

ON THE CROSSROADS:
THE URGENCY AND PROPRIETY
OF CHARTER CHANGE

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I. INTRODUCTION

There had been a constant clamor on the obsolescence of some provisions of the 1987 Constitution. Charter change has been proposed several years after the 1987 Constitution took effect. The proposals range from revisions of certain provisions to a complete overhaul of the fundamental law of the land. But these proposals remain as such since no decisive move had been taken despite calls for change. The main factor that aborts the intended change is the people's strong opposition and resistance to change — understandably since memories of Marcos dictatorship are not easily forgotten.

Over the years, past administration had endeavored to effect change but to no avail. The public had been reluctant and skeptical on the proposal of change as well as to the sincerity of politicians' motive and as to the timing of bringing it up.

Now amid the political turmoil that beset the present administration, the idea of charter change dawned as the perfect solution, the messiah that will redeem the country's doomed state and to secure the President's stay in power. The government is persistent on its

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plan to change the Constitution for a strong Republic. Charter change is a task that requires conscientious deliberations as well as sincerity among lawmakers to bring about changes. It is a task that most Filipinos do not approve of as the circumstances that brought about the subject of change are the very issues that the public wants to be resolved.

The government is now at the crossroads: a choice has to be made — a choice that will define the nation's welfare. Legislators are confronted with issues of the propriety and timeliness of these proposed changes and how these Constitutional changes should be effected.

The subsequent discussion will include revisions of the Philippine Constitution in the past; the modes employed then, the propriety of charter change with its factual milieu at present times, the issues faced by present lawmakers and specific changes advanced by them and arguments to support their cause and the public sentiments regarding these changes.

II. CONSTITUTIONAL EVOLUTION

The Philippines has a long history of Constitutional development. It has been governed by different Constitution at different times — a feat that is distinctly Filipino.

The Philippine independence¹ from the Spanish regime gave birth to the country's very first Constitution — the Malolos Constitution. The document was the first manifestation of democracy in the Philippines. It reflected the aspirations of educated Filipinos to create a polity as enlightened as any in the world. It was modeled after the Constitutions of France, Belgium, and some South American Republics.² Yet, the Malolos Constitution was only short-lived (1898-1899). By virtue

¹ June 12, 1898, declared by Emilio Aguinaldo in Kawit, Cavite.

² Constitutional Framework, <http://reference.allrefer.com/country-guide-study/philippines/philippines117.html> (last accessed on October 25, 2005).

of the Treaty of Paris³ the Philippines was ceded to the United States of America. Soon the United States of America established a colonial government and discarded the Malolos Constitution.

After the Philippines became independent on July 4, 1946, four Constitutions shaped the country's political system.

The first one is the Commonwealth Constitution which was adopted in 1935 — it was drawn under the Tydings-McDuffie Act,⁴ which created the Philippine Commonwealth. This was framed by a constitutional convention that assembled in July 1934. This document established the political institution for the intended ten-year Commonwealth period, which began in 1934. After July 1946, it became the Constitution of the independent Republic of the Philippines. This became known as the 1935 Constitution.⁵

Thereafter, the 1935 Philippine Constitution has undergone a series of revisions and amendments. The need to revise or adopt a whole new charter arose from the demand to make it responsive to present political and economic situation in the country — not to mention politicians' personal interests.

During the Marcos⁶ regime, the 1935 Constitution has undergone a major overhaul. In 1967, a bill was passed providing for a constitutional convention to amend the 1935 Constitution. Three years later, the delegates to the convention were elected. But before their work could be completed, President Marcos declared martial law⁷ on September 21, 1978 by virtue of Presidential Decree 1081. He used

³ December 10, 1898.

⁴ Approved on March 24, 1934, which provided for the independence of the Philippines from the US.

⁵ The Malolos Constitution and the Treaty of Paris, <http://reference.allrefer.com/country-guide-study/philippines/philippines24.html>, (last accessed on October 25, 2005).

⁶ The 10th President of the Republic of the Philippines. He was first elected in 1965 and was re-elected in 1969.

⁷ CONST. (1935), art. VII, § 10, ¶ 2, allowed the President to declare martial law.

the rising wave of lawlessness⁸ and the threat of communist insurgency as justifications in imposing the Martial rule. He thereafter abolished Congress and ruled by P.D.s from 1978.⁹

Constitutionally barred¹⁰ from seeking another term beyond 1973,¹¹ Marcos reconvened and maneuvered the proceedings of the constitutional convention to adopt a parliamentary form of government in order for him to stay in power beyond 1973. Sensing that the Constitution would be rejected in a nation-wide plebiscite, Marcos decreed the creation of Citizen's Assemblies, which anomalously ratified the Constitution. Thus, a parliamentary form of government with a unicameral legislature called the National Assembly replaced the presidential system.¹²

The 1973 Constitution was amended in 1976 to allow the incumbent President to hold the position of Prime Minister and to exercise legislative powers as well. This modified form of government allowed Marcos to exercise all the powers of the President under the old system plus the powers of the Prime Minister under the new system.¹³ Marcos assumed dictatorial powers.

On February 25, 1986, the people power upheaval led to the ouster of Marcos and the installation of a new President — Corazon Aquino. Under the new President, the Philippine Constitution has once again gone through another dramatic transformation.

⁸ On August 21, 1971 an explosion occurred during the proclamation rally of the Senatorial slate of the opposition Liberal Party in Plaza Miranda in Quiapo, Manila.

⁹ Marcos and the Road to Martial Law, <http://reference.allrefer.com/country-guide-study/philippines/philippines39.html>, (last accessed on September 25, 2005).

¹⁰ CONST. (1935), art. VII, § 5, limited the President's term to two.

¹¹ 1973 is the end of Marcos' second term as President.

¹² Constitutional Framework, <http://reference.allrefer.com/country-guide-study/philippines/philippines117.html>, (last accessed on September 25, 2005).

¹³ *Id*

President Aquino assumed power and immediately formed a government to normalize the situation. She issued Presidential Proclamation 3, which promulgated an interim Freedom Constitution that gave her sweeping powers — theoretically even greater than those Marcos enjoyed. Yet she promised to use her emergency powers only to restore democracy, and not to perpetuate herself in power.¹⁴

The Freedom Constitution remained in effect until a new legislature was convened and a constitutional convention could draft a new democratic constitution to be ratified in a national plebiscite.¹⁵

Although many Filipinos thought that delegates to the constitutional commission should be elected, Aquino appointed them saying that the country could not afford the time or expense of an election. The all-Aquino appointed 1986 constitutional commission submitted the final draft of the new Constitution on October 15, 1986. It was overwhelmingly ratified in a plebiscite on February 2, 1987. The new Constitution crippled the presidential power to declare martial law, it proposed the creation of autonomous regions in Cordilleras and Muslim Mindanao and restored the presidential form of government and the bicameral Congress.¹⁶

After the Aquino administration, talks of changing the 1987 Constitution had been the constant topics of debates, although no move was pursued towards it since it was met with strong public opposition.

President Aquino's successor Fidel V. Ramos, in the later stages of his presidency, proposed the amendment of the Constitution. Among the proposed changes is the removal of the one-term, six-year limit on the Presidency.¹⁷ But widespread and strong resistance of the public forced him to back down from the idea.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ History of the Philippines, <http://www.worldhistory.com/wiki/H/History-of-the-Philippines.htm>, (last accessed on September 25, 2005).

¹⁷ CONST. art. VII, § 4, provides that the President shall not be eligible for any re-election.

The Estrada administration also introduced the idea of charter change, calling it the Constitutional Correction for Development or CONCORD. He created a consultative commission headed by former Chief Justice Andres Narvasa to prepare a draft for the constitutional amendments. The change is to be effected by a constituent assembly. The proposal is far more different from that proposed by the Ramos administration.

The proposed amendment focused on the economic and non-political aspects. Among the proposed amendments is the removal of the constitutional restriction on foreign ownership of land, foreign exploration, development and utilization of natural resources, foreign operation of public utilities, foreign ownership of mass media and foreign engagement in the advertising agency.¹⁸ However, such proposal suffered the same fate as its predecessor.

Plans of amending the 1987 Constitution, although shelved for the meantime did not actually die. On the contrary, it is still a hovering idea of the succeeding administration waiting to be brought up once again.

After Estrada had been deposed,¹⁹ then Vice President Gloria Arroyo assumed the presidency until 2004.

III. CHA-CHA BACK IN THE SPOTLIGHT

One of the hottest issues during the campaign for the 2004 national election is the propriety of charter-change — a shift from the presidential form of government to a parliamentary form of government. When Gloria Macapagal-Arroyo won the 2004 presidential race she made charter change as one of her political agenda. In her 2004

¹⁸ Concord or Discord?, <http://www.phil.sol.n1/A99b/padayon-Cha-Cha-sep99.htm>, (last accessed on October 3, 2005).

¹⁹ Estrada's term is from 1998 to 2004. His involvement in the jueteng scandal, where he was alleged to be receiving jueteng payola, led to his ouster in 2001. Massive resignation of his cabinet members and protests forced him to step down.

State-of-the-Nation Address (SONA) she asked Congress to consider amending the Constitution — to change the country's form of government. But the plan had to be set aside when the country was beset by serious fiscal crisis, which required urgent measures.

On June 2005, the outbreak of an election scandal involving the President again placed the issue of charter change back on the frontline. The scandal popularly known as “Gloriagate Scandal,” arose from the exposition of wiretapped conversation of the President and a COMELEC Commissioner. The conversation was allegedly about rigging the 2004 election result in favor of Arroyo.

Previously, Arroyo's presidency has been challenged when her husband and son were accused of being illegal gambling lords and receiving jueteng payolas. The Gloriagate tapes scandal was the final straw and the impetus which led to the mass resignation of her cabinet members for lack of confidence on the President. On the other hand, the administration remained silent on the issue while the squabbles on who masterminded the wiretapping and who had the original and the “doctored” tapes persisted. There were massive reproduction and distribution of the said conversation which was played over and over again in the radio and television.

Several weeks before her 2005 SONA, President Arroyo appeared on national television and finally admitted calling a COMELEC Commissioner and apologized for her lapse in judgment, but denied rigging the election result.²⁰

In her 2005 SONA,²¹ the President included the matter of charter change — a shift to a parliamentary form of government. It was a proposal which sidelined the main issue. It was former President Ramos who once again introduced charter change at the height of the Gloriagate scandal and calls for the President's resignation.

²⁰ June 27, 2005.

²¹ SONA was delivered on July 25, 2005. Full text of the 2005 SONA can be accessed at <http://sona.inq7.net/previousaddresses/2005.ph>.

The proposal was to appease the people and to give the President a graceful exit — resignation was out of the question.²²

Thereafter, President Arroyo issued Executive Order 453²³ creating a consultative commission to propose revision to the 1987 Constitution in consultation with various sectors of society. E.O. 453 officially set the ball rolling on the charter change undertaking of the government.

IV. CHA-CHA DANCING ITS WAY TO REDEMPTION

A. The Perfect Timing

At the height of the Gloriagate scandal, the public's fury was intensified when the President appeared on national television and admitted calling an election commissioner during the elections and apologized for her lapse in judgment. What added insult to the injury was when she proposed charter change in her 2005 SONA.

The proposal of charter change was strongly suggested by former President Ramos for President Arroyo's graceful exit. This was the perfect solution which came at a very suitable time from the viewpoint of the President, though.

But for the people this is not the right time to talk about changes in the Constitution. The diversionary tactic employed is sort of short-changing the people — making a fool out of the public.

B. Constitutional Defect

The public called for Arroyo's resignation but her offered solution was charter change — what a way to deal with the problem. The proposal of charter change is in the guise of reforming the political system which is sidelining the real issues.

²² M. Remo, *Cha-cha "exit option" for GMA, says Ramos*, Philippine Daily Inquirer, July 8, 2005, p. A1, col. 1.

²³ Promulgated on August 19, 2005.

Arroyo blames the system for the dysfunctions of her administration. But this system is dysfunctional not in the sense that it blocks governance but in the sense that it serves only the interests of those who monopolize the political and economic life. And it is obsolete not in the sense that it lags behind an imagined economic take-off, but in the sense that it cannot contain the new political consciousness that is emerging among our people.²⁴

Amending the Constitution would not help the President get out of the Gloriagate tapes scandal, however, such proposal will let her stay as President since the other option, resignation, is unthinkable.

As what former Senator Salonga said "...the problem is not with the Constitution but with her lapse in judgment in allegedly phoning an election commissioner during the elections."²⁵

Calling an election commissioner during election is indeed a violation of the Constitution. Making a new one is not a way of dealing with such offense. While it is true that the Constitution needs some tuning up — the same can wait. What the public wants is genuine solution for real problems and not superficial ones.

This cha-cha rage had placed the real problem in the backstage — placing the Gloriagate tapes scandal in oblivion. It has successfully distracted the people's attention away from the President. The administration banked on the people's short memory by injecting the issues of charter change which fueled a different response from them.

Charter change will serve as an easy way out, but it is no savior to redeem the country from its hopeless state. At the end of the day, it is he who has the power who shall prevail.

²⁴ R. David, *Change*, Philippine Daily Inquirer, August 7, 2005

²⁵ A. Nocum, *GMA to face suits if she quits – Salonga*, Philippine Daily Inquirer, July 14, 2005, p. A4, col. 4.

V. CON-CON v. CON-ASS

With the main issues driven out of the people's consciousness, the focus is now directed towards charter change. The debate wages on. There is no going back; the present administration is bent on pursuing this course of action. The road to its main objective is yet far and winding. President Arroyo, in the earlier part of her term, had once said that a constitutional change must be effected through a constitutional convention. Now she wanted it to be through a constituent assembly to hasten the changes. Why the sudden change of heart? Isn't that suspicious?

The success of this undertaking is still unpredictable. Legislators are confronted by the issue of the mode of effecting charter change which is yet to be resolved. Members of Congress are still divided.

Article XVII of the 1987 Constitution provides for three (3) ways of introducing amendments: *first*, by a Constituent assembly,²⁶ *second*, by calling a constitutional convention,²⁷ and *third*, through the people's initiative.²⁸

In a Constituent Assembly, Congress sitting as such would propose amendments. In a Constitutional Convention, delegates are elected to the panel by Filipinos and they would introduce amendments. In a people's initiative, at least twelve percent of the electoral may propose changes through a petition.

The third mode though, is not self-executory. It requires an implementing legislation, thus Congress approved R.A. 6735, the Initiative and Referendum Law. But the Supreme Court held that R.A. 6735 as worded does not apply to Constitutional amendment.²⁹ Thus, the third mode still awaits a valid law to be implemented.

²⁶ CONST. art. XVII, § 1.

²⁷ CONST. art. XVII, § 3.

²⁸ CONST. art. XVII, § 2.

²⁹ *Defensor-Santiago v. COMELEC*, 270 SCRA 106 (1997).

Now the choices are narrowed down to two — between constitutional convention and constituent assembly. What follows are some of the arguments raised by proponents regarding their choice.

Proponents who consider constitutional convention as a better mode of effecting the change contend that such mode is free from suspicion of partisanship since the people who constitute it are directly elected members of a constitutional convention for the sole purpose of amending the Constitution, thus free from suspicions of partisanship.³⁰ Further, as a democratic country it is an opportunity for the people to participate in the drafting of the Constitution that will govern them through their elected representatives. An amendment through a constitutional convention will no longer burden Congress which already has its hands full with legislative work.³¹

On the other hand, advocates who preferred a constituent assembly maintain that it is more practical and expeditious in view of the big budget deficit of the government.³² A constituent assembly would cost not much more than what Congress spends for the same time to deliberate and agree on the passage of bills. In a constituent assembly, the Senate and the House of Representatives approve every amendment separately. The fear that members of the House will dominate the assembly to promote personal ambitions is baseless. Every amendment will be submitted to the people for a simple “yes” or “no” vote. Further, in a constituent assembly, the issues of form of government and reforms on the economic provision of the Constitution could be adequately discussed by the framers and would be fully understood by the people.

³⁰ Catholic Bishop Conference of the Philippines-National Secretariat for Social Action, Justice and Peace, Position Paper.

³¹ See J. Rocamora, *Citizens Movement for Constitutional Convention in 2004*, TSN, December 30, 2002, p. 4, Multisectoral Coalition.

³² Philippine Foundation for National Recovery, *Here's Why Charter Change is Imperative*, July 2003.

Looking back as how charter change was effected, neither constitutional convention nor constituent assembly proved to have drafted a superior constitution. The choice on the means to be employed is not the end of it — it is just but a starting button to set things going. Unless lawmakers make up their minds, things will be at a standstill.

VI. PRESIDENTIAL v. PARLIAMENTARY SYSTEM

A. People Skepticism and Ignorance

The major change that cha-cha proponents advance is the shift to a parliamentary form of government. Such proposal is met by public suspicion on its political overtones.

Lack of public's faith may be attributed to its lack of awareness of the real issues behind the clamor for charter change and full understanding of the specific revisions in the 1987 Constitution, which legislators debated on.

A recent survey conducted by IBON Foundation shows that a significant number of Filipinos are still undecided or unaware of the issue of charter change. Only thirty-three point six percent (33.6%) of the respondents said they were aware of the issue. Majority of the Filipinos are not too eager to amend the Constitution by next year to allow the shift to parliamentary form of government. This was shown in the survey conducted last June 30 to July 9. Forty-four point five percent (44.5%) of Filipinos are actively not in favor of charter change.³³

In recent years, various groups from different sectors had drafted their proposals for the shift to parliamentary system. What follows is a comparison of the presidential and parliamentary system, of how it works and its advantages and disadvantages.

³³ A. COVERA, Are Filipinos Ready for Charter-Change, <http://www.filipino.ca/forum/thread-view.asp?threadid=20444> (last accessed on September 25, 2005).

B. Presidential and Parliamentary System Defined

A Presidential system is a system where the executive is constitutionally independent of the legislature in respect to the duration of his tenure and not responsible to it for his political policies. There is a clear-cut separation between the executive and the legislature. The President, to whom the executive power is entrusted, is elected in one process and the Congress is chosen on its own.³⁴

On the other hand, a Parliamentary system is a system generally characterized by the fusion or union of the executive and legislative branches of the government. The primary source of power and authority is the parliament or legislature. The chief executive officer of the government is the Prime Minister. He is the leader of the parliament.³⁵

C. Powers Exercised Under the Presidential and Parliamentary System

In a Presidential system, the President exercises executive, formal and reserve powers. His executive powers include running the bureaucracy and he serves as Commander-in-Chief of the Armed Forces. His formal powers include appointing heads of the executive departments, ambassadors, consuls, officers of the armed forces, members of the Supreme Court and judges of the lower courts, and other high ranking officials; granting pardons, reprieves, and commutations; awarding decorations/honors; signing bills to become a law. His reserve powers include exercising legislative veto powers and power to declare martial law which may be revoked by a majority vote of Congress.³⁶

³⁴ REFERENCE AND RESEARCH BUREAU, LEGISLATIVE RESEARCH DIVISION: DIFFERENCE IN THE LEGISLATIVE PROCESS OF THE PRESIDENTIAL AND PARLIAMENTARY FORMS OF GOVERNMENT (1992).

³⁵ L. CAUSING ET. AL, NOTES ON THE PARLIAMENTARY SYSTEM OF GOVERNMENT (1996).

³⁶ The Government, <http://marsantos.tripod.com/government.htm>, (last accessed on September 25, 2005).

On the other hand, Congress legislates or enacts laws, approves government budget, exercises impeachment powers and may convene as a constituent body to amend the Constitution.³⁷

In a Parliamentary System, the President exercises formal, reserve and advisory powers. Those included in the formal powers of the President are perfunctory appointment of the Prime Minister, ambassadors, and officers of the armed forces; signing of bills to become a law; granting pardon/amnesty; creating titles and awards decorations/honors; representing the nation in foreign affairs. Included in his reserve powers is the authority to dissolve legislature in case of deadlock between the executive and legislature; and calls for new elections following the dissolution of the Parliament. His advisory powers include promoting national sovereignty, promoting national identity and unity and encouraging moral leadership.

On the other hand, the Prime Minister serves as the executive. He forms the government/chooses the cabinet members, runs the bureaucracy, advises the President, proposes and passes legislation and may call on the President to dissolve the Parliament.

The legislative body is the Parliament which chooses the Prime Minister, exercises vote of no-confidence to PM, legislates or enacts laws, approves the government budget, and may call on the PM to testify in the "Question Hour".

D. Salient Features

Presidential system is primarily based on the principle of separation of powers among the executive, legislative and judicial branches. Under this theory of separation of powers, the President cannot interfere in the legislative program of Congress. An opposition Congress can derail good administration programs. The president is elected by the direct vote of the people. The president and the members of the cabinet have fixed terms of office and very seldom can they be removed from office by the tedious processes of impeachment. The

³⁷ *Supra* note 35.

president has no power to dissolve Congress even in grave case of massive corruption or wrong and unpopular laws passed by Congress. Any change must wait for the next elections. The accountability and responsibility of the President is not continuous since they exist only during election time. There is no effective presidential mechanism that can remove or discipline the President or any member of his cabinet for loss of confidence or graft or corruption during their fixed term of offices.³⁸

In a Parliamentary system there is fusion and union of the executive and legislative branches of government. The cabinet is headed by the PM who controls the legislative calendar and no bills except those of local application may be discussed by the parliament without prior endorsement and approval of the cabinet. Members of the Parliament from among themselves elect the Prime Minister. The PM and his cabinet ministers have fixed terms of office but they may be removed from office easily for graft and corruption, inefficiency and misconduct from the moment they no longer have the support of the majority of the members of the parliament. The PM may dissolve the parliament on the grounds of massive corruption, wrong and unpopular decision on national issues and his cabinet ministers may resign or be removed when they no longer have the support of the majority of the members of the parliament. There is continuous or daily accountability and responsibility of the PM and members of the cabinet to the parliaments and the people since they could be removed or replaced at any time upon loss of confidence or lack of support of the majority members of the parliament.³⁹

E. Advantages

In a Presidential system, separation of powers is insured, thus it is stable and efficient and suitable to emergencies. The system is said to be stable since a legislative majority cannot topple the executive.

³⁸ *Id.*

³⁹ *Id.*

The executive runs through its fixed term of office and is free to follow the continuous and consistent policy. A single unified control results in efficiency and executive and legislature works independently of each other. Since all powers are concentrated in the hands of the President, he can take prompt actions to meet a crisis. The separation of powers keeps the three departments of government within their bounds that no man can constitutionally override the others and transform himself into a dictator. With the power of the executive limited, it cannot effectively exercise control of/or authority over the legislature and the judiciary. Not one of the departments is said to be superior over the other. Each department serves as a look out of the other.⁴⁰

In a parliamentary system, no matter how great the majority of one party; it can still be repudiated by the people at the regular elections. The parliament may be dissolved based on massive corruption, wrong and unpopular decision on national issues and his cabinet ministers may resign or be removed when they no longer have the support of the majority of the members of the parliament. This is possible at any time although highly improbable. It is a decision that is made with due deliberation and consultation with the members as well as the head of State. The immediate accountability of the government, both to the parliament of the peoples' representative and ultimately to the people, constitutes the real and effective check against the abuses of government powers.⁴¹

F. Disadvantages

In a Presidential system the chief executive may tend to become autocratic and tyrannical since there is concentration of powers. The separation of the executive from the legislative may result in the two departments working at loggerheads and whenever conflict arises it may end in a deadlock. This system is often called the spoils

⁴⁰ *Supra* note 34.

⁴¹ *Supra* note 34.

system. The President is a party man. After election he makes appointment of his choice and with very wide power of patronage at his disposal, virtually fills up a large number of official positions by his own party men. This kind of system is somewhat inflexible that even if there is a need or an emergency that demands a change in the executive that is not possible. An incompetent President can continue in office till his tenure is over.⁴²

On the other hand, in a Parliamentary system, a cabinet can stay in power as long as it enjoys the support of the legislature thus it can afford to rule arbitrarily. A cabinet form of government is suitable for normal times. It will not be able to take quick decisions during emergencies like war because a cabinet functions as a collective body. Under this system, the ministers are not necessarily experts or well-versed in administration. Some may have been elected based on other grounds.⁴³

VII. UNITARY v. FEDERAL SYSTEM

Corollary to the proposal to shift to a parliamentary system is the proposal to change the structure of government from unitary to federal.

At present we have a unitary form of government. The central government holds the principal power over the administrative units that are virtually agencies of the central government.

The reason behind such proposal is that the unitary set-up is obsolete, fragmented, and ineffective and promotes excessive centralization of power and resources in the central government, which presents the biggest roadblock to peace, progress and development in the country.⁴⁴

⁴² *Id.*

⁴³ *Id.*

⁴⁴ ABUEVA, *Report of the Committee on Constitutional Amendments, Revision of Codes and Laws on the Result of the Public Consultations on the various Proposals to Amend and/or Revise the 1987 Constitution*, TSN, p. 65-66, May 12, 2003.

On the other hand, federalism is a form of government whereby political power is divided between the central or national authority and smaller, locally autonomous units such as provinces or states, generally under the terms of the Constitution.⁴⁵

Federal political systems divide power and resources between central and regional governments. The balance of power between the two levels of government varies from country to country, but most federal systems grant substantial autonomy to state or provincial governments. Central governments decide issues that concern the whole country, such as organizing an army, building major roads, and making treaties with other countries.⁴⁶

The proponents of a federal form of government believe that it is better than the present unitary system since federalism may improve governance through a new division and specialization of government functions. There will be broad devolution of power, authority, and the needed revenues from the national government to the states. Local government will be closer to the people and have greater impacts on their lives. Federalism will empower state and local leaders and citizens throughout the country. With policies, programs, and decisions made outside the national capital, local leaders will assume greater responsibility for leadership and service delivery. People will be more involved and will demand better performance and accountability. As a consequence, they will be willing to pay taxes to finance government programs for their own direct benefit. A Federal system will enhance democracy. The citizens will have more opportunities to participate in state affairs beyond voting.⁴⁷

On the other hand, those who oppose it maintain that federalism will not give more power to the people, on the contrary, the people

⁴⁵ 10 FUNK AND WAGNALLS NEW ENCYCLOPEDIA (1993).

⁴⁶ Federalism, http://encarta.msn.com/encyclopedia_761572095/Federalism.html, (last accessed on January 5, 2005).

⁴⁷ A Primer on Constitutional Reforms/FAQ, http://www.ipd.ph/chacha/primer/chacha_primer.html, (last accessed on September 25, 2005).

will have less power, because national and state leaders are no longer elected directly but by national and state parliaments; and it will be easier for local dynasties and political warlords to wield and retain political power. Elections will be more costly, with each state having parliaments, and each aspiring local governor or prime minister having to support a larger set of candidates. The stability it envisioned may be more imagined than real, as shown by the numerous times leadership may change hands in a parliamentary system, with only a majority required to bring a leader down, rather than two-thirds for a conviction in an impeachment trial at Senate.⁴⁸ A federal system of government would increase expenses in the government because each unit in a federal system would have its own legislature, its own Supreme Court.

VIII. WILL A PARLIAMENTARY SYTEM WORK IN THE PHILIPPINES?

A. Political Parties

Proponents of parliamentary system said that such system would promote a strong two-party system. How can this be possible?

A major requirement of a parliamentary system is a mature political system in which a strong party is differentiated from the others by its platform. A political party as defined in the Omnibus Election Code⁴⁹ is an organized group of persons pursuing the same ideology, political ideas or platforms of government and includes its branches and divisions.

Philippine political parties are often defined by what they are not.⁵⁰ They are essentially non-ideological vehicles for personal and

⁴⁸ S. Monsod, *Shall We Dance?*, Philippine Daily Inquirer, August 6, 2005.

⁴⁹ ELECT. CODE, art. VIII, § 60.

⁵⁰ J. ROCAMORA, *Formal Democracy and its Alternatives in the Philippines: Parties, elections and Social Movements*, <http://www.tni.org/archives/rocamora/formal.htm> (last accessed on September 25, 2005).

factional political ambition. The party system in the early 1990's closely resembled that of the premartial law years when the Nacionalista and Liberal parties alternated in power. Although they lacked coherent political programs, they generally championed conservative social positions and avoided taking any position that may divide the electorate. Each party tried to appeal to all regions, to all ethnic groups, and to all social classes and fostered national unity by never championing one group or region. Neither party had any way to enforce party discipline, so politicians switched capriciously back and forth.⁵¹

After the martial law era, the system has become "more democratic" since political parties had increased in number, though no political ideology bound them.

Even political scientists cannot agree whether the Philippines has a multi-party system, a two-party system or even, as some seriously suggested, a one-and-a-half party system.⁵² There can be hardly any two dominant parties in the country.

Political parties in the Philippines are therefore nothing more than the tools used by the elites in a personalistic system of political contests. The elite themselves do not form a stable or exclusive blocs or factions. Their boundaries are provisional and porous at any point in time. They revolve around political stars rather than around ideologies.⁵³

⁵¹ Political Parties, <http://reference.allrefer.com/country-guide-study/philippines/philippines130.html>, (last accessed on October 25, 2005).

⁵² *Supra* note 50.

⁵³ J. ROCAMORA, *Formal Democracy and its Alternatives in the Philippines: Parties, Elections and Social Movements*, citing Randolph David, <http://www.tni.org/archives/rocamora/formal.htm>, (last accessed on September 25, 2005).

B. Political Culture

The country's political culture revolved around entrenched political clans, especially in the province. Their influence would be strengthened if more power were devolved from the national government in Manila.⁵⁴

Teodoro Benigno, a political analyst pointed out the kind of political culture we have, that makes parliamentary system unsuitable in the Philippine setting:

"It is already obvious by this time that what has devastated the Filipinos as a people for more than half a century is not their system of government — but their unchanging culture.

Our leadership care only for coupons not change. We don't trust anybody except members of our family. What is precisely needed for development is community trust, a communal reaching out for the network of business and financial bondings that economic progress requires. xxx Our leaders must understand that while indeed change is needed and even imperative, they, more than anybody else have to change. And soon."⁵⁵

Thus, parliamentary system is not a solution at all. By shifting to parliamentary, the people cannot be assured that politicians will be thrust into parties that are organized with unique ideology that will guide them in governance.

Until the present time, political parties are still non-ideological. Politicians switched parties whenever it seemed advantageous for them to do so. "Turncoatism" is the general rule, rather than the exception. Then how can shifting to parliamentary system remedy

⁵⁴ P. Tubeza, *Federal System Will Hand Government To Dynasties, Says Party-List Solon*, *Philippine Daily Inquirer*, July 31, 2005, p. A2, col. 6.

⁵⁵ T. Benigno, *Parliamentary System not for the Philippines, The Wherefores*, *The Philippine Star*, May 09, 2003.

this trend in politics? Apparently there is no party loyalty among its members. Politicians are not drawn together by distinct ideology but rather by a common desire to be elected and to stay in power. This kind of political culture among politicians cannot be changed overnight.

VIII. CONCLUSION

The raising of the issue of charter change as a means to solve the countries political and economic problems is not an appropriate reaction to deal with problems, however, the untimeliness of such proposal, let us now say, is already a mooted point. The government is determined to pursue it. Whether it will succeed, still remains to be seen.

There is no doubt that the Constitution needs some tuning up, but does it really have to be an entire overhaul? There is no need to change the system of government.

Which system best works for us — the federal-parliamentary or unilateral-presidential system is beside the point. The real issue here is who will run the government and how will they run it. No country can claim that their Constitution has been proved to be superior among any others in the world. It is the people running their government who remained faithful and sincere to the mandates of the Constitution and in governing their country that make a country not just economically strong but politically stable as well.

There is a clear-eyed realization that constitutions enshrine a nation's ideals and the values of a people cherish their permanent hopes for tomorrow. To rewrite a charter wisely, "reason free of passion" is needed.⁵⁶

⁵⁶ J. Mercado, *A Cage Full of Bananas*, Philippine Daily Inquirer, August 11, 2005.

Further, the main office of a Constitution is only to provide a system of fundamental laws and principles that prescribes the nature, functions, and limits of a government or another institution and the faithful execution of its mandate rests on the people vested with authority to run the government. The Constitution itself does not make a progressive country.

As what former Senator Blas Ople once pointed out: “One true test of the efficacy of a Constitution is whether those in power, in obedience to its mandates, willingly forego their material or family advantages, in short, to obey not when it suits their interests but precisely when it causes pain.”⁵⁷

Each system has its own strong and weak points. Unless the people in the system and the people around them change there will never be a change in its truest sense.

⁵⁷ S. Ople, *Philippine Panorama* Sunday, January 1, 2006, p. 20, col. 3