000), ESDC Research Team (1997), First Peoples (2006), Perrot-Maitre and Ellsworth 2006, and documents from Congress gathered specifically for this study.

³¹ "IPs" is now the politically correct term to refer to them.

culture and sense of community and have resisted lowland domination. Even Marcos had to recognize them when he was forced to stop the construction of Chico Dam in the 1970s; the first communal lease to public forests occurred under Martial Law.

Main thrusts

The Regalian Doctrine is stated in Article XII, Section 2 of the post-EDSA Constitution, as follows:

All lands of the public domain, waters, minerals, coal, petroleum, and other minerals, oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated.

This would seem to limit the rights of indigenous peoples. However, other sections recognize their demands and rights. Article XII, Section 5 provides that:

The State, **subject to the provisions of this Constitution and national development policies and programs**, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being.

The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

Moreover, Article XIII, Section 6 provides that:

The State shall apply the principles of agrarian reform or stewardship, **whenever applicable in accordance with law**, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and **the rights of indigenous communities to their ancestral lands** (emphasis supplied).

Besides, the people of the Cordilleras were the only ones, aside from the Muslims, to have a constitutional provision for an autonomous region (Art. X, Sec. 15).

All these, however, require Acts of Congress, as the emphasized passages show. It is thus necessary to enact a law that would secure the rights of indigenous peoples.

Strategies

At least eight bills and resolutions on ancestral domain were introduced in the Eighth Congress in 1987. President Aquino certified as an administration bill HB 24913, principally authored by the then Chair of the Committee on National Cultural Communities (CNCC), William F. Claver.³² A series of public hearings was conducted in at least six cities/provinces; ocular inspections in problem areas were made in six

³² This may account for the fact that the bill passed during the Tenth Congress, when Claver was no longer a congressman, is sometimes called the Claver bill in some circles. See for instance First Peoples (undated).

provinces. The hearings resulted in a consolidation of these bills, which “for lack of time,” was not acted upon (CNCC no date: 1-2).

As the ESDC Research Team (1997: 15) states, the movement of indigenous peoples “is still young compared to other sectoral and political movements...with most of the indigenous communities... still unorganized or unpoliticized.” However, that fact would give the movement the distinction of, in effect, having placed a new and important issue into the public agenda. The first national organization of IPs was the *Kalipunan ng mga Katutubong Mamamayan ng Pilipinas* (KAMP, Federation of Indigenous Peoples of the Philippines) having been formed only in the 1980s. Like many other disadvantaged groups, unity does not mark the sector. KAMP distrusts the only other national formation, the Tribal Communities Association of the Philippines (TRICAP), for its supposed government control and influence. Other IP organizations dot the country but they are localized with no national voice (ESDC Research Team 1997: 15-16).

The first consultations for the bill in the Eighth Congress were sponsored by the *Ugnayang Pang-Agham-Tao* (UGAT, the professional association of anthropologists), one of whose stalwarts was a member of the 1986 Constitutional Commission and was instrumental in the provisions on IP in that document. The main strategies at that time consisted of written outputs, signature campaigns, research, and participation in congressional consultations and hearings. Only the Gaston Z. Ortigas (GZO) Peace Institute lobbied legislators personally for the inclusion of the bill in their agenda. Direct lobbying consisted largely of mobilizations during public hearings. Even at that, Congressman Claver complained that he did not feel nor notice NGO-PO participation except for one day when a delegation from his native Cordillera came to a consultation (ESDC Research Team 1997: 21).

ESDC observes that participation was minimal. They attributed this to the following internal factors:

- the low priority the organizations in the IP movement gave to policy advocacy; lack of coordination outside the Cordillera-based groups;
- the urgency of needs in the field;
- the difficulty of sustaining mobilizations by people based in the hinterlands, including personnel and fund limitations;
- their lack of familiarity with the bill itself, and with the process of passing it into law; and
- their disagreement on certain aspects of the bill itself.

Opposing Forces

The lobby also suffered because of the unfamiliarity of its issue to the general public, and the strength of logging, mining, agribusiness and multinational interests. Given these, HB 33881 was not calendared until towards the end of the Eighth Congress. Therefore the IPs could not regroup on time to save their bill when an objection was raised by a congressman identified with these business interests (ESDC Research Team 1997: 22-23).

Results

In the Ninth Congress, Cong. Gregorio Andolana of North Cotabato³³ with two others filed HB 595 creating a Commission on Indigenous Cultural Communities and Ancestral Domain. Upon House approval, it was transmitted to the Senate. However, it was opposed by the Chair of the Senate Committee on National Cultural Communities because it would entail funding from government. According to the Fact Sheet emanating from the House, “her opposition spelled the death of the bill at the Senate committee level” (CNCC no date: 2)

Like the Fisheries Code, then, the bill of the indigenous peoples had to await the Social Reform Agenda that became the framework of the Tenth Congress.

Summing up: Disadvantaged groups after the People Power Revolution

Everyone hailed the post-Marcos government for widening the democratic space. It certainly kindled hopes that disadvantaged groups would at least have the protection and support of the laws of the land. However, such hopes were not fulfilled. Despite a flurry of bills coming from street parliamentarians – both NGOs and people’s organizations, Congress did not transform most of them into law. In the case of the Comprehensive Agrarian Reform Law, the legislative mill so altered key provisions that its original sponsors rejected it. Only the Urban Development and Housing Act was deemed acceptable, and that was because the disadvantaged groups accepted a much narrower scope of their original demand for urban land reform. In the case of the proposals for a Fisheries Code and an Indigenous Peoples Rights Act, the efforts of their proponents failed practically only in the last moment. Nevertheless, the seeds have been planted. Two of the laws to be discussed in the next Chapter have their beginnings in the Eighth Congress, originally borne, like the two others discussed here, on the wings of the People Power Revolution.

³³ Congressman Andolana came from the People’s Party, identified with the left. He was a human rights lawyer and was well-known to NGOs and POs. North Cotabato has many indigenous communities.

Legislating the Social Reform Agenda: Cases of Intervention of Disadvantaged Groups in the Tenth Congress

The cases in this Chapter depict laws passed after the Aquino administration. Two of them, the Indigenous Peoples Rights Act and the Fisheries Code, started life in the Eighth Congress, were filed in the Ninth and only got enacted in the Tenth. These two joined the Social Reform and Poverty Alleviation Act and the new Anti-Rape Law as part of the Social Reform Agenda of President Fidel V. Ramos in 1995 and were boosted by that important fact. Each case, as in the previous chapter, will be discussed through its main thrusts, the strategies used by the disadvantaged groups, the work of the opposing forces, and the results of their efforts.

The Indigenous Peoples Rights Act (IPRA, Rep. Act No. 8371): Part II³⁴

In his State of the Nation address in 1995, President Ramos called a bill addressing ancestral domains urgent. This priority bill was a part of his Social Reform Agenda. President Ramos also named two people to represent the indigenous peoples.

Main thrusts

The Indigenous Peoples Rights Act is considered a “landmark legislation in the area of social justice and human rights” (Bennagen 2000: 1), “a moral decision (that) has won esteem and respect for the Philippine government from anthropologists and human rights organizations around the world” (Headland 1999: 2). IPRA recognizes and protects the IPs’ rights to their ancestral lands and ancestral domains. More than that, it recognizes and honors their culture. Florence Umaming, an IP very active in its enactment, claims that it is distinguished from previous attempts to recognize IPs rights by the following features:

- It grants total recognition of the rights of indigenous peoples to own ancestral domains and ancestral lands.
- It repeals all laws prejudicial to the recognition of the right of ownership of ancestral domains and ancestral lands.
- It respects and recognizes political structures and systems, culture, resource management practices and conflict resolution mechanisms that are indigenous.
- It provides for the issuance of tenure instruments which are equivalent to Torrens Titles.
- It recognizes socio-cultural differences among the various indigenous peoples’ groups.
- It provides for the establishment of an office with clearly defined functions and adequate funding, and where indigenous peoples are adequately represented.³⁵

³⁴ This is based primarily on Bennagen (2000), ESDC Research Team (1997), First Peoples (2006), Perrot-Maitre and Ellsworth 2006, and documents from Congress gathered specifically for this study.

³⁵ This is the National Commission on Indigenous Peoples (NCIP).

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- It mandates the delivery of basic services to indigenous communities and provides for their holistic and integrated development.
- It simplifies the requirement for the recognition of ancestral domain ownership and provides for the conversion of ancestral domain claims to complete ownership.
- It recognizes the right of indigenous peoples to genuine self-determination and autonomy.
- It provides for the indigenous peoples' self-delineation of ancestral domains and ancestral lands. (As quoted by Bennagen 2000:7).

Congressman Andolana filed HB 33 on the creation of a Commission on Ancestral Domain, with about fifty (50) members as co-authors. Senators Juan Flavier and Orlando Mercado introduced Senate Bill 618 and then-Senator Gloria Macapagal-Arroyo SB 343. These bills became the subject of six regional consultations between November and December 1995 and a national consultation at Pagsanjan, Laguna on December 15-17, 1995. These resulted in a bill containing provisions not only from the Senate and House bills but also from the UN Declaration on the Rights of Indigenous Peoples, ILO Convention 169 and position papers submitted by IP organizations to the Drafting Committee. As described by the Drafting Committee, it had "a more wholistic approach (that) would best serve their (IPs') interest. This would in particular mean that the bill should include the protection for rights not only to ancestral domains, but likewise their rights to cultural integrity and rights to self-determination and empowerment" (Dunuan et al 1996).

CNCC then submitted a substitute bill "which was a product of extensive and deliberative broad-based consultations by the indigenous peoples themselves in coordination with the various non-government organizations (NGOs) and taking into account the inputs from the deliberations of the 8th and 9th Congresses. Congressman Andolana noted that the substitute bill and the Senate version have no strong contradictions"³⁶ (CNCC no date: 33). HB 9125 as per Committee Report No. 837 had a hundred and one (101) sponsors.

Strategies

In these consultations were many groups not involved in the previous effort. The sectoral representatives for indigenous cultural communities were the first sponsors listed in the draft bill. Bennagen (2000: 6, 10) identified one of them in particular, Atty. Evelyn Dunuan, as the main initiator of these meetings³⁷. Aside from Dunuan, six of the eight persons who endorsed the results of the consultations to Congressman Andolana were from the PANLIPI-Legal Assistance Center for Indigenous Filipinos. The last signatory was from the Episcopal Commission on Indigenous Peoples of the Catholic Bishops Conference of the Philippines (ECIP-CBCP). The other sponsors of the consultations were the National Peace Conference, the GZO Peace Institute, and a government agency, the Office of the Presidential Adviser on the Peace Process (OPAPP).

³⁶In the Senate, the sponsor was Juan Flavier who grew up in Baguio City, the biggest town of the Cordilleras. Senator Flavier not only saw the bill through the Senate; he also filed a "comment-in-intervention" along with 112 indigenous peoples, Ponciano Bennagen and others, with the Supreme Court. This was in relation to GR No. 135385 (the case challenging the constitutionality of IPRA), dated October 29, 1998 and filed November 10, 1998 (First Peoples, n.d.: 17-18, 39).

³⁷ It strikes this author as strange, however, that as a Congressperson in the Tenth Congress, her name does not appear as a sponsor of the substitute bill her consultations produced in the official copy released CNCC released.

Aside from the bill, the seven-step consultation process also created the Coalition for Indigenous Peoples' Rights and Ancestral Domains (CIPRAD) composed of twenty indigenous peoples' organizations and NGOs. CIPRAD aimed primarily to pursue advocacy for the rights of indigenous communities. CIPRAD proceeded to build a consensus for action, reconcile diverse views into a draft bill, choose the sponsors from the House and Senate, conduct the campaign, and work closely with the staffs of the sponsors and the committees at all stages of the legislative process. (Bennagen 2000). The creation of CIPRAD was a marked change from the process in the Eighth Congress when no one actually took charge.

CIPRAD, indigenous peoples' organizations like TRICAP, the Cordillera Peoples' Forum, the Federation of Matigsalug Manobo Tribal Councils and NGOs like ECIP-CBCP, PANLIPI, GZO Peace Institute participated in the hearings and meetings. Indigenous people themselves attended, giving legislators a first-hand look at these usually out-of-sight people and seeing the extent of their interest in getting the bill enacted. Government agencies like the Offices of Southern and Northern Cultural Communities (OSCC and ONCC), the Department of Agrarian Reform, the Department of Environment and Natural Resources, the Commission on Human Rights, the Office of the Presidential Adviser on the Peace Process and the Presidential Legislative Liaison Office also gave their testimonies, most of which were supportive of the IPs' cause.

The indigenous communities were helped along by sympathetic officers in both Houses. The legislative staff of Senator Flavio Reyes veered away from the traditional strategy of inviting mostly government agencies in hearings and floor deliberations. Instead, they "made it a point to bring into the process those groups that will be directly or indirectly affected by the bill" (Bennagen: 2000: 10). The House Committee Secretariat was likewise responsive, not only in inviting IPs to hearings but also in acknowledging all position papers and making clear updates on the bill's progress.

It was perhaps inevitable that not all IPs were happy about the bill. The Upland NGO Assistance Committee submitted proposed amendments based on a two-day workshop on March 25-26 at the Institute for Social Order at the Ateneo de Manila University. It cited two other consultations - the SRA Quarterly Forum (February 26-March 2, 1997) and a February 20-21, 1997 workshop of the *Kapulungan para sa Lupaing Ninuno* (KPLN, Congress for Ancestral Domain) of Mindoro. The other main IP coalition represented in these workshops was PANAGTAGBO of Mindanao.

The House CNCC also received a letter dated August 6, 1997 and a position paper dated September 12, 1997. The first tried to push for a Mangyan Ancestral Domain Council, noting that HB 9125 "was not as assuring as the Mindoro Bill" (Foundation for the Philippine Environment 1997). The second contained vehement objections of some IPs nationwide to some of the provisions of the Senate and House bills passed on third and second reading respectively. The position paper was made after a three-day consultation at the Institute of Social Order.

Opposing Forces

Outside the ranks of the NGO-POs, the forces against IPRA would tend to be mining, logging, agribusiness and multinational interests, which are well-represented in Congress. In the Eighth and Ninth Congresses, the bills received strong opposition from

within. In 1992, a claim by a lumber magnate-Congressman that the bill was unconstitutional got the ruling from the Speaker, “an owner of a number of ranches in indigenous areas,” to suspend indefinitely the discussion of the bill. This was right at the point of House approval (ESDC Research Team 1997: 22-23). In 1994 it was the Chair of the Senate Committee on National Cultural Communities herself who objected to the bill. (CNCC no date: 31). But perhaps because of the strong and vocal support of President Ramos, opposition to the bill was muted in the Tenth Congress.

Results

IPRA was signed into law on October 29, 1997. The opposing forces re-appeared in the implementation. Concerns of the mining industry, with support from President Ramos, were written into NCIP Administrative Order No. 3, series of 1998. Moreover, the budgets given to NCIP and DENR as implementers of IPRA hardly provided for their task of delineating ancestral domains. Besides, barely a year after its approval, the constitutionality of IPRA was challenged in the Supreme Court with no less than a former Supreme Court Justice as one of the petitioners. The Office of the Solicitor General, acting as counsel for DENR and the Department of Budget and Management filed a comment basically agreeing with the petitioners. The Supreme Court dismissed the petition on December 6, 2000. With the Court divided seven votes to dismiss and seven votes to uphold, the law was presumed to be constitutional (First Peoples 2006:16-18).

The Fisheries Code (Rep. Act No. 8550), Part II³⁸

At the opening of the Tenth Congress, House Speaker Jose De Venecia declared Social Reform Agenda (SRA) bills as among the priority bills. Twenty special committees including the Special Committee on the Fishery Industry were then created to attend to these priority bills. On the side of the disadvantaged groups, NACFAR was still the main coalition, and it continued to espouse the Unity Bill drawn out of consultations made during the Eighth Congress.

Main thrusts

The Unity bill espoused the following principles: empowerment of small fisherfolks, equity, social justice, ecological stewardship, nationalization of the fishing industry, access and control over fisheries and aquatic resources, decentralized management, representation in key government policy and decision making bodies, development of fisherfolk cooperatives, economic empowerment through increased productivity, preferential treatment and recognition of the rights of small fisherfolks and their organizations, food security, sustainable development, comprehensive rehabilitation of fishing grounds, biodiversity conservation, and effective and efficient law enforcement (NGO Technical Working Group for Fisheries Reform and Advocacy Position Paper: undated). It also incorporated provisions that were the bones of contention in the earlier congresses: the inclusion of Fisheries and Aquatic Resource Management Councils (FARMCs, usually further abbreviated into RMCs), the definition of municipal fishing (i.e.,

³⁸The discussion on the Tenth Congress is based on the case study of Dolores de Leon-Gaffud made specifically for this project.

limiting it to fishing vessels of 3 gross tons or less), and the granting of fishpond lease agreements (FLAs) upon the expiration of existing ones to fisherfolk organizations. All these were in line with the proposal of NACFAR as early as the Eighth Congress.

Strategies

In the First Regular Session of the Tenth Congress, seven bills on fisheries were referred to the House Special Committee. NACFAR chose to pursue their Unity Bill, but decided to have it in two versions to gain more adherents and increase the chances of their proposals to be heard. Congressmen Florencio Abad and Wigberto Tañada, bona fide street parliamentarians were chosen as lead sponsors of what they still called the Unity Bill. Congressman Abad was the main author of HB No. 3200, An Act to Democratize the Utilization and Management of the Fishery and Aquatic Resources of the Philippines and Creating a National Council for Effective Implementation of the Code. He was joined by Congresspersons Luz Cleto Bakunawa, Emigdio Bondoc, Raul Delmar, Edgar Lara and Constantino Navarro and appointed party-list representatives Edgar Avila, Leonardo Montemayor, and Leonor Luciano. Representative Tanada sponsored HB No. 3725, An Act to Democratize the Fishery and Aquatic Resources of the Philippines, Creating Resource Management Councils for Effective Implementation of the Code, joined by Constantino Navarro, Eric Galo Acuña, Isidro Rodriguez, Jr., Edgar Lara, Emigdio Bondoc, Raul Delmar and Renato Dragon.

The five other bills submitted to the committee were:

- HB No. 7, An Act Providing for a Philippine Fisheries Code, with Congressperson Socorro Acosta as principal author and 79 co-authors (including House Speaker Jose de Venecia);
- HB No. 122, An Act Providing for a Fisheries Code, authored by Congresspersons Socorro Acosta, Ma. Clara Lobregat, Manuel Garcia, Ralph Recto, Zenaida Cruz-Ducut, Erico Aumentado, Dante Liban, Catalino Figueroa and Manuel Roxas;
- HB No. 335, An Act Providing for a Philippine Fisheries Code, authored by Congressman Rodolfo Albano;
- HB No. 1074, Fisheries Conservation and Management Act, authored by Congressmen Renato Dragon and Dante Liban;
- HB No. 3198, An Act to Codify All Laws on Fisheries and Aquatic Resources, authored by Congressmen Jose Villarosa, Edgar Avila and Manuel Roxas;

HB 3198, which was authored by the committee chair, was called as the SRA Consensus Bill and was adopted by the Committee as the working bill. Among others, it contains the fisherfolk sector's position on municipal fishing, future issuance of fishpond lease agreements (FLAs) exclusively to fisherfolk cooperatives and their organizations, and creation of RMCs.

In the intervening period since its defeat in the Eighth, NACFAR had focused on resource generation and widening of the RMC experiment. After securing a grant from OXFAM for its first RMC pilot project in Camarines Sur, NACFAR was able to get funding from the Foundation for the Philippine Environment for the Sampaloc Lake project in San Pablo City and from Christian Aid for another RMC in Dalaget, Cebu. Its overall objective was to show that the RMC concept in the Unity bill, which intends to

genuinely empower fisherfolks, will work. NACFAR was also able to secure a P25 million grant from USAID for information-education, advocacy and lobbying for a fisheries code.

With the USAID grant, NACFAR's advocacy and lobbying work was bolstered. Thus, in the Tenth Congress it was able to engage in lobbying and media training, nationwide consultation, training of fisherfolk leaders, lobbying at national and local levels, mass action, research, media work, and networking with other NGOs. With NGOs like Tambuyog, OTRADEV, and the Community Extension and Research for Development, it formed the NGO technical working group on the fisheries code for data support and advocacy. To some extent, it also participated in the SRA fisheries sector activities.

In Congress, Coalition representatives discussed their demands with the legislators prior to the hearings and worked closely with the committees and other offices inside Congress that worked on the Code. NACFAR's representatives were called to meetings not only on the Code but also on other programs of line departments and local governments. It managed to get media coverage to make its positions known to the public. NACFAR's renewed strength and popularity gave the Coalition a niche in discussions on issues affecting the fisherfolks sector, the fishing industry, and fisheries and aquatic resource management.

NACFAR's advocacy and lobbying produced several agreements, resolutions and position papers coming from various fisherfolk organizations and local government units. These were then separately submitted to Congress, to impress upon the legislators the wide support of NACFAR's advocacies. The papers centered on the defense of fisherfolks and LGUs on the arguments of commercial fishers regarding municipal fishing, capacity of small fisherfolks to fish beyond seven kilometers, modernization, destructive fishing, and contribution to fish production.

On May 16, 1996, about a thousand municipal fisherfolks hailing from communities from Batanes to Zamboanga marched to the House of Representatives to press the solons to immediately pass the Coalition's "democratic fisheries code" to replace PD 704 of 1975. Then and there, Speaker de Venecia and Congressman Villarosa signed a covenant with NACFAR leaders binding the signatories to the repeal of PD 704 and the passage of a law close to the principles of the Unity bill.

In the committee hearings, NACFAR fought for its definition of RMCs, municipal fishing, use of municipal waters, granting of FLAs to fisherfolks, banning of fish pens and fish cages, fisheries resettlement area, and banning of foreign vessels – the most contentious issues fought hard with commercial fishers and fishpond operators (Manaog 2006; Miciano 2006). In the Committee hearings, the original SRA bill gave in to the coalition's demands except for the powers of RMCs and the banning of foreign vessels.

The final bill (HB No. 7366), however, reverted to the old provisions that protected commercial fishers and fishpond operators. Representatives Abad and Tañada, as well as their sectoral representatives³⁹ told the fisherfolks that they were given very short notice by the Committee and thus failed to attend the meeting (Araullo 1996). The issue

³⁹ These were representatives Adolfo Geronimo, Arturo Olegario and Vicente Tagle who were identified as representatives of the peasant sector but who were regarded by fisherfolks as their own. Recall that Olegario was appointed to the 8th Congress as fisherfolk representative and to the 19th as from the peasant sector.

of lack of quorum became a ground for certain groups to reject the final bill and ask for the re-convening of the committee (BFAR July 1996; NACFAR September 1996).

In June 1996, the SRA Fisherfolks Sector convened a Special Committee to review the House Committee Report No 485 that produced HB No. 7366. The committee was composed of representatives from different government agencies, fisherfolk leaders, other NGOs and the Social Reform Council Secretariat. The report was forwarded to the House Special Committee on the Fishery Industry with the following recommendations:

- The number of gross tonnage of fishing vessels allowed to operate inside municipal waters should revert to three (3) gross tonnage as provided for in the amended HB 3198, and not 50 gross tonnage;
- The preferential granting of fishpond lease agreements (FLAs) should be to fisherfolk organizations, and not to present FLA holders, as originally provided for in the amended SRA bill (HB 3198);
- The provisions on fisherfolk resettlement areas, which have been deleted, should be restored;
- The Municipal Fisheries Grant Fund, Fishery Loan and Guarantee Fund, Science and Appropriate Fishing Technology (Approfishtech) Fund, Aquaculture Investment Fund, provisions on the automatic appropriation of receipts, and budgetary appropriation should be restored (SRA Fisheries Sector Special Review Committee June 1996).

NACFAR also prepared a position paper condemning HB 7366, specially the last-minute changes made by the committee on the declaration of state policy, definition of municipal fishing, users of municipal waters and issuance of FLAs in the aquaculture sector.

At the committee, a compromise was made on users of municipal waters, similar to the provisions of the substitute bill in Senate (SB No. 1708) which NACFAR failed to guard (Miciano Interview May 2006). Thus Section 18 of RA 8550 states that:

All fishery related activities in municipal waters,.... shall be utilized by municipal fisherfolk and their cooperatives/organizations...The municipal government, however, may ... authorize or permit small and medium commercial fishing vessels to operate within the ten point one (10.1) to fifteen (15) kilometer area from the shoreline

The future issuance of FLAs exclusively to fisherfolk cooperatives and organizations was restored. As for the creation of special funds and appropriations, the committee persuaded the fisherfolk sector to accept those provisions for the immediate passage of the law. As these provisions were already in the Senate version, the committee asked the representatives of the fisherfolks to leave the final provisions to the bicameral conference. The bicameral conference restored the special funds but not the new appropriations.

Opposing forces

Being included in the Social Reform Agenda did not deliver to the fisherfolks their desired Fisheries Code on a silver platter. For one, the SRA seemed to have provided general support for the fisherfolk sector, but did not necessarily incorporate all their demands. They continued to have face-offs with commercial fishers and fishpond

operators at all stages of the legislative process. Thus, they had to soften their definition of municipal waters, and accept the deletion of special funds that they had fought for. The inclusion of provisions in the bill coming out of Committee – after the fisherfolks thought their side had won – was a silent affirmation that some opposing forces were in Congress itself. NACFAR's concentration on the Lower House also had its costs, since some provisions they did not desire were considered in the bicameral committee because it was in the Senate version.

Results

RA No. 8550, which was signed in February 1998 turned out to be a compromise between the small fisherfolk sector and commercial fishers. Even before its passage, NACFAR had prepared itself to accept certain compromises in the final code. Its plan was to engage in implementation and monitoring and long-term parliamentary work such as working for the amendments of certain provisions in the law. The Coalition then sought another grant from USAID for engagement in the Code's implementation and monitoring. However, at the end of the three-year grant, NACFAR had disbanded and failed to secure the funds from its donor (Manaog Interview 2006).

The Social Reform and Poverty Alleviation Act (Rep. Act No. 8425)⁴⁰

Signed into law on December 11, 1997, RA No. 8425 was an attempt to institutionalize the Social Reform Agenda (SRA) – the key anti-poverty program of the Ramos Administration – and establish a national action program to alleviate poverty. It was initiated in the Lower House by House Speaker Jose de Venecia, with 79 co-authors. It was launched during the opening of the Tenth Congress as a priority bill (HB No. 1). In 1996, then Senators Leticia Shahani and Gloria Macapagal-Arroyo also introduced bills on a national strategy for social reform and poverty alleviation. All three bills had three major components: 1) the creation of a high-level poverty alleviation coordinating body at the national level; 2) the establishment of a financial institution to administer micro-credit facilities for the poor; and 3) the establishment of a trust fund to support capability-building for NGOs, POs and cooperatives engaged in poverty alleviation work. The bills received strong opposition from executive agencies and government financial institutions particularly on components 1 and 2 that the committees resolved to delete the second component and adopt the general view of using existing institutions for the delivery of financial services to the poor. The substitute bills were swiftly approved at the bicameral conference.

Main thrusts

The salient features of the law are:

- Adoption and integration of the principles embodied in the Social Reform Agenda and its sector-specific programs in the national anti-poverty action agenda;
- Creation of the National Anti-Poverty Commission (NAPC), which shall serve as the coordinating and advisory body for the implementation of the Social Reform and Anti-Poverty Agenda;

⁴⁰ This is based on the case study of Dolores de Leon-Gaffud made specifically for this project

- Institutionalization of basic sector and NGO participation in planning, decision-making, implementation, monitoring and evaluation;
- Representation of 14 basic sectors in the NAPC. These sectors are the: farmers and landless rural workers, artisanal fisherfolk, urban poor, indigenous cultural communities/indigenous peoples, workers in the formal sector and migrant workers, workers in the informal sector, women, youth and students, persons with disabilities, victims of disasters and calamities, senior citizens, NGOs, children, and cooperatives;
- Establishment of a People's Development Trust Fund for capability-building and support system for micro-enterprise and microfinance for the poor;
- Adoption, integration and enhancement of the SRA's flagship program on credit for the poor (i.e., microfinance);
- Enhancement of the role of the People's Credit and Finance Corporation as the vehicle for the delivery of microfinance services;
- Mechanisms by which the poor can save and access credit for microenterprises.

Strategies

RA 8425 was an initiative of the leading party during the administration of President Ramos. Launched as a priority bill, the final House version was co-authored by 95 percent of Representatives. In the Senate, the sponsors, principally Senators Ralph Recto⁴¹, and Juan Flavio Velasco, were all members of Lakas-NUCD. The conference committee did not play a big role since the bills did not vary very much from each other.

The proposed legislation was subjected to hearings and consultations with the different executive agencies, government financial institutions, local officials, academics, the business sector, and several NGOs, POs and cooperatives. Civil society organizations that were consulted include the National Peace Conference (NPC), *Sentro ng Alternatibong Lingap Panligal* (Saligan, Center of Alternative Legal Care), Punla Development Foundation, Center for Alternative Development Initiatives, Federation of Free Farmers, NASALU, Inasaw, Sanduguan, Sipag Urban Poor, Krus na Ligas Cooperative, UP Multi-Purpose Cooperative, among others.

The National Peace Conference, a major player in the formulation of the SRA, provided major inputs in the preparation of the final bills.⁴² NPC is an assembly of about 500 organizations and individuals whose mission is to fulfill the basic sector's agenda through direct engagement and advocacy with government and concerned parties. Among its programs are advocacy of the basic sectors' political and economic issues, support for direct and genuine representation in governance, and cooperation and joint action among civil society networks.

The proposed legislation was welcomed by the CSOs who attended the meetings called by the committees as they saw it as an avenue for the effective participation of the basic sectors in poverty alleviation and a means to push the basic sector's agenda. A major recommendation to the mother bill was the adoption of the principles and implementing guidelines of the Social Reform Agenda, which embodied the positions and sentiments of the basic sectors. Another concern pertained to the implications of the creation of

⁴¹ Senator Recto was then Chair of the Special Committee on Poverty Alleviation as well as of the Committee on Rural Development.

⁴² It may be recalled that NPC also participated in the passage of the IPRA.

NAPC on the government's policy of streamlining the bureaucracy. The third, and the only recommendation NPC did not get, involved increasing the trust fund for capability-building from P5 billion to P10 billion.

A review of proceedings during committee hearings and meetings with NGOs, POs and cooperatives reveal that most of the concerns raised are implementation issues such as financing models, interest rates, collaterals and repayment schemes. The committee secretaries who worked on the legislation averred that they invited many other NGOs and POs to the consultation meetings but the latter preferred not to engage themselves in the process.

Opposing forces

Negative comments about certain sections of the bills came from government agencies rather than stakeholders in the market. Thus, bones of contention dealt with the institutional and financial approaches to fight poverty and did not embody an opposition to the bill itself. Executive agencies and government financial institutions came up with separate position papers, official comments and recommendation, and a unified position that called for Presidential intervention regarding the proposed legislation considering the Speaker himself, the president's sister and a former president's daughter were their main sponsors (Torres 1996).

On the creation of NAPC, the agencies reiterated and asserted that the Legislative-Executive Development Advisory Council (LEDAC) is mandated by law as the overall coordinating body for poverty alleviation and that a national poverty alleviation program can be anchored within LEDAC by simply creating a Poverty Alleviation Committee. They also contended that the representation issue may be addressed by expanding the membership of NGOs in LEDAC. With 18 coordinating bodies dealing with poverty alleviation, the establishment of a "superbody" or NAPC would be duplicative, confusing and inefficient.

On micro-credit facilities, the agencies proposed to designate the People's Credit and Finance Corporation to serve as the primary vehicle for delivery of microfinance service to the poor. They also proposed the promotion of a wide application of the Grameen-type and other indigenous microfinance mechanisms for the poor. They believed that they would work better than a separate financial entity with government resources and with a separate banking system governed by a different set of rules which will only complicate the conduct of monetary policy and prudential regulation of banks.

The unified executive position was based on the outcome of the Anti-Poverty Summit in 1996 where the NGOs opposed the government's proposed alternative delivery mechanism, i.e., the Community Bank for the Poor, and supported Grameen operation and indigenous financing schemes. In a handwritten note to the Paper, the then Finance Secretary reiterated that the President strongly stated his preference to use existing institutions and modalities and strengthen coordination.

The above concerns were shared by at least three (3) academics who attended the committee hearings and submitted detailed comments and recommendations on the bills.

On the whole, the professors and economists opined that any proposal to create a government body or financial entity should be based on a study as to their rationale, feasibility and viability, and implications on the bureaucracy, government resources, and the public. Such was not the case of the bills when they were filed.

Results

The Social Reform and Poverty Alleviation Act was signed on December 11, 1997. Signed with a flourish by President Ramos, its implementation really fell on his successor, President Joseph Ejercito Estrada. While the law provides that the basic sectors must choose their representatives from among themselves, President Estrada allowed the direct nomination of candidates to the seats of basic sector representatives from all comers. A group called KATINIG asked the Supreme Court to bar the President from directly appointing NAPC sector representatives. However, the Court dismissed the case for lack of merit (Bennagen: 18-19).

The Anti-Rape Law of 1997 (Rep. Act No. 8353)⁴³

In the Revised Penal Code (Act 3815), rape was defined as a crime against chastity, a private offense. Passed on December 8, 1930, the Code is not informed by international covenants that recognize violence against women as a violation of human rights. The Philippines is a signatory to the Universal Declaration of Human Rights (1948), the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Declaration the Elimination of Violence against Women (1993), among other international covenants recognizing women's rights as human rights. However, up to the time this law was passed, the country continued to regard rape as a problem which an aggrieved party or guardians must bring against an offender, not an act committed against "the People of the Philippines."

Main thrusts

The bill seeks to redefine the concept of rape and change the penalties to be imposed upon the offender. The new definition first changes rape into a crime against persons, not against chastity. It also enlarges the concept to add to penile penetration of the female genitalia such acts as penile penetration of the anus, penile insertion into the mouth, insertion of other objects into any orifice of another person and forced sexual intercourse with an animal. Recognizing marital rape, it goes against the old notion that a woman surrenders her body to her husband upon marriage, removing from her the liberty to consent first to sexual relations.

The bill also recognizes rape as an act of violence against a woman, and is independent of that woman's sexual activeness or moral character and of any amorous relationship she may have with the defendant. It removes resistance on the part of the woman from the definition of rape, arguing that she may freeze in fear, or realize that resistance would bring her more harm. Lack of consent may also be read into acts where there is abuse of authority or relationship, making unnecessary threats or intimidation on the part of the man, or deprivation of reason or consciousness on the part of the woman.

⁴³ This is based on Reyes (1997).

Evidentiary requirements and protective measures for the complainant are also built into the law to maintain the dignity of the latter.

Although a heinous crime, the strongest penalty for rape should be life imprisonment, since the advocates are against the death penalty. They also ask that rape be treated as a separate offense in complex crimes, and additional damages be awarded to victims if they get AIDS, become insane, disfigured or disabled, or are killed by reason of the rape.

Strategies

In 1992, eleven women's organizations formed themselves into a coalition called *Sama-Samang Inisyatiba ng mga Kababaihan para sa Pagbabago ng Batas ng Lipunan* (SIBOL, or United Initiative of Women for the Improvement of the Laws of Society). This was a radical idea for this group of radical activists who had to think long and hard before agreeing to come down to a "reformist" approach. That decision having been made, however, SIBOL proceeded to their legislative advocacy very systematically. First, they asked one of their members, the Center for Legislative Development⁴⁴, to orient them on the legislative process. Then they decided against a shotgun approach and focused their energies on violence against women (VAW). They selected this priority for five reasons:

- The growing consciousness in the women's movement that VAW is a public, not a private, issue
- The realization that VAW has a strong mobilizing effect because any woman can become a victim of violence
- The involvement of most SIBOL members on this issue (e.g., crisis centers, counseling, working with prostituted women, etc.)
- The availability of research-based information on the subject
- The proliferation of anti-VAW bills filed in Congress, most of which did not reflect the women's perspective (Reyes 1997: 230).

Further, rape was chosen as the example of VAW because of the increasing number of cases, the increasing brutality of cases, and because "the existing rape law is one of the most sexist and anti-woman laws of the country" (Reyes 1997: 230).

To draft the bill, SIBOL assigned one of its members, the Women's Legal Bureau. The WLB draft was subjected to months of consultations with various women's groups. It was introduced in the Ninth Congress by the respective House's Chairs of the Committee on Women: Glenda Ecleo in the House, and Nikki Coseteng in the Senate. SIBOL perked up the interest of media, got invited to TV and radio programs and were quoted in newspaper items and columns. They lobbied strategic committees and members of both Houses extensively (including known opponents of the bill), testified in committee hearings (walking out on one), provided legal opinion, and shared the agony of rape survivors. However, the House adjourned without the bill reaching the floor. They fared better in the Senate where it was debated on second reading.

The experience in the Ninth was not wholly a failure. Aside from learning the ropes of the legislative process and thrusting the issue of rape into the public agenda, SIBOL

⁴⁴ The head of this group is the author of the original case study.

members realized that they had empowered themselves: they had taken charge of their own lives, and expressed what they, as women, want to be.

Not forgetting the two tracks that CPAR first used, SIBOL also explained the bill to their chapters in rural areas and among the urban poor. Thus mobilized, peasant, worker and urban poor women endorsed the bill. In November 1992, they had a march to observe The Day to End Violence. They also had regional consultations on Family Violence Prevention.

Another bonus was growing support from government, especially the National Commission on the Role of Filipino Women (NCRFW).

When the Tenth Congress rolled around, SIBOL was better prepared. They had new strategies. The first was to obtain a better knowledge of the profiles of members of Congress, and thus an identification of their potential allies and opponents (whom they could woo to their side). The second was to arm themselves with more research to better convince legislators. This included finding a Supreme Court decision (in 1921!) that recognized marital rape, learning about comparable laws in other countries, and digests of rape cases. They also decided on their non-negotiables: the expanded definition of rape, its reclassification as a crime against persons, and unqualified marital rape.

Another new recognition was the importance of Committees other than the mother Committee on Women and Family Relations. These were the Committee on the Revision of Laws, under which a new law on rape would fall, and the Committee on Rules, which holds the calendar for floor deliberations. As in the Ninth Congress, they followed deliberations in both Houses and testified in Committee hearings. And they also learned to befriend the committee secretariats who had inside information on schedules, guests for hearings, the documentation of proceedings, updates on developments and the like.

Going to the President, they also got him to include the rape bill within the Social Reform Agenda. In addition, they got media coverage and continued the mobilization of support from women (and men) all over the country.

Deliberations of both Houses took place almost simultaneously. By Reyes' analysis, the Senate bill hewed more closely to the provisions of the SIBOL bill. To reconcile the differences, a bicameral conference committee was chosen. Out of eleven members, the House contingent had six women, including the Chair of the Committee on Women and the women's sectoral representative. The Senate had six women and three men. SIBOL sent letters and position papers to all the bicam members. However, the Chair of the House Committee on Women explained to SIBOL why she could not accept their version. The principal sponsor said the same thing.

When the bicam finally met after several postponements, ten members of SIBOL managed to get inside the meeting room, with the help of the Chair of the Senate Committee on Women. However, they were asked to leave. Outside, along with other supporters, they staged a picket to urge the bicam to pass a progressive law. As Reyes described it (1997: 243):

The bicameral conference committee meetings were marred by resignations, walkouts, shouting matches, accusations, counter-accusations, and the like.

When it ended, however, the bicam had a bill that later passed both Houses.

Opposing forces

Much of the opposition was inside the halls of Congress. Gender was not necessarily the dividing line, because there were many men who supported the bill. And as Reyes implied, at the last minute, two ranking women in the House expressed that SIBOL could not get what it wanted. The bill had been described as “too radical” and “overhauling established principles of jurisprudence,” (Reyes 1997: 236), implying the opposition of conservative forces, especially among lawyers.

Results

The New Anti-Rape Law (Republic Act No. 8353) was approved by the President on September 30, 1997. As SIBOL advocated, rape was reclassified into a crime against persons. There was also some change in the evidentiary requirements to prove rape. However, the definition of rape was more constricted, with insertion into a mouth or an anal orifice by a penis or any instrument or object declared only as “sexual assault.” The provision on marital rape was the one that posed the greatest threat to the approval of the bill as “a significant number of male legislators rejected the inclusion of marital rape in the law even in the most indirect way” (Reyes 1997: 243). Indirectly, however, marital rape was written into the law with the provision that “in case it is the legal husband who is the offender, the subsequent forgiveness by the wife as the offended party shall extinguish the criminal action or the penalty.”

Beyond the SRA: Cases of Intervention of Disadvantaged Groups in the Tenth Congress and After

Two cases are discussed in this Chapter. The first is chronologically the later one but it is presented first because it has more similarities with the cases discussed in Chapters III and IV. As in the earlier cases, the participation of the disadvantaged groups in the Anti-Child Labor Law case is primarily to get the bill passed. On the other hand, the preoccupation of those groups in the Anti-Terrorism Bills is to stop their passage. It may be instructive to compare their strategies in a negative advocacy as opposed to positive ones.

As in the previous case chapters, each case will introduce the issue, discuss the main thrusts of the bills, describe the strategies of the disadvantaged groups and the opposing forces, and lay out the results of their efforts.

The Anti-Child Labor Law (Rep. Act No. 9231)⁴⁵

Around six million Filipino children are employed in almost all sectors of the economy. The terms and conditions of much of their employment are deemed questionable and undesirable. In the agriculture sector, many child workers work for long hours and are exposed to toxic pesticides and other harmful chemicals. Some children are also employed in dangerous forms of coral reef fishing, which exposes them to sharks and needlefish attacks. In factories, many child workers are exposed to hazards. In the streets, their health and safety are at stake. In addition, street children in the country darting between vehicles to beg or sell small items have been estimated to be from over 100,000 (DSWD) to over a million (Visayan Forum Foundation, Inc.).

Every child has the right not only to the most basic necessities in life but also to be a child. Yet poverty forces many children to engage in economic activities even at very young ages.

To rectify the situation, the State has adopted national and international legal instruments aimed at protecting children from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development. The International Labor Organization (ILO) Convention 182 (1998) calls for the elimination of the worst forms of child labor. In addition, there are the 1987 Constitution, the UN Convention on the Rights of the Child, the Labor Code of the Philippines, the Child and Youth Welfare Code, the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, the Act Prohibiting the Employment of Children Below 15 years of Age in Public and Private Undertakings. Although perceived as indispensable tools to achieve the desired goal of full protection of children, they have not sufficiently addressed the issue of hazardous work among children.

Main thrusts

⁴⁵ This is based on the case study of Dolores de Leon-Gaffud made specifically for this project.

The bill was intended to be the Magna Carta for Child Workers and to have all of the following features:

- A listing of the specific commitments of the Philippines as a State Party to the Convention on the Rights of Children and the ILO Convention 182 in the Declaration of State Policy provision;
- The incorporation of the definition of hazardous work as stipulated in DOLE Department Order No. 4 (1999) and the ILO Convention 182;
- Provisions that are specific on terms and conditions of employment of children which will include their normal hours of work, prohibition on overtime work and night work, their wages, parental authority and the right of the child to his wage, employment records, health and proof of age requirement, and their social security benefits;
- Provisions specific on the special rights of working children that include their access to education, training and apprenticeships, parental effectiveness services for their parents, specific study, rest and recreation areas, their right to self organizations, and provisions of immediate emergency services;
- Penalties for subcontractors, not just the main employer, for the violations of not promoting and protecting the special rights of children under their employment;
- Provisions for the administration of the law and corresponding funds for that purpose; and
- Partnership and consultation with NGOs and support groups for children in issues affecting their programs and beneficiaries.

Strategies

The team that produced the bill was originally brought together to work for the Philippine government's ratification of ILO Convention 192. That ratification was accomplished in 2000. Next came the preparation of a legislative agenda in consonance with the international agreement and its program, the ILO-International Program on the Elimination of Child Labor (ILO-IPEC). From the outset, the work was a GO-NGO collaboration with international support. On the government's side was the Department of Labor of Employment's Bureau of Women and Young Workers (DOLE-BWYW) and the Council for the Welfare of Children (CWC). Close to 30 civil society organizations (CSOs) led by the Visayan Forum Foundation, Inc. and the Ateneo Center for Human Rights' Adhikain Para sa Karapatang Pambata (ACHR-AKAP) worked closely with BWYW and CWC for the ratification of ILO Convention 182. The legislative proposal, called a Magna Carta for Child Workers, was crafted by ten NGOs, also led by Visayan Forum and ACHR-AKAP in close coordination with DOLE, BWYW, DOLE-Institute of Labor Studies, CWC and the National Economic Development Authority (NEDA) Social Development Division.

The Visayan Forum Foundation, Inc. (VF) is a non-government organization established in 1991 that works for the welfare of marginalized migrants, especially those working in the invisible and informal sector like domestic workers, trafficked persons, and children. VF has a staff complement of 82 and operates nationwide with offices and Halfway Houses in Manila, Bacolod, Batangas, Davao, Iloilo, Cebu, Matnog and Sorsogon. VF has served in international and national programs in various capacities – Philippine and Southeast Asian Secretariat, Global March Against Child Labor; Convenor, Task Force on Child Domestic Workers in Asia; Convenor, Multisectoral Network Against Trafficking

in Persons; Convenor, Anti-Trafficking Task Force at the Ports; Member, ILO Convention 182 National Monitoring Team; Vice-Chair, Philippine NGO Coalition on the United Nations Convention on the Rights of the Child; and, Member, Cluster on Labor and Employment of the Bishops-Businessmen's Conference for Human Development.

The Visayan Forum worked closely with an academic institution, the Ateneo Center for Human Rights (ACHR) through its *Adhikain Para sa Karapatang Pambata* (AKAP), the Center's Children's Rights Desk. Established in 1986, ACHR is one of the first university-based institutions engaged in the promotion and protection of human rights in the Philippines. It is attached to the law school of the Ateneo de Manila University. AKAP specializes in cases involving children. Aside from litigating cases, AKAP is engaged in research and advocacy on various issues like child labor, child rights, the juvenile justice system, child abuse and inter-country adoption.

Other organizations involved in crafting the legislative proposal included the Educational Research and Development Assistance (ERDA, an NGO), the Trade Union Congress of the Philippines (TUCP), Federation of Free Workers (FFW), and the Employers Confederation of the Philippines. Except for ECOP which represents the biggest corporations in the country, the civil society component of the Anti-Child Labor team consists of NGOs and labor groups representing the disadvantaged.

The proposed Magna Carta for Child workers is thus a product of an international agreement and program, inter-agency (government and NGOs) collaboration, and existing policies of the government. It is guided by international and national conferences, meetings and workshops, studies, surveys and documentation. It was lobbied along with two other important pieces of legislation, the Anti-Trafficking Law (RA 9208) and the Domestic Workers Bill (SB No. 1772 and HB No. 1606), both of which also originated from the CSOs.

Visayan Forum has been working not only with disadvantaged groups for the past 15 years, having as its advocacies not only the rights of children but also those of the informal sector, domestic workers and trafficked persons. It started as an advocacy group for women, and moving into the rights of children was a natural progression. It has full-time staff, generous funding and support from several international donors and has some funds allotted to legislative agenda and lobbying. It claims that it can count on the support of more than a hundred CSOs when the situation calls for it and is in good standing with international organizations and programs.

Visayan Forum has experience in parliamentary processes, having been in and out of Congress on behalf of the bills on trafficking and domestic workers for over ten years now. One of its first major strategies was to partner with DOLE and BWYW and other national line agencies. Thus, the bill they espoused profited from government support and technical expertise, while ensuring its acceptability to its purported beneficiaries.

In the parliamentary campaign, the strategy was to put DOLE as the lead agency, ACHR as the legal and legislative arm, and the Visayan Forum leading the NGO sector. They decided to file their draft Magna Carta only in the Senate as there were already existing bills in Congress. They chose a sponsor who was perceived to be pro-children, articulate and convincing. As it turned out, however, it was the committee chair, Senator Ramon Magsaysay, Jr. who fought up to the bicameral conference for the passage of the bill. Visayan Forum and ACHR-AKAP worked closely with Senator Magsaysay and his staff

when it became clear to them that the bill was not among the original sponsor's priorities. Briefings on the issue of child labor and on the proposed legislation were also held with the other members of the Senate Committee on Labor (i.e., Senators Jaworski, Pangilinan, Pimentel and Estrada) and their respective staff to prepare the legislators for the hearings. CSO lobbying entailed many other tasks: making sure that the bill was put in the calendar of hearings, anticipating questions that may be asked, preparing answers and supporting documents, holding exhibits on child labor and child workers to call the attention of the legislators on the magnitude of the problem and the urgency of passing a law eliminating child labor. Eventually, the team brought over a hundred child workers to the Senate to give their testimonies.

In the Lower House, four bills have been filed, all addressing the issue of hazardous occupation among children: House Bill Nos. 41 (by Rep. Julio Ledesma IV, former Chair, House Committee on Labor), 762 (by Rep. Cynthia Villar), 2250 (by Rep. Bellaflor Angara-Castillo) and 2240 (by Rep. Roseller Barinaga, Chair, House Committee on Labor). They were consolidated into H.B. 4235 in January 2002, with the title, "An Act Prohibiting and Penalizing the Employment of Children in any Public or Private Undertaking or Occupation which is Considered Hazardous to their Life, Safety, Health and Morals, or which Unduly Interferes with their Normal Development." This bill lacked many of the provisions in the GO-NGO's proposed bill, but the proponents anticipated some difficulties in penetrating the Lower House and in getting the nod of congressmen on a legislation that calls for the creation of a program and budgetary appropriations. It was also out of respect for the author of the mother bill in Congress, Congressman Ledesma, who attended the ILO Convention, that the inter-agency committee decided to work with Senate. It was assumed that the congressman will revise his bill in accordance with ILO 182. Still, the CSOs managed to be in the last committee hearing and plenary at the lower house.

While the Committee Chair (author of the consolidated bill) assured the resource persons that their suggestions will be taken into consideration, the consolidated bill and the committee report did not include any of the suggestions made by the department agencies and CSOs. The committee argued that some of the recommendations were already covered by existing laws while the others appeared more like blindly abiding by international standards or standards in advanced countries without understanding the situation in the Philippines.

At the bicameral conference (usually, a closed-door conference), the Lower House representatives were caught off guard when they were presented with the Senate's Magna Carta for Child Workers and the presence of CSOs. The most contentious issue was the title of the Senate bill, which, according to the Lower House committee, gives the impression that the country is encouraging child labor when the intention is to eliminate it. It also suggests that it is the first time the Philippines is passing a law protecting the rights of children and discouraging child labor when several laws have already been enacted. The Lower House committee also found many provisions in the Senate version already covered by existing laws, giving them the suspicion that it was but a compilation of provisions in existing laws to make it appear comprehensive, thus, a magna carta. The more controversial source of disagreement dealt with the budgetary requirements called for by the Senate bill. Congressmen, according to some sources were not keen in passing laws that require budgetary appropriations.

In the final conference committee meeting, the conferees agreed to use the Senate version as the working draft for its extent and scope. However, “Magna Carta for Child Workers” was changed to a more specific title and provisions that are already covered by existing laws and those that can be outlined in the implementing rules and regulations were deleted.

Opposing forces

Opposition to the bill is unlikely to be strong, with the main government regulator working in tandem with civil society, and the Employers Confederation endorsing it along with trade unions. There was support in both Houses. For some, this because of earlier predispositions towards women’s and children’s rights; House authors like Angara-Castillo and Villar are prominent advocates of women’s rights; Ledesma’s stint as Chair of the House Committee on Labor and participation in the ILO conference. The others showed willingness to listen to the proponents (e.g. Magsaysay and the other senators). What can be perceived instead is a House-to-House rivalry, with the Lower House uninterested in bills with budgetary implications; it could have correctly insisted in fact that an appropriations measure should emanate from it. In the end, an appropriate compromise in the form of the Trust Fund and a more descriptive title and coverage of the law was arrived at.

The absence of opposing forces in Congress may show that there would hardly be a constituency against children’s rights. Thus the legislative strategy did not involve media, and many who were legitimately or illegally hiring child workers might not have been aware of the bill until its passage. Opposition emerged only when the Act was waiting for the signature of the President. At the Office of the President, some groups from the entertainment industry complained that they were not consulted on the bill and lobbied for the President to veto it. They were alarmed by the provisions on the working time and hours of work for child workers. To thwart any attempt to veto the passage of their law, the CSO initiators used the media by issuing a press release on the law and appearing on a TV talk show. They also posted an appeal, which was signed by about a hundred CSOs, that the President not veto the law. They succeeded, and President Arroyo signed the bill into law on December 19, 2003.

Results

Republic Act No. 9231, more popularly called the Anti-Child Labor Law became law at the end of 2003. Instead of a free-standing magna carta, what was passed had the following title: “An Act providing for the elimination of the worst forms of child labor and affording stronger protection for the working child, amending for this purpose Republic Act No. 7610, as amended, otherwise known as the “Special Protection of Children against Child Abuse, Exploitation and Discrimination Act.” The salient provisions of the law include the following:

- A “Declaration of State Policy and Principles” that reflects the spirit and intent of the provisions of ILO Convention 182;
- Provisions for the working hours of a working child aged below 15 and those aged 15 but below 18;
- Determination of the ownership, usage and administration of the working child’s income;

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- Provisions for the setting up of a trust fund to preserve part of the working child's income;
- Prohibition in the engagement of a child in the worst forms of child labor;
- Requirement for employers to provide a working child with access to at least primary and secondary education;
- Provisions of working children for access to immediate legal, medical and psycho-social services;
- Provisions for stiffer penalties against acts of child labor, particularly its worst forms, and penalties for parents and legal guardians who violate the provisions of the Act with a fine or community service;
- Authority for the Department of Labor and Employment (DOLE) to administer and disburse the fine imposed by the court as a Trust Fund for the needs of the working children who are victims of the violations of the Act, and for programs and projects that will prevent acts of child labor;
- Provisions for the speedy prosecution of child labor cases; and
- Exemption of child labor victims from paying filing fees for recovering civil damages.

It is evident that the law incorporated most of the demands of the non-governmental organizations, and what they lost they could live with. Although they did not get a full magna carta, they were able to prohibit the worst forms of child labor and set provisions for the employment and working conditions of children. Although they did not get a consultative and funded program, they had the Trust Fund from the fines. Besides, since DOLE has been their partner from the start, they could count on not being left out of the loop as regards possible problems in the implementation of the law. At BWYW, a mechanism is in place for the participation of civil society partners in issues that affect their programs and beneficiaries. All in all, the law was a victory for the NGOs and the children they represent.

The Anti-Terrorism Bills⁴⁶

In his State of the Nation Address in 1995, President Fidel V. Ramos decried terrorism as a heinous crime and asked Congress to pass a law penalizing it with life imprisonment or death. This was in the wake of several bombing incidents in Mindanao, the bombing of a Philippine Air Lines plane, the discovery of a planned assassination of Pope John Paul II and the arrest of foreign terrorists in Philippine soil. The State believed it needed an anti-terrorism bill in order to protect the people.

Main thrusts

Three versions of the anti-terrorism bill were subsequently filed in the Tenth Congress⁴⁷. In the House, Congressman Roilo Golez filed HB No. 206, adopting, almost in toto a draft submitted to Congress by the Department of the Interior and Local Government (DILG). Sen. Juan Ponce Enrile's proposal (SB no. 1353), like HB No. 206,

⁴⁶ This case is based primarily on Diokno (1997).

⁴⁷ A fourth bill came from the Department of Justice entitled "An Act punishing the crime of terrorism by amending Article 123 of Section Three, Chapter One, Title One, Book Two of Act numbered Thirty Eight Hundred and Fifteen, otherwise known as the Revised Penal Code, and for other purposes. It was submitted to the Joint Legislative-Executive Development Advisory Council (LEDAC) but was not sponsored by any legislator.

encompassed both domestic and international terrorism. Senate Bill (No. 264) was filed by Senator Orlando S. Mercado, with the title “An Act to protect the State against Aliens and Organizations engaged in international terrorism (Amending the Philippine Immigration Act of 1940).” HB 206 defines terrorism as a violent attack to advance a political cause; SB 1353 expands the causes to “ideological, political, religious, cultist and/or personal cause or purpose.” All provide a long list of prohibited acts constituting terrorism with SB 1353 going so far as to include “providing training, soliciting funds, food, medicine or other material.”

The powers granted law enforcement officers probably had the most chilling effect on civil society. The mildest of these was in SB 264 which included:

- Conduct of ex-parte hearing whenever evidence to be submitted by government... tends to prejudice national security
- Barring petitions for certiorari or other extraordinary relief placing burden of proof on accused alien.

HB 206 and SB 1353 would both give the following powers:

- Authority to intercept communications
- Authority to inquire into bank accounts
- Authority to keep persons arrested without warrant for a certain number of days or hours before presenting them before the proper Court.

The limit for a warrantless arrest in Golez’s house bill is 72 hours while the Enrile Senate bill is for as long as thirty days.

The stance of civil society against all the bills in general was angry opposition, on four counts:

- They feared that it signaled the return of authoritarian rule
- The bills contained provisions incompatible with human rights
- The bills were severely flared and subject to abuse;
- The bills could not and did not address the real problem of terrorism in the country (Diokno 1997: 153)

Civil society here includes the churches,⁴⁸ labor federations,⁴⁹ peoples’ organizations⁵⁰, human rights groups⁵¹, lawyers’ associations⁵², even organizations of the business sector.⁵³ Two coalitions were formed within a week of each other in January 1996 – the Coalition against State Terrorism (CAST) and the Network opposed to Martial Rule.

⁴⁸ The Roman Catholic Church, charismatic groups, the Association of Major Religious Superiors, the National Council of Churches in the Philippines and the United Church of Christ in the Philippines, among others.

⁴⁹ Trade Union Congress of the Philippines, *Bukluran ng Manggagawa para sa Pagbabago* (Organization of Laborers for Change), Alliance of Progressive Labor, Labor Advisory Consultative Council, *Lakas Manggagawa* (Labor Force) Labor Center, National Federation of Labor, National Federation of Labor Unions.

⁵⁰ For example, the *Kilusang Magbubukid ng Pilipinas* (The Peasant Movement of the Philippines), PAMAMALAKAYA (a fisherman’s group)

⁵¹ *Karapatan* (Rights, or the Alliance for the Advancement of People’s Rights), Task Force Detainees of the Philippines, and Families of Victims of Involuntary Disappearances (FIND), Philippine Alliance of Human Rights Advocates (PAHRA).

⁵² Free Legal Assistance Group, the Public Interest Law Center, the Movement of Attorneys for Brotherhood, Integrity and Nationalism, Inc. (MABINI)

⁵³ The Philippine Chamber of Commerce and Industry, the Makati Business Club and the Federation of Philippine Industries.

CAST was initiated by PAHRA and included 24 organizations, identified as coming from “the human rights community, church, peasants, women, health, urban poor, internal refugees, indigenous peoples, professionals and small businessmen.” Its major objectives were to stop the passage of anti-terrorism bills, to rally the people against threats to civil liberties and develop capacities in defense of civil liberties, human rights and democracy. The Network opposed to Martial Rule was an initiative of *Bagong Alyansang Makabayan* (New Nationalist Alliance, BAYAN) and was composed of over one hundred citizens who have been victims of the Marcos dictatorship and/or identify themselves as civil libertarians. BAYAN itself would later join the party list system as a political party.

Mass actions were held nationwide. The groups affiliated with BAYAN packaged their protests as a three-pronged cause, with the oil price increase and the imposition of the expanded value-added tax joining the objection to the anti-terrorism bills. They had three nationally coordinated march-rallies and transport strikes between January 20 and February 27, 1996. Some cities in the Visayas and Mindanao were paralyzed.

For their part, CAST with the AMRSP, the Catholic Bishops Conference of the Philippines and Protestant churches, held marches, pickets⁵⁴, strikes and rallies in the same period to show their opposition to the bills. CBCP issued a pastoral letter on the issue, read nationwide on January 28, 1996. Cardinal Sin also issued a pastoral letter that was read in all the parishes of Metro Manila.

Street demonstrations were accompanied by more quiet, education and information programs. This included seminars and small group meetings, distribution of posters, statements, and primers, guest-speaking at other groups’ fora, CAST conducted what it called “*pulong bahay*” (meetings in private homes) throughout early 1996. It also had a signature campaign to solicit support for its Statement of Unity against the bills. As it undertook its campaign, CAST also widened its membership base, organizing chapters in many parts of the country and its membership to over 30 organizations. It also linked up with international bodies to explain to them the Philippine situation and to solicit their support against the measures.

BAYAN and its Network also had its own information and education activities. They went down to the community level and had cultural presentations to bring the issues to the people.

The legislative track was not forgotten. Both formations attended hearings where they expressed their belief that the anti-terrorism bills would lead to a martial law in disguise. They also sought out senators and congresspersons, both those already sympathetic and those who could be won over to their cause. Diokno (1997: 163) says that “as a result of the lobbying by CAST and AMRSP, 14 senators and 35 congressmen signified their opposition to the anti-terrorism bills.”

The organizations traced their success to their militance, their ability to mobilize and lobby, the combined packaging of the issues, very broad opposition to the bill, and media support. They also identified their weaknesses, recognizing their “lack of institutional development, lack of financial resources, inability to maintain regular

⁵⁴ One picket was held at the Senate, attended by more than a hundred members; it was simultaneous with the CAST leadership attending the hearing and soliciting the support of senators on January 25, 1996.

contacts with policy makers, and fragmentation” (Diokno 1997: 166). A specific problem of CAST was its double-loading over the PAHRA secretariat, with both organizations suffering in efficiency. There was also the conflict of interest engendered by the coalition and the parent organization requiring presence and activeness at the same time. Finances were a perennial problem.

Although these political formations had the same stance vis-à-vis the anti-terrorism bills, they did not support each other and held different mobilizations and lobbies. There were internal tensions within civil society. Nevertheless, their opposition reached the common objective of stopping the bills from being enacted.

Opposing forces

The principal advocates of the anti-terrorism bills were the State – both the President and his cabinet, and the legislative branch. Both thought that an Anti-Terrorism Law is needed to fight terrorism. Extraordinary powers were needed to combat a national and global threat.

Nevertheless, civil society did not face a monolith. Although LEDAC stood firmly behind the bills, cracks were discerned in the Department of Justice, the Department of the Interior and Local Government and even the Department of National Defense and the Armed Forces of the Philippines. Internal memos showed officials agreeing to some elements of the criticisms. Moreover, there was some recognition – in the DND, of all places -- that pushing the bill would be “premature.” In a January 19, 1996 brief, the Undersecretary for Civil Relations stated:

Only on one condition, however, may the administration consider it, and that is, if there is a mass-based political movement to support the administration’s move. (Quoted in Diokno 1997: 159).

There were cracks, too, in Congress. Members of the President’s own party were among those who opposed the bill, including, ironically, his own sister and nephew. The House Speaker later withdrew his earlier support of the bill as he could not endorse a bill that would endanger human rights and liberties.

All the accusations that the bills were a means of reviving martial law put the State on the defensive. The sponsors of the bills showed willingness to accommodate adverse public reaction. Representative Golez proposed to limit his bill to international terrorism only. The President then asked the Department of Justice to submit a milder version than Enrile’s but even that was opposed by the people. In the end, the President announced that the bills would not be part of the urgent legislative agenda, thereby constraining it to the back burner.

Results

The anti-terrorism bills in the Tenth Congress were shelved, but anti-terrorism bills still reappear, right up to the Thirteenth Congress. But the struggle against the bills leaves legacies to civil society. The massive opposition showed a strong civil society able to stand up against the State. Fear of the return of martial law made the people close ranks against potential perpetrators, got the Catholics and the Protestants working

closely together, awakened even the business sector. Nevertheless, opposition to the bills did not unite the political formations within civil society itself.

The Disadvantaged Groups and Congress: Synthesis and Recommendations

This chapter presents the synthesis of the findings of the study, including a specification of the avenues of access of disadvantaged groups to the legislature, an assessment of strategies found effective in engaging parliamentarians in issues of concern to disadvantaged groups and an analysis of the internal and external factors that facilitate or hinder participation and representation of disadvantaged group in the parliamentary process. Armed now with a greater understanding of the role of the State in the post-Marcos era, it then presents recommendations for action and for further research.

Avenues of access

The People Power Revolution opened up the democratic space in the country and that is shown clearly in the permeability of the State to outside political forces, including the disadvantaged groups. The legislature is no exception, and avenues of access to it are found at all points of the legislative process, from drafting to approval. In addition, intervention in the parliamentary process is not limited only to entry into the legislative mill. Rather, two important points of entry should be recognized: the electoral process, and civil society's ability to put new issues into the public agenda.

Entry through the electoral process

One avenue through the electoral process is the constitutional innovation of the party-list system. The rationale for the party list is to allow sectors that are not well represented in Congress a chance to get in. Marginalized sectors have been specifically mentioned in the provision, and indeed, representatives of labor, women, veterans, the disabled, and groups representing the "*masa*" have been elected through the party list. On the other hand, church-related groups, business groups and others not as disadvantaged have also managed to get accredited to be elected in that system.

With our brief look at the party-list system as implemented, some signs of its benefits can be discerned, particularly the ability to put issues of the disadvantaged into the public agenda, the recruitment of non-traditional legislators, and a new kind of electoral system that puts premium on causes rather than costs. Appointed party-list representatives have had a hand in getting bills from disadvantaged groups introduced and enacted. In the cases we analyzed, they were prominent in the passage of the UDHA, IPRA, and the Fisheries Code. Later, elected representatives have been decisive in the retreat of the Anti-Terrorism bills. Besides, the women's organizations' representatives were able to get three of their pet bills through the Twelfth and Thirteenth Congresses.

However, some problems are starting to rear their ugly heads. First is the still unclear definition of "marginalized," which has both put sectors that are not clearly marginalized into the system, and non-poor persons as their representatives. The law only requires sectors to be marginalized, but the acceptance of broad categories like "organizations" and "political parties" without reference to disadvantaged sectors makes the system open to anyone who can form an organization, which is, virtually, everyone. There is official lack of knowledge also on those organizations with religious links, which

conceivably could make the party-list system a forum for religious indoctrination paid for by the State.

Whether marginalized or not, a sector may have representatives that are more like the district representatives than party-listers. The finding that almost 30 percent of party-list representatives have assets of P10 million and above raises fears that they may not be a special breed after all. While an economic test for these congresspersons is probably not merited, there is need to define further what are the qualities supposed to distinguish them from traditional politicians.

The general lack of information and knowledge of the populace about the party-list system suggests that the causes they represent are also not known and appreciated by the voters. It may turn out that the causes are as important as their placement in the alphabet or their ability to get popular acronyms. This trivializes the meaning and contribution of this important innovation.

Disadvantaged groups have also been able to get the support of regular legislators for their bills. Especially in the first Congress after EDSA, they could count on fellow street parliamentarians who have since been elected as regular politicians but who remained open to the demands of their erstwhile allies. This explains the ability of the NGO-PO coalitions to gain entrée into their offices and to have many discussions with them. Sometimes these politicians even join in the mass actions.

Unfortunately, leaders from the ranks of the disadvantaged could not get elected through the regular system. Their lack of funding made them unable to muster the finances required by our very expensive electoral process. Thus when they ran at all, they joined any party that would accommodate them, costing them credibility from their natural constituencies (Carroll 1998). Their reputation and shallow pockets, however, did not endear them to the traditional politicians, ward leaders and citizens voting through the enticement of guns, goons and gold.

Entrée through setting the public agenda

In an earlier study, we have posited that setting the public agenda has been one of the innovative contributions of Philippine civil society to politics and society (Cariño 2002). This phenomenon has been facilitated by the country's emergence from a dictatorship, but is not propelled by uniquely Philippine qualities. Dr. Nafis Sadik, Eminent Person for the International Year of the Volunteer 2001 said:

Human rights, women's rights, family planning, reproductive health, reproductive rights, refugee care, the environment, the clearing of land mines – all of these movements started with the focused efforts of individual volunteers. Volunteers against all odds jarred the world community into action. Indeed, largely through volunteer initiative, controversial issues of yesterday have become the norms of today.

Indeed, hardly any social rights have been gained without first becoming a movement spearheaded by civil society. This is also true of political and economic rights, such as the liberation movements of colonial peoples, women's suffrage, the minimum wage, women's, gay, and gay liberation movements, and so on.

That idea has been reinforced in this research. The inclusion of ancestral domain and indigenous people's rights into Constitutional Commission and legislative discussions - in a land where the Regalian Doctrine holds - could not have occurred without the agenda set by the indigenous peoples themselves. Similarly, the way agrarian reform, child labor, and rape were discussed in Congress was based on how the disadvantaged groups wanted to define them. The discussions on fisheries development and urban housing started off from what they wanted the State to do. They even forced the State to withdraw their draconian views on how to deal with terrorism.

Their respective agenda were usually forged in consultations, many of them involving not only a large number of people but also a wide spectrum of the groups concerned with the particular issue. Their views then became the point of departure in the deliberations. This was the case even when as in CARL, CPAR and its allies regarded their intervention as a failure overall. In the Rape Bill, while they did not directly get marital rape into the law, they stirred the consciousness of legislators and the mass media about its existence.

Access to the legislative mill

In Chapter I we presented the flowchart for intervention prepared by the Third World Studies Center (1994). It showed how constituencies (identified in the study as political parties and lobby and interest groups) may use formal and informal policy routes to the legislature. Formal intervention may be made to the legislators themselves, the standing committee in charge of the bill in both Houses, and then the Executive branch and the judiciary.⁵⁵ It showed informal routes to the conference committee, and through the media.

This study found many more ways by which the disadvantaged groups may affect the legislative process than this chart implied. Rather than listing only access routes, we are also enumerating possible intervention activities of the groups. These are detailed in Table 6.1. In capital letters in the first column are the formal parts of the legislative process. The second column lists what are the formally accepted ways outsiders may intervene in that process. The third column shows how the groups have been allowed to intervene in some of the cases we have discussed, suggesting many more acceptable means of access. Please note that the activities listed are only those in the so-called legislative track. Mass actions are not detailed and may take place simultaneous with any step in the process.

Table 6.1 Formal and informal access routes and activities of disadvantaged groups to Congress

LEGISLATIVE PROCESS	FORMAL ACCESS ROUTES/ACTIVITIES	INFORMAL ACCESS ROUTES/ACTIVITIES
Putting issue into public agenda		Undertake consultations with constituencies; convince legislators of

⁵⁵ The judicial role in legislation does not concern us directly here, but recall that we touched on it in the question of IPRA's constitutionality, and the temporary restraining order for the COMELEC on the party-list issue.

		need for bill.
Drafting of bill	Write position papers; present ideas for bill	Draft bill; choose sponsor. Prepare sponsorship speech.
FIRST READING	Attend in gallery.	Prepare strategy with sponsor. Get President to certify bill.
Assignment to and study by Committee in charge	Discuss bill with chair, members and sponsors.	Suggest issues to be tackled, people to be invited to hearing, calendar convenient for constituency. Learn committee priorities, befriend committee secretariat and technical people in respective House. Get chair to invite group's representatives into technical working group.
Committee on Rules for calendaring		Suggest calendar convenient for constituency.
SECOND READING	Attend in gallery.	Lobby for non-negotiables with sponsor or committee in charge. In floor deliberations, slip questions to interpellations to legislator, as needed.
New Committee draft with amendments as proposed in plenary or by committee		Suggest wording of amendments and form of revised bill.
THIRD READING	Attend in gallery.	If vote is to be explained, prepare legislator's statement.
LEGISLATIVE PROCESS IN THE SECOND HOUSE		Same close-guarding as in first House
Deliberations of Conference Committee on reconciled version of Senate/House bills	May be permitted as part of TWG or observer, depending on specific bicam agreements	If not allowed in, may be resource person or in technical working group to work out provisions to get committee out of impasse (during breaks or between committee meetings)
Approval of reconciled version	Attend in gallery	Help committee draft final version; make sure sponsors and allies

		present to vote
APPROVAL PRESIDENT	BY THE	Lobby with President to sign bill.

In addition to just being aware of possible acceptable activities, we have learned from the cases the need to emphasize:

- the importance of strategic thinking and action,
- the confrontation with negotiation and compromise,
- the parallel informal interventions,
- the importance of access to the second House,
- the importance of access to the conference committee, and
- the recognition of the role of the executive in the legislative process.

The importance of strategic thinking and action

All the cases have shown that all kinds of disadvantaged groups have gained access to Congress. Nevertheless, their interventions have not been equally effective. Other things being equal, the groups that thought out their moves ahead, especially those that integrated them into an overall strategy, would come out ahead. Note the contrast between the struggles of the indigenous peoples and NACFAR in the two time periods. It was easier for the IPs to work in the Tenth Congress because by then they had a coalition and a leadership that called the impressive two-stage (regional and national) consultations as well as adoption by government itself, through the Social Reform Agenda. NACFAR was more mature and had more resources the second time around, but beyond that was its strategy. It had moves like choosing the main sponsors and triangulating the Congress with two “Unity” bills, as well as getting into SRA and orchestrating media coverage and mass action at strategic time periods. The GO-NGO strategy coupled with the perceptible pressure from ILO and UN was the secret behind the Anti-Child Labor Law’s smooth sailing through the legislative process.

Even a first-timer like SIBOL got entrée because it studied its moves before it plunged. While other groups got a briefing about the legislative process when they were already frustrated by facing blank walls, SIBOL got its bearings first. Losing in the first round, it strengthened its advocacy through better research, discovered the importance of congressional staffs, and got government support.

Of course, strategy is not limited to within-Congress activities. Many groups worked with a two-track strategy, to be discussed in #3 below.

The role of negotiation and compromise

Moved by passionate commitment to their cause, the disadvantaged groups argue with each other to get a consensus position to lay before Congress, and then expect the State to accept it. This has never happened, even with the Anti-Child Labor Law backed by the UN and ILO and brought forward by a GO-NGO combine. Nor did it work by itself in the Social Reform and Poverty Alleviation bill, despite the forces of the President and the Speaker behind it.

Particularly in the earlier struggles, the disadvantaged groups seemed to be bent on the purity of their cause. This implied a no-compromise stand. With many congresspersons known to be representatives of the advantaged, such a stance could only solidify their opposition. CPAR particularly seems to have suffered this, as well as NACFAR and the IPs in the first round. There was greater preparation for losing certain demands in the later advocacies, which probably contributed to their success in getting bills that retained some of their major demands. By then, they had picked up the idea that a strategy should include not only the advocacy activities but also the group's bottomline or non-negotiables.

In facing off with strong opponents, the groups armed with negotiation skills and their list of priorities had greater chances of winning a bill they could live with. Arguably, UDHA was a great come-down for urban land reform advocates, as the law hardly deals with the issue. Yet, ULR-TF realized there were some urgent things the urban poor needed to have in the books, like protection from indiscriminate demolitions, that it agreed – even rejoiced - on a bill that was terribly watered down. SIBOL and NACFAR also had to give up even some of what it called non-negotiables. They did not come back to their constituents empty-handed. However, they did find a State going only so far to meet their demands.

The parallel informal interventions

TWSC recognized informal interventions as important in their write-up but seems to have limited them to the introduction of the bill and the deliberations in the conference committee. (Groups can actively participate in a formal way in public hearings prior to Second Reading.) Our cases suggest that informal interventions can take a wider sweep. For this purpose, we have borrowed CPAR's concept of a two-track strategy: the legislative route, and the mass action route.

In the legislative track, informal interventions can take place at all stages of the legislative process. From our cases, we saw that these could include inclusion of CSO representatives in the work of the technical committees (e.g., CARL, Anti-Child Labor Act). All the groups also sought meetings with individual legislators by the CSO's spokespersons. The intervention of prominent "non-government development individuals" (NGDIs, such as, in two cases, Cardinal Sin) all took place outside the public hearings.

The mass action track includes, first of all, the marches and demonstrations that are the staple modes of NGO-PO activities. These keep the issues in the streets and on the media while congressional deliberations are going on and add to their salience and urgency. The groups have also added the use of tent cities complete with exhibits and workshops to attract the attention of legislators and their staffs who got "educated" on the demands of the groups on the spot. Another innovation is the "express" rallies, with demonstrators starting from different points in the countryside and converging in the House or the Senate. Although not very effective for CPAR (that gave it birth) and in its first use by NACFAR, it worked well later for the Fisheries Code. Meanwhile, to fight the anti-terrorism bills, CAST and BAYAN worked outside the halls of Congress, through packaging the issue along with others easier for the masses to grasp, and showing power through paralyzing transport strikes and large demonstrations.

Intermediate between the two tracks is the show of force at the galleries for UDHA. The numbers the urban poor mustered were an unforgettable sight, and were a reminder to the legislators of the large number of people interested in the issue. “Out of sight, out of mind” was a danger the CSOs did not dare risk.

Access to the Second House

The Philippine Congress is a bicameral one. Although some groups strategically choose which House to penetrate, they learn in due time that they need to show their interest in both Houses. Advocates of the Anti-Child Labor Law decided to focus on the Senate, surmising that they already had an ally in the House, and that a broader magna carta could not be gotten from there. However, they found that they should have paid equal attention to the Lower House since the points they did not want to face in the House were actually the problems the bill faced in the conference committee.

It is always an option to have bills in both Houses simultaneously. However, this would be difficult for groups with few resources at their command since it would mean dividing their staffs and their time to pay close attention to what is going on in two different Houses. A method that has worked well in this regard is forging an alliance – or at least, friendly relations – with committee secretariats since they could help in calendaring and alerting the lobby groups to be there when breaking developments occur.

The role of the bicameral conference committee

The conference committee (usually called “bicam”) is supposed to reconcile the two bills that passed in the two Houses. Where the bills have markedly different provisions, however, the committee members, as agents of their respective chambers, have the task to hammer out compromise provisions that in their judgment would be acceptable to their principals. Some provisions that had already been successfully inserted in one House may disappear in the bicam, or vice versa, some provisions they have deemed defeated could emerge in the final version. In several cases, this process spelled the victory or doom of a measure. In the first round of the Fisheries Code, opposition was so strong that no consolidated bill emerged from the bicam. In the Anti-Child Labor Act and the Rape Law, the committee was able to find an acceptable middle-ground, although the disadvantaged groups lost some key provisions.

A finding of this study is that the bicam, formally regarded as a closed-door session, can be penetrated by non-legislators. In the Anti-Child Labor Law, the civil society proponents of the bill were allowed to be present in the deliberations, though their presence was a surprise to some members. In the Anti-Rape Law, their presence became a singular bone of contention. Interest in the bicameral committee shows the close guarding that disadvantaged groups have to do to get their bills through the mill.

The role of the executive in the legislative process

TWSC identified the President as a key player in legislation, and our findings reinforce that. According to TWSC (1994: 170):

This particular terrain is largely unexplored and requires further demystification. Future studies on the matter need to address the apparent absence of transparent policy-making mechanisms in the Executive Branch where constituencies can readily articulate their policy responses or which can serve as bases for determining which constituency has effectively intervened in the complex policy making environment.

Under the Philippine Constitution, the Executive has formal roles in the legislative process: to certify certain bills as urgent, and to approve or veto a bill approved by both Houses, in whole or in part. A veto may be overridden by a two-thirds vote of all members of both Houses, meeting separately (Constitution of 1987, Art. VI, Sec. 27).⁵⁶

As itself an active constituency, the Executive, though not directly stated in the Constitution, may draft “administration bills,” that is, a bill emanating from a government agency (not just the Office of the President) and sponsored by a friendly legislator. These bills, like the certified ones, have the force of the presidency behind them. The Anti-Child Labor Law is one such “administration bill,” with the civil society proponents making sure the DOLE-BWYW had the lead role, even though the draft was largely theirs. The power of an administration bill became a problem of the original Fish Code, when the Department of Agriculture refused to substitute the NACFAR draft to their own draft. In addition, Executive agencies may participate in public hearings, respond to the question hour and be called upon to testify in investigations undertaken by Congress in aid of legislation.

Certifying a bill as urgent means that the bill has priority in the calendar, and would not have to wait for three days before being acted upon on Third Reading. Aside from this procedural convenience, certification of a bill implies that the President would be likely to approve it, making its journey through the legislative mill rougher or smoother depending on whether it is an opposition congress or not. The power of presidential support is most evident in the IPRA and Fisheries Code. Both failing in two previous congresses, the two bills were incorporated into President Ramos’ social reform agenda, and got embraced by congressional leadership.

However, that does not always occur. In the CARL and the first Fish Code, the disadvantaged groups managed to get certification from the President. Unfortunately, the administration had another bill on those issues, and thus, certification did not give the priority it was supposed to endow.

Presidential approval is an important step in the process, too. As the Anti-Child Labor Law and IPRA found, other forces can intervene after Congress has spoken. In the first, the bill’s approval was almost derailed by forces outside the legislature. In the second, implementation woes in the Executive branch surfaced almost immediately, followed by a constitutional challenge in the Supreme Court.

The access points are multiple, and most have been used by the disadvantaged groups we have studied. The issue therefore is not their lack of knowledge about the avenues

⁵⁶ In the transition period, the President had another role: the appointment of party-list representatives, as discussed above.

of intervention, but their ability to win their points. It is to this main issue that we will now turn.

Qualities for Successful Policy Advocacy

As we have stated in Chapter I, success in legislative intervention consists of the qualities the active forces bring to the endeavor. These include, from the side of disadvantaged groups as well as their protagonists, their internal capacity and external linkages.

Internal capacity

Before identifying the administrative capacity of the groups, it is worth noting that the first quality they bring to the table is passion and commitment to their cause. These are evident in their level of knowledge about the issue, in their pre-legislation experience and history, and in their willingness to devote time and resources to basically unpaid work, even staying in the heat of streets to proclaim their allegiances. CPAR, for instance, had a full-time secretariat that was contributed by the coalition members. NACFAR, when it ran into difficulties, found that it could count on volunteers to undertake the work. Part of the passion comes from the fact that the groups were immersed in the social realities of the constituencies they were representing, or were in fact, members of those constituencies. Most had been in some kind of community organizing or conscientizing that focused their hearts and minds towards the advocacy they had embraced. They have also been veterans of mass action that made them both internalize the issues and bond them to the larger affected community. That bonding was also shown by the beneficiaries who showed up in the consultative meetings, mass actions, and the formal public hearings.

But passion has to be channeled, and the groups did this through strategic visioning and planning (as we had already discussed above), organization and institutionalization, management processes, capacity building, and other management processes. All the groups involved in our cases worked in coalitions or were part of a team. The groups that worked in the Eighth Congress tended to be new coalitions formed for the purpose of advocating their agenda to policy makers, not necessarily limited to the legislature. Though newly formed, CPAR, NACFAR, ULR-TF, CIPRAD and SIBOL CAST and BAYAN's network were not novices, because their constituent NGOs and POs have had experience (some of them long and tortuous) in engaging the State. Advocacy to the legislature, nevertheless, is a new experience and needed new skills. (Recall that NACFAR and SIBOL underwent crash programs for this purpose.) In this, the Visayan Forum had an advantage over the others, since by the time it tackled the Anti-Child Labor Bill, it already had a decade-long experience in shepherding two other bills through the legislative mill.

Most had secretariats for the time of the campaign, including some borrowed from the parent-organizations. The Visayas Forum acknowledged strong and continuing support from an international organization. NACFAR also got funding for advocacy itself from USAID.

However, there were also kinks in the armor of internal capacity. Some of these are common problems of coalitions. As Putzel (1998) said, CPAR's leadership had twin loyalties to CPAR and to their parent-organizations, giving rise to suspicion and breaks of unity. Not being a separate organization, CPAR also had a time-bound quality to it, a project that would be disbanded after its goal has been accomplished. Although the goal was not reached, CPAR actually formally disbanded, before the fizzling out of the PARCODE could unintentionally disintegrate it. For this reason, it has had no hand in the implementation of agrarian reform. This is a pity because, despite its unfriendly provisions, some former CPAR members now acknowledge that CARL is not all that hopeless. Had they looked at it in a "critical but less antagonistic" way, they could have helped peasants get maximum benefits from the law (Villanueva 1997: 91). NACFAR avoided this by becoming a separate organization. It is prominent in the list the Committee Secretariat on the Fishery Industry keeps for its public hearings.

The delineation of roles for organizations put together for a single purpose like lobbying can cause problems unless conscious role assignment is made. The team for Anti-Child Labor worked smoothly because they early on delineated who were to play lead roles in which aspects, and what each member was expected to do. SIBOL's members had a natural division of roles, the Center for Legislative Development being a specialist in the legislative process, the Women's Legal Bureau being expert at drafting bills and legal research, the others better at organizing, or handling women in crisis, and so on. Such a specific division of roles may prevent problems later. The groups involved in the anti-anti-terrorism campaign also had such explicit division of labor.

External linkages

Four potential partners regularly made their appearance in our cases: the Church, international organizations, government, and the citizens at large. These add to the strength of a disadvantaged group, but may also bring in some problems. The Roman Catholic Church was behind the campaign for comprehensive agrarian reform, urban land reform, the first, for its organizations having been the sponsor of the Rural Congress that gave birth to CPAR, the second, for the crucial role played by the Jesuits in opposing demolitions in the parishes where they were serving. Cardinal Sin was a particularly forceful personality in three concerns of the Eighth Congress – CARL, UDHA and the Fish Code – even though he came quite late in the last. The church's support was also manifest in the IPRA, although it might be noted that some of the groups critical of CIPRAD's version had meetings at the Ateneo de Manila. In both agrarian and urban land reform, as well as in the anti-terrorism bills, the National Council of Churches joined the Catholics to produce an ecumenical show of force.

The prominence of the Roman Catholic Church in these bills underscored its pronouncement of a preferential option for the poor and was welcomed by the disadvantaged groups. However, it has not lent its voice to progressive views on women's issues. One may wonder why, for instance, it was quiet in the issue of rape.

The role of religious institutions generally in policy matters merits a closer look. The inclusion of sect-backed organizations in the party-list seems specifically prohibited by law. However, its unobtrusive entrance into that system seems to have been as accepted by the society at large as the Catholic interventions described above.

The international organizations were most prominent in the Anti-Child Labor Law. UN and ILO not only sponsored International Convention 192 but also played strong behind-the-scenes roles in having a counterpart program in the Philippines. However, the presence of an international push is not an unmixed blessing. Recall that in the Lower House and the bicameral committee, an issue of resentment was the country's "blind obedience" to international standards instead of answering our own peculiar needs. This point is a familiar one in economic bills which maintain IMF and World Bank conditions. As we have seen here, international support for even social development bills can get the same reaction.

Another role played by international organizations is their funding and other types of support. NACFAR's strength in the Tenth Congress lay not only in its greater maturity and experience, but also in the resources it mustered to have nationwide consultations, training in lobbying and other capacities. Resources came from OXFAM in the first instance, but the biggest fund – and for advocacy - came from the US Agency for International Development. Other types of support were enjoyed worldwide by indigenous peoples through similar global organizations. As in the support of the religious sector, this involvement by "outsiders" needs to be better investigated.

Collaboration with government would normally strengthen a measure since the Executive is an active constituency in legislation. Ramos' Social Reform Agenda made the failed bills of the Eighth Congress come alive in the Tenth. Of course SRA's real flagship bill – the Social Reform and Poverty Alleviation Act – got through Congress easily, questions being raised more on administrative issues than on the thrust of the bill itself. Even here, however, there were problems in the details, since so many claimed the SRA banner but were conflicting in their provisions. Meanwhile, the advantage of a GO-NGO collaboration is manifested in the Anti-Child Labor Law which from the outset had government (and international organization) support. On the other hand, the inability of NACFAR to get the Department of Agriculture to support its first bill instead, added to its woes.

Last but not least is the linkage of the groups to the people at large. This may be carried out through mass action and the media. There is a perceptible decrease of reliance on the mass action track in the cases after the Eighth Congress. Perhaps this is due to the growth of knowledge about how the legislative process works and the organizations' subsequent attempts to professionalize their approach. However, as the mobilization against the anti-terrorism bills showed, it was still impressive and effective when used.

Mass action is usually thought of as a way to unite a group's constituency – to preach to the converted as it were – and to show Congress the strength of its forces. However, it can also be used to connect with the people at large, and to convince them that their agenda is the public's interest and not only their own. This was a lesson learned by the women's groups as they mobilized for the anti-rape bill, and by the coalitions that attacked the anti-terrorism bills. As in the EDSA revolutions, their mass actions would have remained simple demonstrations if the people outside their membership did not join in. This is also why having favorable media coverage has strengthened the forces of the disadvantaged.

The opposing forces

The length of our write-ups about the opposing forces is not an attempt to dismiss them. While their passion for their cause cannot be gainsaid, they in fact used few public venues. For one thing, no one except the CPAR opponents had consultative congresses to draw up their positions or mass actions to air their advocacies. However, there are extant position papers; they participated in public hearings; they gave interviews to the media. Against the Anti-Child Labor Law, movie producers sought an audience with the President to seek her veto. Against the IPRA implementation, mining companies also went directly to the President and got a favorable response.

They did not have to do much more. More than the disadvantaged groups, the opposing forces had natural allies, if not actual representatives, in both Houses. They could be counted on to vote against a bill or to water down a proposal that had adherents beyond their direct constituency. The demand for comprehensive agrarian reform was too strong in the society especially after the Mendiola massacre. Thus, it could not simply “pend in Congress,” as is the fate of most bills. The bill was then allowed to proceed but its concept was re-defined to include options other than land redistribution. Urban land reform also had high media coverage and a noisy constituency. However, the bill stayed in Congress but was revised and limited to demolition regulation. The Anti-Rape Bill had problems sailing through Congress despite an SRA certification. The passage of IPRA seemed to herald a new day in the State, but IPs immediately had problems in the Court and the National Commission on Indigenous Peoples itself.

The only active dominant group in our cases was the Employers Confederation of the Philippines which quietly worked with the GO-NGO team to produce the Anti-Child Labor. ECOP prides itself in its programs on Corporate Social Responsibility and showed its mettle in assisting in drafting this measure.

Conclusions: Disadvantaged Groups and the State

In the beginning of this study, we posited the view of the State as one tending to side with the elite, unless forced to give in to the demands of the poor. After a study of successful forays of disadvantaged groups in the halls of Congress, do we still hold this position?

Yes, unfortunately. Dominance of the elite in Congress is still marked, not only in their numbers, but also in their positions. Agrarian reform, ordained by the law to transfer lands only for ten years, is still unfinished. Meanwhile, its suspension is still the aim of many bills. NACFAR and the fisherfolk sector had to accept continued encroachment of commercial fishers into municipal waters, decreasing what they had already gotten under the Local Government Code. The compromises the disadvantaged made ate into their non-negotiables. They had to accept backing so far down to grasp at that first start at reform.

Was social legislation, then, simply a show-window exercise? We cannot assume insincerity among the officials of the State, just because they did not accept the poor's demands. However, there were instances when even those who seemed to have lined up with the disadvantaged virtually abandoned them in the difficult stages. Recall that it was the Senate sponsor of UDHA, the Senate sponsor of Anti-Child Labor, the Chair of the Senate Committee on National Cultural Communities, the Chair of the House Committee on Women and the sponsor of the Anti-Rape bill who raised questions against the bills themselves at crucial moments. To support a disadvantaged group's demands plays well in the media and the masses; that could translate to votes. But in the less public arena of the legislative process, the poorer groups not having legislators who are one of them can still be left in the lurch. The UDHA supporters dropped the demand for urban land reform to be able to get protection from demolitions. The Fisheries Code and IPRA took ten years, the Anti-Rape Law, two congresses. For people who were unpaid volunteers and whose jobs and lives were on the line, the road was long and hard indeed.

Of course, we need to temper this with the realization that most bills pend in committee anyway, and we do not have yet the comparative information on how bills for the richer classes fare in terms of time.

But how were these bills passed at all? Aside from the determination of disadvantaged groups, credit must go to the political environment and officials of the State who risked political capital to support their demands. The Eighth Congress began with the glow of the EDSA Revolution, when the Philippines basked in the international limelight as the leader in concretizing the power of the people. The poor had clearly voted on the side of parliamentary processes rather than armed struggle and had acted on their belief that a democratic space had been opened. The Commission that drafted the Constitution of 1987 also acted on that premise and put provisions supporting the disadvantaged groups and civil society into it. The expectations translated into a political opportunity that could be harnessed and matched by efforts of those that seek new benefits. Piven and Cloward's (1993) term of placating the poor may be too harsh a description of the decisions during this period. Rather, idealism was publicly on the rise, and Thomas' hypothesis that perceptions could change conditions – if people acted on them - was tested. The time seemed ripe for great reform.

Many congressional leaders who were veterans of the parliament of the streets or regarded as “progressives” kept their alliance with the people who suffered during the dictatorship. Representative Andolana was among the least known among them, but he would champion several bills, even in the Congresses beyond 1987.

However, disappointments came early enough. Besides the Mendiola massacre and the seven coups d'état against President Aquino, perpetrated by the same people the masses “saved” at EDSA, the officials themselves proved disappointing. President Aquino did not dissociate herself from her *hacienda* and her class and hardly lifted a finger to bolster the agrarian reform the NGO-PO combine wanted. Later, her recognition of the staunch support of civil society in the face of the coups brought her back to their side, with an urban housing act that did not have urban land reform. The government bureaucracy did not help much either. Instead of support from the Department of Agriculture, as NACFAR sought or from the Presidential Commission on the Urban Poor as the ULR Task Force expected, the State bureaucracies insisted on provisions that strengthened the hand of the richer constituents vis-à-vis the disadvantaged. The disadvantaged could get concessions, but only to a point. Officials of the State could not transcend their class. These included members of Congress with virtually inherited seats.

With the Ninth Congress, it seemed the euphoria of EDSA would completely dissipate. However, President Ramos had campaigned on a platform of “people empowerment” and inaugurated in the second half of his term his Social Reform Agenda package. A strategy to fight poverty put new impetus to the struggle of difficult bills like the Fisheries Code and IPRA. Certification by the President put urgency on the social reform bills and got even the congressional leadership to support them. However, the devil remained in the details – What benefits are to be dispensed? Who are going to be affected? Who may participate in the control? – that no group got their demands outright. Also, the SRA was a policy forged in the context of the embrace of globalization and economic liberalization. So instead of leading the charge in transforming the nation, the bills of the disadvantaged were simply safety nets, to be given because the other policies were surely going to hurt them. With rising criminality and a resurgence of communist violence, this could come close to placating the poor. Not quite, because there were genuine advances won by fishers, indigenous peoples, suffering women. Besides, the government did back down, for a time, from its anti-terrorism bills. But questions can also be raised as to why commercial fishers got what they wanted from the bicameral, or why mining won their bids immediately after IPRA.

Still, a lesson to be learned from the cases is that the State is not a monolith that is programmed only for certain kinds of decisions. If nothing else, the cases show that the State is now an active participant in the struggle, rather than just the executive committee of the ruling class. There are officials with similar vision and values as the disadvantaged. Perhaps more than that, there are leaders who listen to technical arguments and are willing to act on new ideas. This was the experience of fisherfolks who were able to so convince Senator Aquilino Pimentel, Jr. of the merits of their proposal that he wrote the definition of municipal waters they desired into the Local Government Code (a bill they did not even lobby about). This was the first victory they had, and when it was going to be placed into the Fisheries Code, the boundaries were decreased from what the LGCode already provided.

It is incontrovertible that laws favored by disadvantaged groups have been enacted. While these may leave much to be desired, their passage alone shows that the opposing forces are not omnipotent and can be challenged. The disadvantaged have numbers and passion on their side, but these must be enhanced by capacity and strategic alliances. Also, glimpses of problems in implementation suggest the necessity for keeping one's interest on the measure constant and untiring.

Recommendations

In light of the foregoing syntheses of our findings and conclusions, several recommendations for action and research may be advanced. The bases of these recommendations have already been discussed so that we simply enumerate them, categorizing them only in terms of the persons or institutions responsible to act on them.

Recommendations for disadvantaged groups

1. Arm yourselves with the knowledge of legislative processes and the points of access and activities other disadvantaged groups have already used. This can be provided by the more experienced among you, by support NGOs and by sympathetic academic institutions. We hope this volume can provide assistance for organizations starting out on their own advocacy paths.
2. Prepare a strategy for legislative engagement, taking into account your goals for the sector, your non-negotiables, your capacities and the opponents you will face.
3. Couple your passion and commitment to a cause with deeper knowledge about its ramifications. This can help you in understanding opposition to your stance, with the possibility of winning over some antagonists by identifying how their problems with your proposal can be met.
4. Take advantage of your nature as an organization in civil society by using a complementary set of legislative and mass action tracks in advocacy campaigns.
5. Learn the art of compromise as well as its moral hazards. Treat your antagonists with respect and assume they have the same commitment to the public interest as you. When in negotiations, recognize that you are fighting for your welfare and that of your constituents, as their opponents are fighting for theirs. Therefore, conduct negotiations with due respect for the humanity of the other. This should hold true whether the negotiations are with other civil society groups, with opposing forces or with the State.
6. Improve your internal capacity for advocacy through
 - a. Enhanced management of coalitions
 - b. Focused professional staff. They may be volunteers who are willing to be identified only with the coalition or organization pushing for a bill for the duration of that struggle. This would minimize questions of loyalty and conflict of interest in the period of the campaign.
 - c. Specialization and division of labor, whenever appropriate. This will minimize duplications and inefficiencies, and increase the overall effectiveness of the team.
 - d. Conduct research on the issue itself, your group's possible allies and adherents, and ways to convince or neutralize known opponents
 - e. Develop a stronger resource base, including funding. Diversified sources of funding would be preferred, since reliance on only one may lead to the

possibility of being driven by the fund and the agenda of the donor, rather than of the disadvantaged sector itself.

7. In dealing with Congress, recognize the value not just of the elected officials themselves, but also of technical secretariats that can assist you through the legislative maze.
8. Strengthen links with external forces, such as the church, international organizations and the people. Recognize the dangers of exclusive reliance on one religion, one international organization or one funding agency. Learning from your external allies, develop your own platform, eschewing “blind obedience” to any one particular force.
9. Discover how the State can be an ally or a partner rather than a foe. Many parts of the government apparatus have policies and personnel sympathetic to causes of the disadvantaged. They should be befriended rather than alienated, and shown insights into the groups’ experiences rather than ignored and left to the ministrations of opposing forces.
10. Broaden the base of your organization by recruitment of more sector members and alliances with like-minded NGOs, both local and international. Never neglect the support of the people in undertaking your activities.

Recommendations for NGOs and other support groups of the disadvantaged

1. Assist in building capacity for advocacy, research, negotiations, strategic planning, and coalition management.
2. Provide links to national and international organizations that can provide disadvantaged groups with resources for capacity building and management development.
3. Finds ways to strengthen the party-list system. Do not participate in activities that will weaken it, such as your own participation, or that of other organizations of the middle class or elite, that would take away votes for genuine representatives of the marginalized.
4. Support politicians who stand by the causes of disadvantaged groups.

Recommendations for the State

1. Recognize that social legislation is vital to the economy and the nation, and is not charity to the poor.

Towards Inclusive Governance

2. Strengthen the party-list system by reinforcing its original concept and ensuring that it is not a backdoor for elite interests. Study how it can continue to function within the proposal of a constitutional change towards a parliamentary system.
3. Make the legislative process more accessible and transparent to all groups, not only those among the elite, or those who are experienced in advocacy campaigns.

Recommendations for research

1. Continue to study management issues of advocacy groups. This would include coalition building, recruitment of leaders and members, resource generation, and capacity building.
2. Deepen this study by investigating how pro-poor laws have been implemented, and how they have improved the lot of the disadvantaged. This could be fed back into the State to reinforce the national significance of the social legislation the disadvantaged groups had advocated in this volume.
3. Study how progressive legislators have managed (not) to be eaten up by the system. This would be instructive in developing political leadership for the next generation for this country.

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