WAYS AND MEANS OF MOVING FORWARD
A Seminar on Constitutional Change

Full Transcription

Invocation

Dr. Dennis Gonzalez
Associate Dean, Ateneo School of Government

Let us pray all together. O God, give wisdom to those who govern a sense of justice to those who need power; that may pray and enforce laws to our life giving. To the poor and weak they give freely. To the cost they need to be of help. To the life they walk path. O God raise the distance between the pride and our prayer. The practice of governance of our life. Imbued in us the thirst of what is right and deep desire to do common good. Grant us the wisdom of moderation. We ask You O God to bless us seemly with your spirit move within us and between us. We trust in Your presence as we never abandon Your kingdom. You walk with us whether we know or not, even at times we walk without the eyes of faith. Grant us moments of recognition. Inspire us, enflame our hearts, as we, participants in this constitutional change seminar take this journey together. Help us to open our hearts and minds to your spirit and to each other. We ask these with confidence in your wisdom and love. Amen.

Introduction

Atty. Antonio La Viña
Dean, Ateneo School of Government

Dean La Viña:
Let me just thank you for coming this afternoon and let me just welcome you as well as to give you an overview of the seminar. So we will do it first and then introduction to each other. Every group of topics I'll introduce you the facilitator. Just an overview I'll give you the title means "moving forward" and moving forward means moving forward on questions on constitutional change. Just a background on general description on what we opt to do. We look on a high level dialogue on constitutional change. In changing different groups involve in political charter reform issues. I try to get original ideas on moving forward. Just a little background on what we are doing is to continue the active involvement of Ateneo in debate very similar to what we are doing now.

And finally most relevant to this seminar was actually writing a book and leading group of researchers on writing a book on constitutional change. And I'll give you a title on constitution on how to change the constitution that we are actually looking the history on constitutional change in the Philippines - the successful and unsuccessful attempts to change the constitution and the lessons that may be applied on the future. The objective is to launch a discussion on 1987 charter change and more importantly is to determine the ways and means to forward. And so the first, the second and the third set of topics being around on how moving forward where the first is about urgency and timing of changing the constitution. Overview on the seminars so today we do context and timing which I'm sure you'll be very robust debate very interesting resource persons that will discuss that different

issues on constitutional change. Tomorrow morning, we will talk about modes of changing the constitution, the different modes, the pros and cons and then in the afternoon we will talk about leadership and key actors and what is the combination of the political forces, the ideal combination as well as the realistic combination of political forces that can make constitutional change forward.

Context and timing. Context and timing is all about urgency of necessity of charter change process and obviously what the question there is should it something we should do in 2010 or after 2010 or is it something that can be done now or should we start discussing it now and what are the reasons we should do that. I will talk about the pros and cons and the roles of the actors, political actors. The way we will conduct the discussion, we should ask 15 minutes of discussion maximum. Then I will open discussion the facilitator and I will moderate. And on finally, I'll focus on outcomes on forward looking and trying to get outcomes that can enable us to move forward on this issue. So you have comments and questions in these overviews?

So thank you again and each of you I welcome all, especially those who come farthest, I'm glad that you are here. But what I'd like you to do is to start introducing yourself to each other. Just state your name, where your coming from and a little bit of sharing if you have a particular expectation you want to share. That would be great. I am now concerned with the political dynamics in the rural areas but to the extent that I have gone though fire in the last exercise of charter change, I wish we can approach charter change on its merits and being able to offset the natural inclinations of certain groups to condemn particular suspected motives because as Butch and I have experienced, any mention of charter change always is overshadowed by suspicions on motives. And even the church in this particular regard is not exempted. And so I hope that in this forum we could look at it from a more academic, scholarly aspect and the imperatives for change. Thank you very much.

Introduction of Participants

Atty. Butch Abad:
I am Butch Abad, I am vice president for policy and platforms of the Liberal Party. I am also sitting at the board of INCITEGov which is a, it's like a think-tank that many of those who resigned from government after July 8 formed to continue advocacy for reforms in governance. I also lecture at the Ateneo School of Government. Well, let me start by being frank to ….because my paper will dwell on what he doesn't want to dwell into this afternoon but to be very honest I think it's important to have this honest and frank exchange on charter change because I wouldn't want to think about this as an academic exercise because as we speak, there is in fact an on-going process to push one and to oppose it and the implications are serious and I think that while this is a conference to discuss is I think we cannot escape the fact that considering the situation we face, the issue is going to be at the heart of you know whether this government will continue to generate support or will in fact gain more opposition as it moves along towards 2010 and it really lies at the heart of the uncertainty that's now sort of enveloping the political terrain right now. So it's timely but at the same time, I hope that it's not treated mainly as an academic exercise but it's a way also of responding to the situation that is possible.

Clarita Carlos:

Good afternoon, I'm Clarita Carlos from the UP. It's refreshing to come up here for two reasons. First you get out of muggy UP Diliman, and refreshing also because I'm seeing for the first time very young faces and it's very important because the previous conversations that we've been having were only populated by fossils like me. I always feel like a fossil when I talk to my grandchildren because they always talk about me in the third person as if I were dead. Yes, you were correct Cong. Abad, I think the next 2 days will really be a demonstration of a collision of ideas and as we always hope that from the collision of ideas we will come out with whatever passes for truth. Thank you.

Raul Lambino:
Good afternoon to everybody I would like to thank Prof. Tony for the invitation and I am Raul Lambino, one of the most ridiculed advocates of charter change for the past 2 years. I began advocating charter change since 1987 immediately after the adoption of the 1987 constitution after studying the different loopholes and weakness of the present constitution. I've been a believer of parliamentarism in line with my Christian Democratic ideology and as a proponent for charter change I would not want to be in the position of Dr. Abueva or Mr. Lito Lorenzana, my two chairmen in the previous charter change constitutional commission. I am now beginning to have silvery hairs. Soon perhaps I would not have any hair anymore and yet the constitution would not be changed still. Well the discussion on charter change is actually healthy for democracy because as it is said constitutional change is a way of averting a revolution and the way things are going on now as Butch has said, because of the level of popularity, trust rating of the administration who would want to continue clinging to power by all means, if people cannot change the system of government or change the constitution to come up with a more accountable political system in the country, perhaps no one among us hear would love or would like to see the day when the costs would be so dear that we cannot afford to pay and I was so shocked when I saw the television yesterday and five well-renowned and well-respected bishops of the Catholic Church were calling for immediate government change and when some personalities were mentioned as possible next leader of the country, two names were mentioned that were somehow acceptable to this group – the Chief Justice and the Chief of Staff and this could mean only that it is not by way of charter change that we are going to change this government as far as they are concerned but maybe on another mode and I hope that our discussion today and I am expecting, that's my hope that we can have a way out peacefully of this present phase. Thank you.

Edgar Bontoc:
Good Afternoon. I am Edgar Bontoc and I'm part of a group of writers and researchers organized by the Ateneo School of Government to write on this book entitled "How to change the Constitution".

Atty. Musib Buat:
I'm Atty. Musib Buat. I see some familiar faces here with two over there. We were the first collaborators in Federalism before they found out. I'm a member of the MILF Spaniel until it will be disbanded. It will be disbanded very soon (laughter) and we will have nothing to do with it. I have served the government for about 30 years. The last of which as a presiding commissioner, congressman Aquino here was my favorite client. Then I opted for optional retirement or stand working in the government. I do not stand some pressure in my job so better to be independent. When then governor and MILF chairman Nur Misuari make me say" Oh! you better be my legal Council" "Why not?" I had the chance to travel

this time to Kuala Lumpur by attending the National Conference. Now, the late chairman Salamathasim saw the footages. I was walking along the hallway to get… so his secretary called me up and say "how about coming over and chairman would like to talk to you" "Why not". Former late chairman Salamat and his so called "Buluk" Islamic Conflict so that's where I got invited to join MILF Spaniel. First as Executive technical working group then I was better as member of the family. I will not discuss it. I am not here to discuss the … because that is not the subject matter. But I would like to point out that there are 3 trucks that are being considered vehicle to resolve the Mindanao problem. One of them is Constitutional change, another one is arms struggle, the third one is toward diplomatic negotiation. Now it seems that certain changes are very much behind. The arms struggle is on-going, the diplomatic truck is still going-on, Prime Minister Badao and president Arroyo has just met in Beijing. And I'm glad that the constitutional stagwart are to revive the subject to constitutional change perhaps. They might include a provision on how to resolve the Mindanao government. And congressman.. is in Mindanao and I think he will be one of those interested to tap the problem to solve via constitutional change.

Ms. Amina Rasul:
Good Afternoon. I'm Amina Rasul. I'm from the Philippine Council for Standing Democracy. I'm also an editor of little newspaper supplement for Moro Times. I don't think if any of you are subscribers of Manila Times I probably do not know that but please buy. Last Friday of the month and my mother was the last Muslim elected to the Philippine Senate. I tried, I tried to run for the Senate and lost so I am alleged in my own mind because I think I am one of the best senators that you never had. I say this because this is how we see the present political system. If you are away from the majority, if you belong to minority communities and this kind of political system does not give you equal opportunities which is why I think more and more people are looking at changing the present political system to something that is more fair that will provide more access to power, resources, and opportunities to those who belong to the periphery. Now having said that, I will be talking later about, but is it the right time? So Thank you.

Joy Aceron:
Good Afternoon, I'm Joy Aceron. I'm with the Ateneo School of Government, I'm heading the political democracy and reform program of the school. I also teach at the Political Science Department of the Ateneo de Manila University.

Margo Mercado:
Hi Good Afternoon, I'm Margo Mercado with the Konrad Adenauer Foundation.

PRESENTATION AND DISCUSSION ON TOPIC 1: CONTEXT AND TIMING

Facilitators:
Dean Antonio La Viña
&
Dr. Antonnette Angeles
Academic Vice President, Ateneo de Manila University

Dean Antonio:

Thank you. Thank you everyone for introducing yourselves. Let's proceed right away to the business and which is the first step of context and timing. So we start with Butch Abad.

Atty. Butch Abad
National Executive Committee Member, Liberal Party
Member, International Center for Innovation and Transformation Excellence in Governance (INCITEGov)

Thank you. You know the Liberal Party has been the exponent of revisiting the constitution. I was always asking these people about this excellent time for charter change. Is charter change necessary and if it is urgent? Is it urgent? This is where I have a lot of reservations because I thought it is urgent when I don't think it is urgent in the near future. I'm a pure believer to make charter change a meaningful and lasting exercise of important preconditions for the causes itself. Unless we bid with those preconditions I don't think that we can come up with a satisfactory process.

The other point is, I think charter change must come on the end of the discussion process. While many are advocates of charter change being the answer, I think charter change is really a process of revising of what I believe is a long contentious necessary process of negotiation among vigilant players in the society. Especially in our context including those who have a historically has been denied participation in national decision making. Because absent that and exceedly giving, presenting a document for people to say yes or no to, I think it is the whole process of charter change. It is not merely for me a process because of the colonial history and long social injustice I think the process of charter change was also addressed to the long running structural problems that historically stains us. So, there is a process and charter change is a process of putting a legal and constitutional start to that exercise and if we don't do that, I think we will just make mistakes we had been made before. And I don't think we can achieve the king of lasting peace this exercise is meant to. I mentioned that very genuinely there are group and personalities who feel charter change is the answer and is the beginning and the end. I had great reservations to those who are looking at it that way. I think what is good in the process is the exercise itself.

That's why I think it is important to us to deal with certain conditions that will allow us have a colorful charter change process and for me, the more urgent has to be how do we deal with uncertainty that we face in the remaining 18, 17 months of this our regime. I think in everybody, well not everybody, but there are still a lot of questions among our people where in fact there will be elections in 2010 for example. And that makes it the way for example you know preparation for peaceful, orderly, and meaningful election in 2010 will be our regime is it saying power beyond 2010. I think we have to live with these situations and its hanging in our heads and we really don't know if it's going to happen. Assuming we manage to get over with that hum and we have an election in 2010, we see that we'll deal of the consequences of the kind of governance that we are seeing in the present regime.

For example the police, the military, the ombudsman, prosecutory agencies of government. Right now this institution enjoys very low level of approval among citizens together with the office of the president. We have to deal with the lot of closure on the so many critical issues like the corruption issues that are remained unsolved like in the case of Joc Joc Bolante. Despite the fact of the very comprehensive report submitted by the senate, the

ombudsman does not come up with a case that very clearly there is probable cause that in fact are the charges enumerated in the senate report.

We have to deal with the lack of closure with the many human right cases. If these issues hang in our head and we are asked to deal with the constitutional change, I don't think that people will be at peace. And on top of that we will have to deal with more fundamental problems during the course of the past 9 years, the problems that the congress may be asked and may be asked by all. What I'm saying is that there are preconditions for meaningful discussion and if we don't make this precondition I don't think, you know, the society because I want to see the charter change as a cycle process where the key players in the society are the innocent in pre-negotiation and what comes out from it is eventually clean and legal constitutional blessing through an exact figure of permanence through charter change.

So even varying a ChaCha or martial law or any diversions before 2010, I think our most important first step is 2010. We have to get there. I know it's not what to be the solution but if we do not say for extra constitutional change, I think the only legal parliamentary what is waiting us is 2010. And so, I think the first order of the day is, are we going to have a clean and orderly and peaceful election in 2010. Is this government preparing us for that kind of political exercise in 2010? At the way thing are going, I'm not sure, at the rate, for example the computerization is going on the electoral process I'm not sure whether there is really sincere interest part of the government to held a credible and a meaningful exercise in 2010. Are we going to have a credible and competent president that can put closure to these many theses issue? We have seen how unproductive and even destructive it is for a president to be made out by issue on illegitimacy and it is not dissipated over time. It has become worst. And so a part for an exercise that is being put in me, we don't said to come together in a somebody whom we can trust to be because there are many proposals that we should have, we should elect our own delegates in 2010 and then within the first year of the president's term and then make sure the that progression finishes its job within the year. But the assumption there is we will have a very good election on 2010.

And the second one is we can in fact trust our president to finish its process from 2010 which are really huge assumptions to make on 2010. So this is not certainly moving forward but I just want to emphasize that especially at this juncture in our political history found an important how are we going to deal will them. I know they are very difficult issues to deal with but I think people have to see sincerity as a part of a national political leadership of the national political regime. At the same time to make the ground work for example the election we'll going to have on 2010 so we can have a real and honest good election because without that, I am afraid that this will just simply become an academic exercise and that in fact it will be brought to an arena which we are all are not competent to participate in. So going back to the question, is it necessary? Certainly it is necessary. Is it urgent? Well, I deter more urgent things to be gather and measure and sets than with the other data before we made really talk about a meaningful and lasting charter change process. That's all. Thank you.

Dean La Viña:
The next to discuss will be Joel Rocamora.

Dr. Joel Rocamora

Chair, Akbayan! Citizens Action Party

Ok. *'pag nagsulat sana ako ng paper para dito sa seminar balak ko sanang titulo ay "tanggo muna bago ChaCha". Pero dahil hindi naman ako makasula, saka ko na lang ipapaliwanag sa inyo ang mga* dancing preferences *ko.*

The best argument on the urgency on charter change is our beloved president. What do you have here? You know president, the maturity of our people as shown, not only the majority of people, not faster, the majority of our people, did she cheated last time she got elected? It's also the president who has prodigious capacities for messing up. It is also the president key sectors of our society, our owners in our political society. Why openly said, they don't have anyone? And yet she's there. She sat over there. There are amplifications that she and her people are working hideously. The problem with that is not they want to change the national archaeology provision of our Constitution; the strange thing on that initiative, the purposes is they want to abolish the senate. Now, in aiming other political system this president would either force out or will force to retire to another to the rest of her life. A number of earlier stickers are already pointed to the major problems where a situation where you cannot legally force out.

Bush has carefully made out to major problems. I will just repeat his stories because it's crucial ones. One it forces people to think about extra constitutional needs of removing this president. The other, the way it is more relevant to a task the damage to the political institutions on the legitimacy it has created. You have a legislation, you have military whose unique units must be constantly kept under watched. You have a supreme court where there is constant speculation about many of the city injustices have been fought? Wide, radical proposal is to abolish and turn over elections to Pagcor. At least it would be, you know, it will reflect an institutional claim because election is all about money and gambling and so on. And Pagcor institutionally is better organized; *lahat ng* gambling and the popular thing. I can't go through a whole range of our political institution which have been damaged by this impulse.

But the problem with constitutional change is urgent as I think constitutional change is necessary. The problem, the reason why it has not succeeded in changing has go with the nature before it was started. The more significant the reform is, the more it requires arrangement of balance and power in the political system. And in constitutional reform change in basic structure of our political system will require major rearrangement of power.

I thought if you start on that basic requirement you can then understand why advocates for charter change always end up opposing charter change when it gets seriously proposed. The reason is the key holders of the political power in our country understand that there is a serious crisis in the reservation in our political system and understand that they have to be very systemic changes in our political system. But because they're the ones who hold power they want to change that political system that better to assure their reproduction as a political class. Whether it's as specific as the most promising politician ever. Of course advocates especially in our society and of the course to oppose this initiative by power holders to change this Constitution, to suit their political needs. For me that's undesirable. It is more prominent for me that segments of our society who did not have political power necessary to bring up a significant political reform, what is dramatical when this sections of

our society attempt some kind of political duo, attempt to work with those who have power in an attempt to achieve the kinds of specific constitutional reforms that they want.

That's not the only problem. The other problem is we tend to have an over rated, we tend over rate the capacity of the administration, to manipulate and tend to retrieve in situations where it might be possible to undertake some kind of political depletion.

Now, my last point is to indicate my statement with Butch Abad. I think that a constitutional convention election in 2010 could be a good solution for the continuing frustration that all of us at hand on charter change. Without the preconditions, I don't see that it is necessary to conceive those kinds of provisions. It is at least a good struggle to push forward a good constitutional convention election, at the back of presidential candidates maybe, this presidential candidates, to call for constitutional convention election in 2010 and to make a major clan toward reforming the constitution. That's all. Thank you.

Dean La Viña:
We have one more presentation on Dr. Abueva and after that we can ask questions.

Dr. Jose Abueva
President, Kalayaan College
Professor Emeritus, University of the Philippines-Diliman

First of all of course, I really like this ChaCha. But you know how gloomy and how desperate the nation is, in its problems in its institution, if we don't really have the sense of humor, we will be defeated. We often suspected the hidden agendas of our government but not from our own. We have no hidden agendas on our own. Of course when this constitution was approved, few months before that on December 28, '98 states were considered lions on United States.

The second time was in 1985 that it was the right time because we are looking forward to independence, regaining of independence. And the US congress has authorized the constitutional convention. The third time was of course in 1941 when the constitution was amended to change the term of the president to 6 years. The fourth time was in the late 60's when the country was in the prose of a revolution. The fifth time was in 1986 when overthrown the dictator and now jump to the 1987 Constitution and the restoration of democracy in the pursuit of justice.

So we have a new Constitution. A very good constitution in terms of ideas, in terms of vision, in terms of human rights and all kinds we never heard before, excuse me, we took advantage on human rights movement. In this juncture, we were comparing political justifications and historical justifications and great incentives in making a new constitution. So an institution changes is legitimate because the more right you gain to do, there was consensus on the political years regarding the political change to propose change.

With those contexts, the question now is, is it now the right time for charter change? Are there justifications in changing the constitution? Is constitutional charter change legitimate? Is there consensus among political leaders and the ruling class? No. majority of the people are against it. Political oppositions, many among us, civil society and the candidates for the

presidency on 2010, are all against this. The opposition in the senate, the opposition in the house is against it. So there is no consensus among the leaders.

Now, do you believe, situational, where the constitutional provision says that by majority vote in, the people can be consulted whether they want constitutional convention. Now, this is should not be done. The issue on charter change is the issue the leaders should confront. I hope the presidential candidates on May 2010 soon make their detentions known. We should concentrate on some structural or systemic changes. Thank you.

Dean La Viña:
Thank you for the first set of discussant. We may now ask questions directly to the discussants to clarify and to give initial reactions.

Atty. Gwen de Vera:
The part of my question, what does the end state look like? Because in the course of our human race in this many years of conversation, I think people would ask us, that if we shift from presidential to parliamentary, are we going to have less corruption? Are we going to have less poverty? Are going to have better population management? And my answer to all these questions is – it depends. And I never give up the predicate really. I would want to raise a fundamental issue can we talk about, what would the end state look like? Like each tomorrow we are to be ok. That's how these changes and indeed these are the document where we know everything that we want to do and we are here. Are we going to proceed to a changed situation? And all that point my answer would be – not necessarily because I think the fundamental of this system that need to be changed and not really the structure of the Constitution and they are the mandates. And I always declare who among the legal structure would really change in this behavior. Are you going to change election? Are you going to fiscal decentralization or devolution even without reading the constitution? My answer is uncomfortably, yes. And I am saying, indeed we change a piece of paper; it's a kind of change that we keep on promising to our audiences. I have a major refrain when I think that part.

Raul Lambino:
Under this system which we currently have, I have surgically studied how this government was able to manipulate, and took advantage to these loop holes of this constitution system. I have seen that this administration in particular has already developed an attitude that it can no longer be accountable of its prestige management. It is able to put the different agencies of government including congress and the judiciary under its own control. Because apparently, is so called separation of council and models, which is the backbone of a presidential system is not really present under the present political system, why because congress cannot really exercise its power and roles. The judiciary cannot really exercise the power of judiciary view because of the way the executives can eliminate the system. We don't say anymore congress being able to assert its power of appropriation whenever the president or the executive officials would like to do something or not to do something. The judiciary of this particular report is supposedly to correct the wrong doings of the other political departments is now perceived to be somehow the dictated on how they are going to hold the issues that may affect the way the executive department is acting and we have seen this in many cases lately. And this is the reason why I said that we really have to change the constitution in a way that is going to be scrape them of their accountability of the people incumbent. The only problem is how we are going to change the constitution. Is it

by way of constituting assembly? I never advocate constituting assembly because we already knew people who are in congress, the people who are tasked to change the constitution because it is always suspect that they will advance their own interest. We really have to condemn on different factors here. I believe we should really end the debate on how to change the constitution. And if the only way we can start the first step is to call for a constitution convention.

Constantino Jaraula:
I think the best answer would be to adopt the critics of Butch Abad and Joel Rocamora. They made a conclusion against the government. If we concentrate to the capacity of a president to manipulate the leadership all of these are born to changing the constitution. What is the right time now? The right time is signified by what is to be changed. The time will always be questioned by our people. Because they start campaigning to presidency, they will always be against it. There is no more historical balance. And this imbalance always results to warship. I don't have to name names anymore. We are all witnesses and we do not have to specify one. And so I am proposing to discuss the substance by way of comparison we are proposing parliamentary system and while as against presidential system. If we are proposing federal as against judicial, why? What are the logics? And hold these agreements and once it is understood, I will be very awkward for any political leader to oppose over what is understood and there will not always be a reason to oppose.

Dr. Jose Abueva:
I just want to respond to, what's really the end state and why? Anyone has an absolute answer. It's not realistic. It's not good. In science, all our proposals take this form: if X then Y. It's a hypothesis. It's already a hypothesis. If we follow changes and so on, it will counteract present problems and consequence and abuses in the system and lead to a different outcome. It has to be admitted. And in this game, everybody is an authority because everybody has one vote. So let's this proposal to be discussed at the right time and continue to be discussed and a counteractive argument, debative. So because they are just a hypothesis, but I would just want to make my last point which is I am really satisfied with our time now presidential system. And of course we have different practice at work. It's not only the structure; it is not only the rules of the game there are also factors they say all you have to do is change character. Some would say, good leaders, I like good leaders and you'll have good downers. Many factors at work and interacting with each other could produce the outcome at any moment. So we are really dealing with package situation implicit answers in all. But we have to keep trying. Our system has been working, has been doing well and we have a consult agent in the democracy that's been restored in 1987. I am frustrated with some, we try all kinds of extra Constitutional means in dealing about change. Because we know we keep trying to engage but it's almost impossible to bring impeachment to succeed. Snap elections. Because frustration on restoring our democracy resulting in doing all kinds of means. And our problems worsen. Let us not be frustrated.

Male voice:
You know, I just like to emphasize I could see the fact that Constitution making is really an exercise. I think right now is the political time. Political is a very strong influence in our society. I'm not saying this because right now, we are not sure what in the mind of the president. We are actually drawn to extra constitutional activity. Getting there and ones there, we cannot underestimate the grieve of citizens and among our people, we cover them with political decisions. That's why in 2010 election, we guess we proceed to be a fair one.

I'm not saying it absolutely but it can happen. So when we get there we have to make sure that in fact we trust the election. That's really my word of service.

Male voice:
I become an advocate, third year anatomy. And as an advocate we cannot advocate things as major as constitutional reform without being obliged and being able to oblige people that these change can make a difference in poverty, can make a difference in corruption, constitutional reform can make a difference in population. And so, I am convinced that shifting from presidential to parliamentary accompanied by changes in system. My support for the shift is for the basic its been 17 years since we passed a government code and the distribution in the soul states between the local government and the central government is worse now than it was 17 years ago in a situation where a local government in fact how more local responsibility for the political services. But I think, it is possible to construct convincing arguments that specific constitutional changes will make major difference in our life.

- break –

Dean La Viña:
Introduce yourself and share your expectations for a seminar like this.

Atty. Gwen de Vera:
I'm an Assistant Professor in the University of the East College of Law and I'm teaching Constitution Law for some years now although for the past school year I have not been working and I'm very much interested in participating in fact in the Ateneo School of Governance. I've been part of this actual topic a few years back and I've assisted in two ways, one as a member of this activity and the other because I've been assisting former Chief Justice Mendoza. I also follow keenly the progress regarding Constitutional Change and have been invited in the senate before twice to discuss Charter Change. I'm very happy to be here. I actually have a page full of notes already for the past hour that I've been here.

Dean La Viña:
We go now to the next set of input presentations. The fourth person that we will be calling is Ms. Amina Rasul.

MS. AMINA RASUL
Lead Convenor
Philippine Council for Islam and Democracy

I'm going to leave more of the fireworks to my brother. The question we are supposed to answer "is there a right time for Cha-Cha?" what characterizes the right time and what is the wrong time for Cha-Cha? I can answer that in three sentences. Is there a right time for Cha-Cha? Yes. But not now. What characterizes the right time? The constituents when the government and leaders educate the units. What is the wrong time for Cha-Cha. One word. Now. I was thinking about the discussion that we are supposed to have today and it occurs to me that it is in complete timing as there can be and all of the initiatives pushing for charter change, constitutional amendments or for whatever reason have always met, at least

since the time of President Ramos very little time. The attempts of the Ramos, Estrada and Arroyo governments to amend the constitutions. Just take a look at the initiatives that were advocated many cases by wrong people and with the suspicious motivations at least in the eyes of critical opinion makers. Thus the failure of these attempts that already cynical government against scheming initiative for constitutional reform. So this explains the predicaments of previous speakers. We know reports are necessary, we agree that the constitution be amended and its different areas but the constituents are just afraid to open up, the constitution, to change it. So most of us who are participants of this forum agree that there are fundamental economic reports.

I was with the Ramos Cabinet and FVR's attempts, although he was seated in Malacanang, he did not talk openly about proposals to amend the cons. It was Speaker De Venecia and the other one who were pushing for Charter Change. So don't be affected during the Ramos years, it was dismissed due to business interests, religious groups, our organizations and main reason, it was really suspicious that it was just an attempt to extend the terms of office of the chief executive and the others. Of course now, I decide, I think many of those speakers probably wish that they have allowed believing to amend the constitution will prosper at that time. Now, President Estrada's concord in the constitutional collection for development which led to the creation of the presidential constitutional forms is exactly the same thing. An attempt to amend restricting economic provisions of the constitution, but people turned their backs away including private sectors, religious organizations and political organizations. All shut down this attempt of the Estrada administration. Then we go to the Arroyo administration. Untimely, it appeared rushed, and in the eyes of different constituents directed to benefit the president and her administration. I know that under EO 453, there were regional consultations that were done but unfortunately in our groups none of them were ever invited to enter these consultations. So we always used to wonder who went to these consultations. Now in the discussion that I had earlier, the one sentence where I asked when's the right time to have constitutional change and the third factor was educate the constituent. This is clearly necessary if we are to have any kind of success among the constitution. Now the rationale for constitutional reforms. Our political institutions and they have been to address the needs. There should also be a talk about thought dissemination. The fact that there's separation of powers supposedly.

So clearly we do need to amend the constitution so that we can have a system of government that is more responsive. Our national policy has become like a addressing the lowest form of government. And that cannot be. It cannot be effective. It is a must to educate our constituents especially those in the problem areas. Now for many of us from the periphery especially in Mindanao, the national government has made unresponsive to the needs of the people in the periphery especially in the cultural communities in the rural areas. ARMM after the 1996 agreement was supposed to haven given more powers to become more autonomous, they were supposed to be given a catch up plan which includes disbursement of resources so that they can implement programs on their own. ARMM has its own legislative assembly. What it does basically more than anything is to break the budgets, divide the budgets and make streets, schools, hospitals and public roads.

They will stop doing that via the Supreme Court. You have a government that is dysfunctional and that is not autonomous. Why is that? It's not because it does not have powers at its doors. Whatever criticisms you have for the 1996 agreement, ARMM does have powers. Chief *** can only implement it. Why can't he implement his powers is

because it is controlled by the government. The choice of who will run is controlled by the Malacanang. Why does the palace decide who will run? That guy is applicable.

Number two, the disbursements or funds are controlled by Malacanang. All mayors and governors troop the palace to be given their allotments. And this is supposed to be an autonomous region. Expect them to be part of the non-autonomous region because they get their funds a little bit more automatic and earlier. The Autonomous Region is controlled more than the administrative regions of this government. So if you are from the areas of autonomy, you'll look at the central government and would want to change the country's from of government. So it actually empowers. Can we have powers under this system? We cannot. In congress, we have 30 congressmen out there with us. Senate? We have no representations. Judiciary, Supreme Court, we used to have one under President Ramos, but now we have none. So this system of government does not work for those who belong to peripheral areas. So if you talk about the need to revise the constitution, to amend it, so that it is not neglecting the needs of the constituents, clearly it needs to be done. But timing is important, we need to take a look at what the fears are of the cultural communities. If the Supreme Court has passed or agreed to support the signing of the memorandum of agreement of the government, I believe that many of the groups, even if they have fears about constitutional change under President Arroyo, because they need the MOA. It would grant them, the groups, and later on the indigenous groups real powers over their domain. The points made under the ancestral domain were far. This squared thinking out of the box and participating. They could have been able to truly grant a just and complete peace for Mindanao. If this didn't happen: You have a chief executive who at the last minute simply turns her back at an agreement she has been building up in the minds of the Mindanaoans and in the eyes of the international communities. She built this MOA 18 as the agreement that would bring peace to Mindanao. She is the use of the negotiation and she never read the MOA of the ancestral domain? How is that possible?

So look at it from the eyes of those who live in the periphery. The president who said that the documents were not read and therefore turns her back to the very important act that could have meant the end of worrying. And then she would come to us with the leaders of the government "But if we proceed with the constitutional amendments, we might be able to address your demands." I don't think now is the time to bring that up. We might have different point of views with regards to that. But as far as with the people we've talked to in the South, They kept no assurance that this government will do anything positive with the constitutional amendments. It's clearly seen as proved by the government that it is to extend their units. At this point, whether that is true or not, it seems to be accepted by the majority of the population that the intention is to extend their terms. There's an interesting group of former cabinet members and senior officials from the time of Macapagal to Macapagal and all of them have come together and looked up at initiatives for constitutional change and also deal that now is not the right time. The suspicions of the people make it impossible. The credibility of this particular initiative. What do we suggest with that? There has been a discussion here that in 2010, we can have an election of delegates for Constitutional Convention. We think that it might be possible. Why? First, we think that the case in the South, the peace process has to start. If the peace process has to be moved and be discussed later on, what could be done is while this discussion is happening, we, who are looking at Constitutional Convention of President Arroyo could most likely start discussing about it at a national level. Just to educate people about the different issues, we could talk about ancestral domains and why it is important to amend

the constitution to allow this to happen. This could be the number one discussion to make. We need to educate people now. But not as to change the constitution now. What we need to do is to focus the attention of the people to the national election in 2010 and include international election and selection of delegates for Constitutional Convention. And I agree with the idea that we talk with presidential candidates and get them to commit, whoever wins, to look at amending the constitution as priority of the government. So not now because the people lack education necessary to appreciate the amendments of the constitution and there are crisis that are calling to us. Not now but yes to the next national election. We should start to think about putting together what should be done.

MR. LITO LORENZANA
President and Chairman of the Board
Technical Assistance Center for the Development of the Rural and Urban Poor

My idol, he came up with this storytelling reading which was non-academic. Successful and failed attempts to change the Philippine Constitution to me were an important perspective. Now we go back to the 1935 document which served our country for some time. Then at most came out with motions for elections for the Constitution. Subsequent provisions of the Constitution written by appointed commissioners have been subjected to attest change. From President Ramos's to Estrada and President Arroyo's attempt for ConCon. This was federalist because this was some duty and arrangement to bid the ConCon. A common disorientation according to the 1935 Constitution is the condition when seeking presidency. Each advanced a legitimate amulet for this law needs to be changed. Each proponent of the change of each administration yields the benefit of the doubt. The vision of the governance, of the law, the society seeks to mold. Marcos is an example of how a society is disciplined, proud at its base. And democracy tries to sue a benevolent apo, dictator. The vision is wasted. Looking at the general sentiment of nationalism, thus deflecting the divisions standing before investments and assets. Ramos's vision encompasses the global, economic strategies. And pushed to a tiger year. Before the end of the term he wanted to be a tiger, etc, etc through the help of million of OFW's. His strategy includes propositions to bring about changes in the constitution. The alliance with the veterans was very important proposed the *** document incorporating the system democrat bias parliamentary government. And he processes free global market commissions. Economists and disciples of the status quo tolerate the process and the issues that are through the receipted individual properties to extend the term despite bankruptcy. During Estrada's term, the government and its constitution started to deteriorate after the presidential elections. It was significant that a federalist-led alliance was put up during this time. Peoples' Initiative obliterated what trace of good in the consensus of the Philippine process of the ConCon. The question now. The right time. The right time and wrong time assessments depend on the power of favor. For the very proponents of the two, the urgency of the changes is communicated to the constituents and consequently the constituents will define the right time. All participants, stakeholders, the consensus will demarcate their own right time. The essence, the right time, wrong time, the timing is subjective. The second question. Will a charter change be successful? There are said to be two successful attempts. But is now the right time? Now is the right time. This control of the democracy of all levels of establishments reinforce the right timing. The 1986 People Power Revolution became a dramatic backdrop for the promulgation of the 1987 constitution. In the search the power of governance has all changed. The conditions of the current resolutions will she by the aspiration of that boss was distinct by virtue of birth to champion. We just need a little more time to bring the

Constitution into a recent revolution. A more permanent standard of the Constitution would have consumed. Another factor is to assure the acceptance of the passage of the 1987 charter revolution. We go to the next part, characteristic of the right time. Let's assume that the changes in the Constitution are budgets - Credibility of the sponsors of Charter Change. They must act for the common good and the agenda must be professional. Seriousness to push for the legitimate changes; The conditions must meet the expectations of the constituents for them to have a good life. An overall strategy from the very start must be finalized. These are some that characterize the right time. Today, though there is a chance, the issue for the right time for constitutional change is not now.

Male voice:
Is there a right time for ChaCha? Yes, now is the time to raise this national concern as a national crisis.

Male voice:
What are the two national concerns that must be raised as national crisis?

Male voice:
I think this is a very serious problem in the country as poverty. This is because of unemployment, lack of economic opportunity, graft and corruption of the government, unequal distribution of wealth, lack of national concern, dysfunctional families, lack of clear policies.

Ms. Tanya Hamada
The second batch of presenters touched the topic of when is the right time. I think there is an emergence now of identity based politics in the Philippines. And for the indigenous people and the Mindanao, this is not perhaps reflected in the Constitution. I think it is time now but the processes necessary have to be out of the traditional processes. So if we're going to the discussions of 2010, as the opening for constitutional change, I think participation is the key. Not only those belonging to the marginalized but on how serious we are in getting the next generation to participate in the change

Male voice:
Pinagusapan narin natin ang 2010 elections *pati narin ang ConCo*n Elections, *gusto ko lang ibahagi kung pano pinipili ang* leaders *ng* 50 provinces and cities *na inimbitahan namin* last October 10 & 11. *Sa position namin dati, pinupush na magkaron ng ConCon* Elections in 2010. But then later *nagkaron* among our two leaders *ng* different positions. *Napakahalaga nung* credibility *ng* process. *Batay sa karanasan, di magiging* credible *yung* output, therefore *mahirap suportahan.* So *ang tanong, sa 2010, gano magiging* credible *sa* elections *pati narin sa ConCon.* Even assuming *na may mapanalo tayo sa 2010 na magagaling. Pangalawa, dapat pag-usapan din natin yung* substance, *kung ano yung dapat natin baguhin. Yung vision natin ang gusto natin. Ngayon kung mapakahalagang pag-usapan nung substance, maguusbungan ba yan* between now and 2010? *Pag-uusapan ba yan ng presidents? Of course pwede nating i-raise yan,* Substantially, will the Charter Change be the major topic of the 2010 elections o *talagang* governance issue *lang yan? Malaking tanong na* will we be giving justice to the issue of the importance of educated citizenry before a vote. Third point, *napakahalagang* position na we have to do everything to stop *na magkaron ng* any Charter Change between now and 2010 elections. *At nabalitaan naming* during the process of

discussion, *yung Congress ay palabas, pabalik sakanilang lugar, pag-uusapan ang ChaCha, pagbalik nila yun na ang priority, medyo nababagabag ang mga tao. Kung raratsada na naman dun, dun na naman tayo magfofocus,* on how to stop it. *Kung ganyan ay parang mahirap isabay ang ConCon at ang pagstop sa ChaCha. So ang proposal na napagkasunduan* is to stop, immobilize any process of changing the constitution. And then we'll negotiate with the administration hoping to have a credible national leadership after 2010 elections. And possibly in 2011 or 2012, during baranggay or municipal elections, *pwede nating isabay ang ConCon* Elections. So early on the new administration under a new and more credible leadership. And hopefully corrected narin even the credibility of the COMELEC. We have to see that. *If hindi parin credible yung elections, yung* COMELEC and then we have a bad president *ulit, talagang mahihirapan tayong magpush. Lalabas naman sa reflections natin yung i*mportance *ng* credibility, leadership, citizens' education. *So habang wala yung factors na yun, yung* right environment for people to really discuss rationally, *nako mahirap talaga.* Meanwhile, we do whatever we can to continue to educate the public about the constitution *sa* simple cc to continue to make charter change a real issue sa candidates. We can propose probably to include in his campaign to produce copies of the 1987 Constitution. *Bigyan lahat ng mga voters natin. Basahin nila yun* as starting point. 250 million pesos *lang, maliliit na copies lang para mabasa. May mga 2,500 NGO leaders na di pa nga nakakabasa ng 1987 Constitution.* The real challenge *sating mga presidentiables* is yung basic. *Di alam ng tao* mga provisions ng Constitution kaya di nila alam ang ipaglalaban. *At anong ipupush nila para maging accountable ang presidente?* Perhaps, the citizens will understand if they have copies of the 1987 Constitution *na ginawa ni* Cory, FVR*, ng lahat.* So this time, important *na mapasakamay ito ng mga tao.* I believe in the idea that Charter Change should be an elite project.

Female voice:
I noticed that there is a consensus regarding this is not the right time at least before the 2010 elections to have a Charter Change. But I see a difference on whether we should have the ConCon elections during the 2010 elections. Meron akong question sa dalawang opposing opinion on whether we should elect the Constitutional Convention delegatesduring the 2010 elections. We are going to elect the ConCon delegates during the national elections to predict the credibility of the electoral processes. I see an inconsistency on you believing that it's possible to have a credible election of the presidency and it's not possible to have a credible election on Constitutional Convention delegates. So if it uses the same electoral system anyway that will produce the results, how come we see that it is not possible to for one end and is possible for the other.

Male voice:
I don't see any inconsistency. We see *na credible sya kaya* why do we risk *na* at that day *isama mo yung ConCon sa* national elections, very important process *yun.*

Male voice:
The elections for Constitution may be canceled. We should really compel this decision. To take it seriously, the process is of succession and make the election credible because even if it does not take for example Cha-Cha is not pursued but it is a way of keeping its influence so that until based on the necessary revelations.

Male voice:
I'm happy that there has been an addition from Sir Lorenzano. If you're going to pursue ChaCha whether in 2010 or after that, how can you be sure that it will not be hijacked because we have a hijack for the status quo. *Kasi yun yung nangyari,* we thought that we could walk with them *kasi* we have the code, agenda of federalism *na sinakyan ng* administration. But after two years, *hindi pala seryoso sa ganon*. How can we make sure that it will not happen again? Especially *kahit papano yung* Citizens' Movement for Federal Philippines *nasunog sa ganong* experience.

Male voice:
Gagamitain mo kami, gagamitin ko sila. We're talking about a bad connotation there. So this is the dynamics. The question in how can we be assured? Kung *di kaya ang* old people, to find the opposition Political will belong to those who have a sense of right and push their limits

Mr. Camilo Sabio
I just want to say something about the credibility of electing delegates based on my personal experience. My proposition is for the election of candidates after the elections of 2010. But the calling of the convention will be made during the elections as well as the submission of questions. The credibility of the elections depends on the candidates themselves. If that would be the decision under pertinent conditions, we could still elect delegates in 2010. In my personal experience, Davao del Norte, I was qualified for just 1 year residence as congressman. If you know, Davao del Norte is a province known for illegal logging. You cannot run for congressman if you're not an illegal logger or if you're not supported by illegal loggers. When I was there I spent only less than P5,000. That's the truth. Those who support the illegal loggers were the billionaires at that time. But because I worked there, the people, the workers, students were convinced that I was honest and dedicated and sincere. They elected me over the loggers and billionaires there. As a matter of fact, to show my sincerity I brought 6 farmers with me to Manila to assure the farmers that what I would do in the ConCon was what I promised during the elections. In the end, it depends on the candidates. I still believe that we could have a sincere candidate in 2010 for president.

Male voice:
Male voice:
This is just a liberal junction for the presentations. The discussions revolved around one concept of the Constitution at *may hindi nasabi.* I think it's in the periphery of the presentation. And the concept is that it is a social contract. It is not a term na academic. I think *yung pinakitang* historical presentation points why there were failed and successful attempts. And the reason is that I think *yung mga* failed attempts, *di talaga nagkaroon ng* social contract. The minority went against the constitution. *Nagrally sila at sumunod ang ibang mga tao sakanila. Yun ang nangyari kay Marcos*. Within a short time, against *na mga tao saknya and sa* constitution kaya he imposed Martial Law. *Ang mali ng Supreme Court noon,* the Constitution is not an ordinary law. It is a document *na kailangan iapprove ng* body. *Pag hindi inapprove ng* body, basically it is a sealed work na nagtapos sa People Power Revolution nung 1986. The very agenda of PPR was to change the 1986 Constitution. Of course *andun na yung problema, masyadong mabilis ang pagbabago pero never the less nabago. Tama yung sinabi na ang successful*

constitutional change has to be an element na di compelling, na tinatanggap ng lahat, hindi pwedeng majority, the minority has to accept it and the people has to accept it. Back in 1935 for example, *walang nag-argue even the Americans na may hawak because they believe na kailngan maging independent ng Pilipinas*. In 1975, there was no reason compelling enough although *maganda yung sinabi dun na kailangan magkaroon ng bagong rules ang game. Pero nahijack nga.* 1986, there was a compelling reason for everybody wanted to change the constitution. *Ako tingin kong problem dito is that they are trying to have the process na lumabas sa ganong type ng compelling situation. Pero tingin ko may logic din dun. Ang Constitution may process pero during the process itself nagkakaroon ng negotiations towards the contract like any other contract. Kunyari the old rules of the game do not work anymore, you need to change the rules to conform with the political realities. And I think that is the situation now. Hindi sya compelling dahil nagbago ang political situation. Pero rampant ang violation of the rules not only by the administration but also by everybody. Madaming provisions ang constitutions na rampant ang violation like cheating, patayan, vote-buying. It's time for a new social contract, ang problem is how to do it. Yun yung susunod na topic. But I think there is really a need to change the constitution. Pero sa tingin ko ang mali ng lahat sa initiatives – Ramos, Estrada, Arroyo initiatives ay initiatives ito kung san hindi nag-aagree lahat. Let's say na nag-aagree na lahat, but in the process maraming nagbabago like yung motives, may mga pinipilit na at lumilitaw, intractable na. may mga away kung pano babaguhin, by time na nag- end na yung process hati na. Instead na nag-unite, divided na. actually yung nagyari sa tingin ko, hindi contract, negotiation ang nangyari. One side, particularly yung in power ang nag-iimpose sa concerned at nag-iimpose sa lahat. Dahil akala nila hawak na nila yung power, nag-iimpose sila. Like in 2006, if tinuloy nila yun, another people power na naman yun. One lesson, you cannot change the Constitution without going out or accepting the framework of a social contract.*

Male voice:

Actually I agree na ang Saligang Batas ay isang social contract. The difference between an ordinary contract and the Constitution is that the latter is to be approved by the people and not by the president or the legislative body. Ngayon, yung sinasabi kasing there has to be credibility of leaders or those who move to support the Charter Change premise so that such change can succeed and be acceptable, napakahirap iattain ng status na yan. Assuming we wait for 2010 and elect new officials, we belive we could talk of Charter Change, papano nga kung yung nakaupong president ayaw. Dahil masarap talaga yung position ng president ngayon. As I told you, this government, the administration of President Arroyo has mastered how to manipulate the present constitution. Kaya nga we were able to get out of the check and balance and accountability provisions by way of institutionalizing that what you cannot do illegally, you an do it legally with help of the courts and congress. Ganon na ginagawa ng gobyerno. That's why you have EO 464, Proclamation 1017, etc, lahat to kung susuriin ang Constitution, bawal yan. Pero sasabihin ng gobyerno na haharapin mo ang sinasabi ng Supreme Court. Yun lagi ang ginagawa ng gobyerno. Kaya ano ang guarantee natin yung susunod na president o mamumuno satin ay hindi ganyan ang kanyang iisipin. Let's have first elections in 2010. Let's see to it that we have credible elections. We are not certain that the elected will be credible leaders but at least the process of electing them should be credible. At the same time however, we submit the issue now. To direct the Constitutional Convention because that is allowed and that is not dated in the Constitution Section 3, Article 17. I don't believe that the Congress will pass a resolution to the constitution. Ang gusto ng kongreso sila mismo ang gagawa ng pagbabago sa Saligang Batas. Kaya tayo ay nag-iisip ng mg amotibo at agenda nila ditto. Kaya nagiging unpopular ang ingay na ginagawa ng kongreso tungkol sa Constitutional Convention. Yung mga dating delegates sa ConCon nung 1971, sila mismo may ayaw. Sasabihan nila we donot want ConCon, we want Charter Change under the constitutional Assembly. Dahil mas hindi daw magastos. Pero aanhin mo yan if the expense is bigger in paying a corrupt government.

That we are not guaranteed to have one credible leader if we're not going to elect and determine a new president. At least we are given a chance to change this constitution now and I don't care what will happen whether we'll be parliamentary or presidential ang mananatili pa rin. Because I'm not fan ng parliamentary system, but the presidential system we have now is really not a presidential system e. Wala talagang checks ang batas e kahit na pag susuriin mong mabuti nasa discussion rooms and classrooms ang sa separation ng powers and checks and balances but the practice of the way it is being done e and this administration has mastered how to get out of that system. Nasa kamay na ng president ang kapangyarihan ng gobyerno. Yung power of appointments at yung power of appropriations wala sa kongerso yan. Judicial review kayang-kaya imanipulate yan ng presidente ng Pilipinas. Ngayon, tayo ay umaasa na lamang na ang magiging president o mga cabinet members, friendly satin, ka-alyado natin. Yun na lamang ang inaasahan natin. Paano yung mga ordinaryong mamamayan? Sabi nga nila ang dami-daming intersado malaman ang Saligang Batas. Yun din ang tanong ko kung nung 1987, naintindihan ba ng mga mamamayan ang niratify nila sa Saligang Batas? Kailangan nating baguhin ito. Kung sa ngayon na after 20 years katititing palang na tao ang nakakalam ng saligang batas. It was only after 2 years nang nagsurvey ang Pulse Asia. Sabi ng Pulse Asia, ay naiintindahan na namin ang Saligang Batas. Dumami na by about 2 percent. Pero yun ang kailngan natin ifocus. I agree that we need to have continuing education, forums like this. Pero wag nating sayangin ang pagkakataon na sabihin sa mga tao at itanong na gusto ba nating baguhin ang ating mga sarili? This could be one of the most rational and acceptable way to be aggressive in solving this problem.

Atty. Gwen De Vera:
Meron lang po akong dalawang tanong at isang kwento. So, uumpisahan ko po sa mga tanong. This is with regards to the right time to have Charter Change. Do we wait for the right time? Or do we work for the right time? *Naobserve ko lang sa* presentation that there was a portion regarding the specific economic provision, there was some moment during that period, I just want to know if they felt that it was the right time if they have proceeded for Charter Change. *Natuwa ako nung nakita ko na ito ang tanong for the second session, kasi po sa UP law for my Constitutional Law and history classes, natanong ko na po to sa exams so habang nag-uusap po tayo naala ko na a majority of my students at that time was hindi pa panahon para sa Charter Change. Pero ang naalala ko po ngayon e yung mga sagot na naiba dun sa majority. May student po ko ang sagot ay bakit daw ang context ng Charter Change ay revision but we can have Charter Change by way of amendments. So bumalik siya sa 1955 na naamend bakit hindi daw pwedeng ganon ang gawin instead of a revision.* My other student answered that there is no right time because anytime is a good time to change the charter. And the legal basis for this is the case of the Prince Hotel. In this particular case, we gave consent to the 1987 Constitution that it can in some aspect be treated like legislation. Meron din sumagot na the time has passed. It should be during the Malolos Convention. During this time ni Mabini, di nya nasagot because of the impending war. So if di daw nasagot yun, hindi na daw masasagot yun ever sabi ng isa kong student. Another answered na it depends as everyone would answer. Ang answer nya there could be a right time if there is a clear objective for why change is needed

Female voice:
I'm addressing the issue of now and when is the right time? The reason we are talking about the Constitution and the charter, since the 1987 Constitution what was happening across the administration is that there has been a betrayal of democracy. Betrayal of democracy being in terms of representation for example we raise a question, therefore there is a

democratic representation and when the representatives under the present rules and present set-up are truly representatives. Second, betrayal of democracy in terms of access to services of the majority of the sector. Betrayal of democracy according to accountability. We're talking here about excessive power. Or put it another way, in terms of immunity, excessive impunity. Betrayal of democracy because the present arrangement does not seem to work and therefore it requires a rearrangement. And for me it requires some changes or tampering in the Constitution. But as I'm saying, I understand the issue of credibility under the present administration. But these issues have been ongoing since before the time of GMA. And this is the reason why across the present administration on and off ang demand for charter change. Which means that we should really address it. Now when we say hindi ngayon, I think the problem is more omnipresent now. And therefore it will recognize such omnipresence of the problem of democracy than it should be now. I think the challenge is ano yung mode and preparation for getting into that. We have no timing on time and again we are begging and asking for mercy for the assurance of the next president. Yun ang aking problem dun sa let's not have it now. Secondly, the Charter Change is comprehensive. Maybe the process can begin now because the process of education is continuing and ongoing. We wait for 2010 and thereafter then we begin the process. I think work has to be done which includes doing which is part of the whole process to address the charter. It doesn't necessarily mean that we have to wait for a new president.

Female voice:
First, do we work for the right time or wait for the right time? Now is the right time. For the big processes, now is the right time. Ever since, we have been working for the right time. So now let's go back to the sequence of timely issues. We have to get beyond 2010. Think of opportunities. In 2010, everybody, all of the lords will be very busy protecting their money. And these are the elective oppositions. Those who have serious desires to amend the constitution will never get the chance until 2010 when the lords have recovered and are in control of the game. The other thing is, if you say that we'll have election for ConCon delegates in 2010 that means that we will make the administration that this will happen. Wala nang kawala. What is important is making the time right and making sure it happens. And para sakin those who have advocacies are better served in the elections as delegates in 2010.

Mr. Marlon Cornelio:
Sa hanay ng kabataan, di po naming nakikita na urgent at necessary ang pagbabago ng Saligang Batas.bakit? dahil nabanggit ni Dr. Carlos kanina na nakalimutang balikan na masasagot ba ng mga pagababago sa Saligang Batas ang mga problemang hinaharap natin ngayon. Ano ba talaga ang ugat para baguhin natin ang Saligang Batas? Dahil sa matagal ng debate ukol dito, nakakalimutan at di na nababalikan ang mga dapat na sinasagot kung magakakaron man ng pagbabago sa Saligang Batas. And nakikita naming urgent at necessary ay ang reporma sa electoral processes. Nabamggit ni Sen. Roco noon na kung ano ba ang magagawa natin na wala sa ng Saligang Batas. At kung titignan natin at mapapnsin sa naging presentasyon ni Dr. Abueva, na may magandang katangian ang Saligang Batas na di pa naipapatupad. May free education, land reform na hindi naman lubusang naipapatupad. Mikita natin na ilan ito sa mga repormang ipinasok sa 1987 Constitution dahil sa mga naidentify na problem during Martial Law. So ang nakikita naming urgent at necessary ay ang reporma sa pulitika. Halimbawa, sa Mindanao, sa ARMM, sino ba ang namimili ng magiging gobernador ditto> hindi ba't ang Malacanang? Pero sino ba ang naghahangad ng gobernador sa ARMM, hindi ba't ang mga tao?

May mga probisyon sa Saligang Batas na ang tao dap tang magtatakda ng kung sino ang mamumuno. At kung ang palasyo ang mamumuno sa ARMM, dagok ito sa mga tao sa ARMM at hindi dagok sa pkikialam ng Malacanang. May checks and balances po tayo, sa Senate ok lang dahil ang opposition andun. Ang legislative ay chnecheck ng executive. Ngunit yung mga nahahalal sa kongreso ay yung kagay ng mga dapat di natin pangalanan. Pano sila nahahalal at bakit sila may kapangyarihan ay dahil sa problema sa electoral system.

Male voice:
In spite of all, our hope is on the presidential candidate. We can have them to commit to support Charter Change when they become president. Now my second issue is to change the constitution. To refresh your minds, before Martial Law, the 1971 Constitutional Convention has agreed in changing the presidential system to a parliamentary system. So the historical moment in the changing of the constitution is that even at that time it was strong and it was worth experimenting with another form of government. But because Marcos referred to his authoritarian government as constitutional utilitarianism and referred to his government as parliamentary or semi-parliamentary that gave a bad name to the government system. And when Cory won as president she simplified her platform and philosophy of government. It was the opposite of Marcos. Marcos pushed for parliamentary government. On the other hand, President Aquino would not have governed us as parliamentary although she ruled us like a prime minister more than as a president. Looking at the house of governance, I think in the Singaporean government, this is the architecture of the parliament. On one side the government is amidst the prime minister and the parliament. On the other side the opposition can regularly question and challenge the prime minister and the government. Anyway, this is just a description. There was time when there was a general consensus about the desirability and superiority of the parliamentary system over the presidential system. This was 14 years ago. That is how difficult to change our system of government.

Male voice:
I support the tactical considerations underlying your support of the 2010 elections of ConCon delegates. I don't think we should wait for a newly elected president in 2010 to initiate constitutional reform. It doesn't make sense for the new president will be busy filling out forms to repay the people who supported her. The economic tsunami that started in wallstreet will have the elected president in 2010 preoccupied in dealing with economic problems. But the reason I am pushing efforts now for ConCon is because I think it is important for us to give the people some source of hope. Substance of hope in the constitutional process. The only common initiative in support of constitutional reform is really insulting. I wish that the Supreme Court apply the same standard to the proposals of the speaker. The same standards applied to the MOA 18. I believe that the MOA 18 is a lot potentially less harmful to the constitution than these stupid proposals to undercut the Senate. Another reason that is important why we must give hope to the Constitutional processes is what he bishop said last night. If by mid-November which means less than a month from now, Speaker Nograles or whoever is behind this mode has managed to get the 196 votes, it will break loose. I'm not just talking about massive demonstrations. I'm talking here about a serious extra-constitutional attempt. That's not a fearless forecast but a fearful forecast.

Male voice:
The right time has started during the time when 1986 Constitution was promulgated. It was part of the People Power Revolution. We have expectations from the government. Not only that we try to give revolution to the Constitution. Because he was a member of the most powerful group. You know, we changed thousands of political issues not because we want to become famous. I'm happy for it changed all but it prevented the change of regime. But what I tell you is that they showed political motive. We push it for those who believe and we push for change. Few problems exist against content but many against time. Second, right time is the function of political institutions. You have to make the right time. It was just pushing and pushing. Right time now? There is a tendency. An example of that is the provision that we brought up when we talked earlier. So the investments did come in.

Male voice:
The right timing is when the processes become effective, otherwise bunggo na naman.

Male voice:
The why is a very, very important discussion. Wherein we could require young persons to answer why there should be a change, which could be a better change and why there should be a better life if we change a small document, the Constitution.

Dean La Viña:
In fact, while we are preparing for this, we are actually moving offices in the Loyola campus. So whatever is done process wise, the work needs to be done. Kasi reviewing the status in the 1990's, meron for parliamentary or capitalism or for liberalization of the economy. So let's change it. Work has to be done. We must take aside the politics diba, and just work. There are a lot of discussions in the practical timing, it's just all about doing what has to be done in the 2010 elections. Discussion should be made on whether ConCon should be pushed in 2010.If you have been part in 1986, you would know that caring is not enough. Observing is not enough. The agreement is beyond the constitution and therefore requires change. And if you don't have that, you can start with now. Negotiations are meant to come to a conclusion and to have a change in the constitution because otherwise the change will not be reached. Actually, the urgency became clearer. We can alot more for this and this is something that could be done in 10 years in a 10-year project. But there is the inability of the existing framework to support the agreement. I think there is a problem there. There also exists a problem for the social contract for this requires trust among the different sectors. What should be done is to wait for the right time and work for the right time and establish trust among the different sectors, both politically and with those who will live with the consequences of the decisions that will be made.

Day 2

PRESENTATION AND DISCUSSION ON TOPIC 2: MODES OF CHANGING THE CONSTITUTION

Facilitators:

Input Presentations
Operationalizing Each Mode: Process and Factors to Consider

Atty. Marvic Leonen
Dean, College of Law
University of the Philippines

Much of the technicalities in terms of the constitution has been discussed by my colleagues before me. So let me just present the question which I do not intend to answer. And then describe a proposal which is actually a project the UP law center is about to do.

In relation to the input I will be doing today. The faculty meeting after the Cotabato versus GRP case, faculty of the college of law and to my colleagues. We did not have it in consensus on the decision except that there was no doctrine in that particular case, except that MOA was declared unconstitutional. In the process, our points of view in relation to the document we call constitution was also very invalid among the regular faculty members of the college of law that attended. Of course there were the most conservative point of view accepting the theory that was introduced for reiterated by chief justice Puno and there were the radical, shall we say progressive? An interpretation of what we should be doing as lawyers.

Now I shall be presenting four of the myths that I thought came out of that discussion. 1) the constitution is sacred, that's a myth. Infallibility in my recollection is only the doctrine of only one religion and that happens to be the religion we prayed to a while ago. I was a bit surprised but I remembered we were no longer in UP and in UP if we did that, we will be sued. In any case so infallibility in the constitution is never heard. The constitution sacredness is not created as a political ideology made in order that many of the people that would want to amend the balance of what is put there will be silenced. And of course it is infallible because all law is imperfect. The only time that we will have no law and therefore no lawyers is when we start to love each other so when you really hate lawyers, love each other so that there would be no need for a conflict. No conflict, no lawyers, no attorneys, just an example. And I think the constitution should be changed inevitably, the question is when and under what condition. And that lawyer should participate in it as lawyers and politician because lawyers introduce one thing which many politician don't that are not lawyers. And this is so they can unmask the decisions of the supreme court. Mabanat was ashamed, Javellana was ashamed, Sanidad was ashamed. Sanidad versus comelec, Mitra versus comelec, lawyers league for a better Philippines. This lonely lawyer, Oliver.., filed a case in the supreme court questioning the constitutionality of the ascension of Cory Aquino. Of course all of us wanted the correct result but then in a one paragraphed decision, the supreme court said "the people have spoken".

In contrary to all to rules in terms of division reviewed but of course the result was something that we wanted. Estrada versus Disierto stretched the miming with apologies to the supreme court but I'm claiming my position as an academic and I have more license to comment. I'm not a newspaper man and therefore I will not be libeled but Estrada and

Disierto stretched the concept of resignation. Manila Prince Hotel created national patrimony out of a hotel and I think Sofitel should also apply for that position and Westin Plaza if you understand that particular case. Maybe the condition generally should be conscious, deliberate, consultative and made in an environment that is credible in the sense that all points of view have a reasonable chance of being heard. Of course democracy will never happen but we should provide conditions under which everybody should be heard.

Second myth, the constitution is a social contract, of course not. That is only during the time of two lonely individuals, this Mr. Locke and Mr. House. Why did I say they are lonely? Because they said "without law, life is bluefish and harsh. We will kill each other of there were no law." I guess they did not here of Bagobos, they do not have national law but they do not kill each other. The point there is they created the concept of the vivayo (?) and the monster, the social contract therefore the constitution. And therefore the constitution is not a social contract. In fact it is an agreement of old men 1787 which we copied. It is an agreement of the commissioners of the 1986 constitutional commission.

It's because of the law. The reason why PAGCOR is a monopolist is because the law says it regulates and by the way it is the only entity that can engage in gambling and that's because of the law. The constitution therefore allocates resources and this is important perhaps for our second discussion. And therefore, law solves everything, of course not. If there are laws that seep in to our culture, because we are right. There are laws which contain the idea, let me say the indigenous people's rights act, but do not seep into reality because we forget about the institutions and the cultures that we make these laws applicable. And therefore, law solves something but it does not solve everything. And therefore we have to consider these four keys. Here is my question.

Why is it that when we approve a law from a bill, we make sure that it has only one subject? Why is it that when we approve a constitution, it's almost everything about our lives as citizens and yet we are limited to saying yes or no as a public? So there must be something wrong with the system of approving a constitution.

And of course the question there is why has it been that way? Is it because there are people that fear fundamental discussions about our very society when we go to the exercise of charter change. And therefore my claim is any activist wherefore sought or any stage person wherefore sought should accept charter change discussion as an inevitability. I think we should keep on discussing it on a daily basis. Just so constitutional law professors like us have something, but on the other hand it's important because it is the very framework of our constitution.

Let me give some examples: fundamentals that we should ask would be the concept of citizenship. And I do not talk simply of what is happening in Boracay, in the lands of Mindanao, what is happening to our Aetas, talk to any viable law firm nowadays and you will know that citizenship is being abused. But I also want to talk about dual citizenship. Let's talk about the bill of rights. The rights to privacy, the extent of surges, of seizures and arrest. The concept of extra territorial rendition now common nowadays, and even the concept of family verified in our present constitution. Article 15 separates the article for the concept of family. National economy, we have so many monopolists yet unlike the US Constitution, we have made a constitutional precept anti-thrust, yet why is it not in effect? Equity shaving in our natural resources? Principal basis of property in the constitution is not

clear. Is it long term possession? Is it your ability to make it useful? Is it in order to reward your owner/cultivator and so on and so forth. Classification of land is so archaic. Agricultural, mineral, timber national park. That it's almost an insult to teach constitutional law nowadays. When you try to tell students, residential lands, increvenco versus director of land is agricultural land. Yes, answer that and I'll give you 100 %. Answer, residential land is residential land, you get a 5.0 in our course, it's so archaic. Plus, the concept of a national park. Plus the concept of dividing a plant, when ecologists say that it's supposed to be a web of life. Resources, regulation of our finance, national economy, balance of powers, local government's autonomy.

To the advocates of federalism, I think we should forget that label. Because I think that the message that is being brought is something far beyond the concept of federalism. Because federalism brings images of Germany and the United States. And of course, unfortunately, when you bring a legal term, it carries the entire baggage with it. Witness the concept of associative in the case of Cotabato versus GRP. I don't think that it was meant to be associative in terms of the marshal island. I thought that it was meant to be associative in terms of the MILF concept and the GRP concept of associative. So therefore, balance of powers, we should tabulate, look at the balance of powers considering that our jurisprudence have changed the power of the president and gave her residual powers in Marcos versus Manlapus and reiterated in the most recent cases.

So therefore we should strive to see whether it's really balanced. The ombudsman, imported to the Philippines from the European experience forgot one thing and that is that our ombudsman is appointed by the President. And if it is appointed by the president, it is entirely possible, therefore, to have the crisis that you have right now as Filipinos.

The budget process has to be looked at. And because of the decision in the case of vilconza versus executive secretary if I'm not mistaken, relating to what should be the priority in budget, the effect of congressional insertions, the concept of item windows and provisional windows, the use of savings, we should again clarify the text that is in the constitution. Enrichment, freedom of information, the judiciary…we are faced with a situation where a single president can appoint seven justices within a period of one year. It alters the separation of powers. And I think that this should never happen. I think that a president does not deserve more than four or five appointments each. But in any case therefore, we have to look at things with right terms in it. Removing the age requirement of tenure of a justice, gives Supreme Court justices the power to redo political powers. I mean I don't like the president, I am 99 years old. I will stay in power until the president leaves or I die. That perhaps is a way of resolving this issue.

The concept of judicial review, etc… our economy, should also find its way in the constitution…rate instruments, there are 360 preferential rate agreements in the entire world. We have acceded into our second and that's JPEPA… we are negotiating our Australia-New Zealand agreement. And therefore we have to clarify the power of the president to negotiate as head of state…does she need legislative authority like the president of the United States, the Prime Minister of Australia, the Prime Minister of Canada do..or is the President so powerful that whenever she finally negotiates Tanada versus Angara, everyone has to follow. Rate agreements, professionals, should it only be by Nationals?

The concept of incorporation of international law and finally in terms of international relations, what is it to have military bases in our country if a foreign nation subcontracts the logistics part but then the occupants are Americans who replace each other every year, is that a military base? Should that be allowed in our constitution, etc.? I'll leave the question hanging…so many subjects, so many things to consider yet it is done by one body and then later on the people will either say yes or no. and by the way you cannot qualify because when you qualify you are (not audible). And therefore, there has to be something more if you want to accept this..then there has to be something more with the process so we should not look at it only as a proposal, submission or ratification. I think the most important part is the political process that goes into everything. I propose that we should try develop a critical mass for each norm in the constitution.

There was a forum in NCPAG, I think the other day or yesterday on the budget process that entire body will therefore be the constituent for recording the budgetary processes. There is an entire constituency for impeachment, led by a member of our faculty, Mr. Harry Roque and others, and therefore that is the constituency for impeachment. But who do we convince? Now, when we say it should be the masses, then we are participating in the same language as the elite. Because if you don't define what masses is, then we should be convincing everybody else, and therefore I think what we should be doing is expose the standpoint of all those claim to be representing the masses. I think that is what happened in the past and I think that should be what is happening in the future. We look at it as a political process. We don't hide behind generalities, I talked to the masses, I went to a community with Manila paper and I drew the constitution of the republic of the Philippines I've consulted sure... but then there was no understanding, there was no process, there was no institutional framework, and so on and so forth.

There is an interpretative community of lawyers. The lawyers use words in a very strange way. And therefore it is important that we look back at our jurisprudence. And therefore check that the language we put in the new constitution should not repeat the mistakes that we have done in the past.

And finally, the last question should be how general do you want the words in a constitution, and how general do you want the words in the constitution will affect the economics of it all. If it is too general, you give powers to the political department and the judiciary. And what has happened to us as a Republic is in the absence and because of the lack of leadership of the President and the Legislators, everybody now is going to the court. Because in a court you can be a majority of one, petitioner… you are given due course, you change the course of history. But in the senate and in the House, and in the president who should be doing these political acts, many people are so disappointed with the outcomes of some political processes. Witness the impeachment procedures and therefore they go into the court of law. Now when you go to a court on the other hand, to interpret words that you find in a constitution, remember there are 15 individuals that have no political backing, they are unelected. Now if it is too clear, then therefore, we coral ourselves into that particular language until we do a Cha-cha again, a constitutional change exercise again, if it is through faith we are allowing the political processes to happen. Should we rely on our presidentiables, I think it's a contradiction.

The constitution provides the script so that our politicians will act accordingly. It is the script for our politicians. And therefore when we rely on presdentiables to bring charter

change, I don't think that is proper because they will always have their own agendas. The UP Law Center will be doing a constitutional review exercise. Look at these different points of view, of course the technical side of it would be reviewing the language of our interpretative community as lawyers. But then, what we would want to do would be to invite everybody else, the leaders of our communities, to interact so that the text of what comes out of it is going to be something that is highly consultative and highly facilitated. In any case, we hope to do it within a period of one year and please do not have Cha-Cha in 2009. Let's wait until June of 2010.

Atty. Gwen de Vera
Associate, Puyat Jacinto Santos Law
Asso. Professor, UP College of Law

Good morning po sa lahat. I prepared a very short presentation but I will be adding some points at the end but my personal goal I preparing this kind of presentation on operationalizing each mode is just to give the participants an idea of the three modes provided in the constitution and based on my experience with respect to charter change issues what particular questions have a resend with respect to these three modes and then I'll share little document with you later on. I'm sure some of you have seen it already. (next slide please) There are actually two stages in the amendment or revision process, the making of proposals and the ratification of proposals. Based on our discussion yesterday, we have seen that past efforts, the issues have revolved around the making of proposals so I want it to show these two stages in amendment or revision process so that we do not lose sight of the ratification process that is required in the constitution. So in the making of proposals, there are basically three modes: Congress seating as a constituent assembly by way of constitutional convention and by way of the people's initiative or 12 percent of the registered voters of the previous election. And in the ratification proposals of course there's only one by the people in a plebiscite. (next slide please) So these are some of the issues which have a resend with respect to each of these modes. For congress to act in a constituent assembly, the requirement is for there to be ¾ of all members of congress. So what are some of the questions that have a resend? And .. two I think senate hearings with the committee on constitutional amendment on this point and the questions which have a reason are the house has in the past stake position that in order to count the ¾ vote, each should be congress in-joint session and voting together which would mean I think with the present constitution of the congress…(garbled)…the question of calling such a conventionist is something that was discussed yesterday the idea of…(garbled)…why is it jointly? Because this particular exercise requires congress to…(garbled)…the constitution where the congress is called to act in that manner but…(garbled)…the 1979 constitution was submitted in people's assembly…(garbled)…it was by viva voche(?) meaning to say the question was opposed whether or not you ratified in 1973 constitution and the vote was taken by a show of hands and apparently those below the age of 18 or as young as 14 or 15 had participated in this particular process…(garbled)…impediment to the 1973 constitution coming the effect essentially adhering to the political question doctrine because the question had already been given to the people and the people had decided. So if we have the same scenario…(garbled)…and these processes have been impeded at the very beginning so we have to examine I suppose the three modes of proposal making. Additional points…(garbled)…and then from unicameral to bicameral and then creating an independent comelec and then…(garbled)…6. Second point, I've taken this in class…(garbled)..the constitution is that unlike when it does ordinary legislation, when it

interprets the constitution, and neither of two branches of the government can override or overturn the supreme court's decision. There are some examples of these in the past so the question that I've asked students to try to have a think out of the box is: "Is there a way by which supreme court decision making can be formed so that certain amendments which have been fought for can be avoided?" because the amendments, which are for example in economic provisions, we are trying some of the proposed changes in the constitution is to move away from the nationalist tendency. I think this was the result of, or part of the report of the con-cord during the time of Pres. Estrada. But the problem identified by the con-cord was that Supreme Court decisions interpreting the economic provisions is actually the one which led to the difficulty, or part of the reason why there's a difficulty in encouraging investment. That's the way the Supreme Court interpreted some of those economic provisions. So we might also want to think about these informal constitutional change and how it may be useful or our purpose. And then lastly, what I was happy to know from yesterday's discussion is that there seems to be, even if there appears some difficulty in commencing the process because of the issues that have arisen in the past with respect to the three modes of initiating charter change, there is however a potential for creativity in the preparatory steps leading up to charter change such as building or working towards bringing the factors to make charter change possible. So perhaps some thinking also can go to what those preparatory steps can be. So that's a brief presentation I prepared for this morning which I think we just want to throw thoughts out there so that we have a robust discussion subsequently.

Atty. Neil Pacamalan
Executive Director
Center for Legal Assistance
Xavier University (XU)

The Filipinos are in the middle and trying to get out of this mess of charter change. I would say that he comes from the opposition and administration are guilty… for allowing for too long the discussion of charter change without providing a fair exit on early resolution. In effect the Filipinos have gone really participants for these particular..

Part of it is also that, we have so many lawyers and practically all people may confront with problems in life with lawyers, they also say, we have a raw administration who relies on telling people "go to court, go to court" there's nothing about court. There's nothing wrong about lawyers. But lawyers and court create only problems and I think there's something wrong.

Now, I think you may agree with me, majority of the discussants here in this forum would say that there's a need for charter change. I think my inputs would be essential because practically I would say I'm against for charter change and maybe it would be helpful for the organizers because it will create a sense of looking at something which would help us in discerning whether our quest for charter change, my idea is very important.

I figure.. that it is really a hard cell for charter change due to the following reasons: Poverty. It is difficult to argue when the .. of the Filipinos are envy. You can find poverty in Mindanao. Survey after survey you will see that Basilan for instance, Cotabato provinces there, probably is there. Now, when you talk to ordinary citizens regarding human rights,

you ask them about charter change, they would say "I don't know". What we need right now is at least three meals a day.

Second would be about bad governance. if you read for instance the report of special rockenture, aliston of the year you would find out that extrajudicial killing and disappearance of critiques. You can blame that to the military and the police. So why discuss about charter change when the security and liberty are at stake?

Third would be proximity to 2010 election. Why now? When elections are to be held three months away?and ordinary Juan dela Cruz discuss freely about charter change when he suspect already that charter change is prolonging their term of office. Many monumental documents like constitution are product of dynamic political changes and extraordinary leadership. If we go beyond our borders and find about examples of the countries we see for example, the Algerian crisis in France. That led to the provision of the 5th republic and drafted the 1958 constitution. If you would remember for instance that military rebels as you would call it controlled an invaded territory of France and called for, and continuing the .. of France unless the 4th republic would .. should.. and true enough.. and the executive department came, the most powerful department at that time even up to now.

We go back to our country and the Philippines have broke free from the dictator through the people power revolution back to the 1987 constitution. We thought the 1987 constitution finally set an ending about charter change and we thought that that would be the end. But since the drafting of the 1987 gratification in February 1987, the constitution has been sailing in storm and seas of challenges and political cleavage. And you'll see early signs of political changes from Ramos administration, the short-lived administration of Estrada, and now the Arroyo administration. Now, in the Ramos administration, in the Estrada administration, in the Arroyo administration, we know how things work. For the.. behind charter change in the constitution, we have three modes and I would not deal much on it because our compañera discussed about this.

But I would like to add a bit for the sake of having comments to discussion. Now the first is about people's initiative. The problem with people's initiative is that.. it requires patience and diligence. Remember that you have to gather 12 percent of signatures nationwide and from every district 3 percent and the possibility of tampering signatures would be uncertainty. And the Philippines is known for vote-buying and tampering and we know that from politics. Nobody will say it's not. And I think that was one of the arguments raised in the Supreme Court hearing in the case of our companero here, Tony Lambino, in the case of Lambino versus Comelec.

Now,after the initiative we have constitutional convention. The constitutional convention is very expensive, financially. Because remember we have to elect and select people from across the country on the purpose of revising and amending the Constitution. According to Fr. Bernas, creating or supporting a constitutional convention is like creating a second if not larger body of legislature. Very expensive. And the financial crisis in Asia brought about by the collapse of the large institutions in the US would be a hara-kiri to the country's fiscal status. And I don't think the opposition and the administration would be willing to take a slug fist to advance the mode and strategies. Now if we go back for instance the initiatives as an example of several administrations in trying to tinker the provisions of the constitution. The Ramos administration advanced people's initiative through his

supporters. And the petition that was filed was to lift the term limits of elected public officials through people's initiative. And you would wonder why only term limit of public official. If you will see economic provisions and other provisions in the constitution, why only that? Petitioners cited Republic Act 6735 as the basis of strengthening people's initiative because everybody knows that a constitutional provision initiative is not self-executory. It requires enactment of statute by congress. But the Supreme Court in Miriam Defensor Santiago versus Comelec it's very funny, because even in abroad, Supreme Court in Miriam Defensor Santiago versus Comelec is one of the subjects or cases in constitutional law. When I was there, I was even asked, "can you discuss the case of Miriam Defensor Santiago versus Comelec?" So I was surprised, anyway, so that's how important it is, that case of Miriam Defensor Santiago. Now the Supreme Court decided that RA 6735 was insufficient to support people's initiative because 6735 is only good for initiative and referendum in laws, ordinances, resolutions but not the constitution. And this was later on reiterated in the case of Fernan (?) versus comelec which the supreme court decided still in the same line of reasoning. We thought that initiative will die. My stand at that time was, of course until now, is that the untimely death of people's initiative was entirely because people had a suspicion about perpetuation in power. Why only term limits? Of all the things and problems in the Philippines, why only that? That's the observation from the outside legal arena. Ordinary citizens will always look at that point and direction. Well people's initiative was resurrected in Arroyo's administration. And there was a petition to change from bicameral presidential to unitary parliamentary form of government and in the case of Lambino versus comelec the Supreme Court junked the petition on the ground that amending the charter would "alter the separation powers in the constitution".

In effect, when you have piecemeal change in the constitution, the alternative will be people's initiative. But if you want to revise or overhaul the constitution, it is legally inferred to invoke people's initiative.

Then we move on to the constitutional assembly. I think this was discussed also by Atty. De Vera. Now financially, constituent assembly is cost effective because you don't have to create another body. You have a constituent power of Congress already contained in the constitution. That one is already a provision that members of the Congress would rely on. Convene as a body, propose for changing the constitution, once the proposals are done submit to the people for ratification. Now the problem with that is, with the perception of Filipinos is that politicians would perpetuate themselves in power. I don't think we would rely in senators and congressmen in amending the constitution.

There is also another problem because it may be easy to have this constituent assembly considering the composition in the congress where you have majority of the House members are allies of Arroyo and you have majority of the members of the senate are members of the opposition. You will have a conflict there. And it is understandable that the House is vying for an upper hand. Remember that if the HoR will vote, it would swallow actually the votes of the senate if you would allow joint voting at the same time without having separate voting. So that's the problem. If you change also the historical evolution the amendments of the constitution from 1935 to 1987, there is not much a problem in 1935. It was constituent assembly, requires only a joint session and voting separately. The 1978 constitution was very simple in a sense because you have unicameral body. You don't have to separate voting because it's composed with all members of the Batasang Pambansa.

But the 1987 constitution is more complicated because there is no explanation about voting separately or jointly and so that creates a problem. With the composition of Congress it is difficult to agree especially if this people will decide along party lines and we know that also. Several resolutions from the House of Rep and the House of Senate. If only to ask for guidance and resolution I think it's better to look outside like for example in Japan. The amendment of the constitution is very easy. They .. constituent assembly, 2/3 vote required. Once approved then subject for ratification. That's the only amendment. And if you would ask, well Japan's putting a lot of problems, yes, as a matter of fact, the changing of prime minister keeps on doing every year. People have this sense of shame, you know scandal only they would resign but can you find that in the Philippines nobody would dare to resign. Nobody. Scandal only of stealing money – 2 million people will not resign but in Japan just a mere allegation they would resign. How many prime ministers from 2006-2008 how many prime ministers have resigned? If only statistics would be any guide.

Now where lies the problem? If charter change only engenders self interest for political power, we might also forego the discussion of social reforms. Many constitutions, many countries, great countries whose constitutions are as old as their founding fathers and mothers stand tall and progressive. Philippines young democracy must take its roots and mature as a nation. If you recall 2 nights ago when the bishops called for a change of government the answer of the palace was, "well, the answer to question is only charter change." Ladies and gentlemen, I think charter change is not an overnight over-the-counter prescription and solution. So I would give this body discernment whether we go on in our cause for charter change. Thank you.

Sec. Camilo Sabio
Chair, Presidential Commission on Good Governance (PCGG)

Thanks Tony. Good evening my dear colleagues. What I'm going to say has been said by several and has been said by many others after me but to ensure that I will have sense in what I'm going to say may I just read my paper or my input which I rushed after, a few days before I came. With your permission, with your respect so far, we have nothing but failures. The 1997 people's PIRMA during the administration of Pres. Fidel V. Ramos and the CONCORD under the administration of Estrada, the organized forms and expression failed because they did not encompass the entirety of the clamor for charter change in addition to the abolition of term limits for elected officials as proposed by PIRMA and the deletion of the so-called nationalistic and protectionist provisions as proposed by CONCORD. A fundamental and radical proposed change has been gaining strength. A shift from a federal and/or parliamentary form of government. Moreover despite RA 6735 or the People's Initiative and Referendum Act there has been so far no clear and definite implementing law for the exercise of the right of the people's initiative. Perhaps it is now time to seek success. I think that's our objective here if I understood correctly the invitation. May I share with you some ideas, insights and practical recommendations on how the structure and frame a success and meaningful constitutional change process. There is no sacred route to charter change. A review of our constitutional history for the exercise of the right of the people's initiative. Perhaps it is now time to seek success. I think that's our objective here if I understood correctly the invitation. May I share with you some ideas, insights and practical recommendations on how the structure and frame a success and meaningful constitutional change process. There is no sacred route to charter change. A

review of our constitutional history would readily show that the proceedings on the framing, amendment or revisions of our various constitutions at this stage of our nation's historical development were dictated by the peculiar circumstances constituting the context in which our nation's leaders found themselves. The modality is dictated by the concrete situation when obtaining at this stage of our historical development. The modality governing charter change is the 1987 constitution of the Republic of the Philippines. As we all know the most immediate and urgent modality of the issue of the day is, "is it Consa or Con-con?" Charter change by congress action as a constituent assembly or by constitutional convention of elected delegates? Finally we are all aware that there are legal and political challenges confronting these two modalities which could abstract or delay this processes. There is a legal issue of whether congress should hold separately or jointly under section 1 paragraph 1 article 17 of the 1987 constitution, in addition the political atmosphere is characterized by distrust and suspicion of both the legislative and executive. The Philippine senate has always been distrustful and suspicious of any change in the charter which could diminish in any way its power and prestige. Moreover, some leaders at the senate are eyeing the presidency in 2010. Congress is distrustful and suspicious of the executive, the people are likewise distrustful and suspicious of both the legislative and the executive. However, I agree with Dr. Jose P. Abueva, former president of the UP and the moving spirit behind the citizen's movement for a federal Philippines when he stated earlier, years ago that no movement for constitutional reform would ever succeed without the backing and support of the president of the republic.

I had an opportunity of having been elected and having served as delegate from the province of Davao in the 1971 constitutional convention. Subsequently I also had an opportunity of having been elected and serving concurrently for 3 consecutive terms as secretary general, chief parliamentary, and chief counsel of the HoR of the 8th, 9th, and 10th congress under Speaker Ramon Mitra and Speaker Jose de Venecia Jr. Finally I also had the opportunity of having been appointed by and having served PGMA as presidential adviser for constitutional reforms with cabinet rank. Garci and my friends from Mindanao, I was called one day in the study room, I don't know why but they were there. The two of us… yes… they were there because they wanted to move the process and well of course I've been working with them for some time. I heartily accepted readily accepted so I was made presidential adviser for constitutional reforms. I was removed from my position, which I also like, as Secretary of the National Anti-Poverty Commission (NAPC). Of course at that time, the President already wanted to remove me because she didn't know how to do it because there was no charge against me except that during a TV interview by Mr. Evangelista of ANC and he was asked how what I'm doing what are these things, how could things be done he finally ended that my work as NAPC was like, because I told him I was interested I thought there must be constitutional change if we want to move. Then he told me "so what you are doing is just palliative". And I laughed and confirmed. And of course Ging Deles and Dinky Soliman who recommended me to the position was very unhappy and of course they want me to be removed. And so when my friends from Mindanao went to the President, the President readily transferred me as a solution to the problem. But then sometime later the president wanted to handle a very controversial position and this is PCGG. Bert Gonzalez recommended me and of course I knew everyone was there, don't accept it because you can become notorious as I am very notorious now and many things might happen including my detention in the senate. But anyway, the recoveries for PCGG are supposed to be for agrarian reform and years ago, six months after I joined the law firm of Manglapus I took a leave forever because I wanted to join the

federation of the farmers so this work of mine is connected to my work many many years ago. And so I am PCGG and anyway I am on leave and it seems many people want me to stay on leave permanently because I voluntarily took a leave when cases were filed against me to disbar me for having talked to my brother. And I think they want me to stay permanently because just before I left another case was filed against me I said I would take a leave and go back after the supreme court is finished with the case. So I immediately submitted my case for decision the earlier one, but then another case was filed and they wanted me to have more cases so I can stay permanently out of PCGG but let's see.

Sorry for the delay. May I share with you some ideas and insights on the wordings of each modality which I have learned from experience. Constituent assembly, the pros, more expeditious and less expensive because one, it is already organized, the members of mastery proves changes are limited and specified and they have already been studied by members of congress. the con, it does not encompass the entire declaimer for charter change. now with the .. of the constitutional convention of elected delegates. The main obstacle of the constitutional requirements that of information and knowledge on the part of the masses, of our people, of the impact and implication of the proposed changes. The constitutional convention of newly elected delegates can give our people greater opportunity to arrive at an informed and therefore wise judgment on the marriage of the proposed changes. This opportunity contain these during the debates and the campaign for and election of delegates and during the debates and deliberation of the elected delegates and during the course of the submission of the proposed changes to the people .. There would be more broad and meaningful participation by the people in the formulation of the proposed changes. Their participation would not be confined to merely ratifying or rejecting in the plebiscite the changes that they do, solely and proposed by congress. their meaningful participation in the formulation of the proposed changes will assure their support thereof. Number three, the constitutional convention code for that specific purpose will focus on deliberations and formulating the proposed amendments or revisions in the 1897 constitution. On the other hand, congress could focus on enacting to the appropriate legislation the program of government meant to answer the needs of people which are immediate and urgent. The proposed amendments or revisions in the 1987 constitution are meant to provide long term but permanent solutions to deep-seated problems. Next, this would be a historical achievement if we succeed. A review of our history as a sovereign people, sovereign, would really show that we have never had a constitution drafted by a constitutional convention of freely elected and freely deliberating delegates approved by the people in an atmosphere of freedom. For this reason, in January 16,2000, the board of governors of the Philippine constitution association under my leadership not only reaffirmed the decision made earlier for charter change through a non-partisan constitutional convention of elected delegates but also decided to initiate a nationwide movement for the calling of such non-partisan constitutional convention. Which modality has the best chances of succeeding? My opinion is it is constitutional convention of elected delegates called under the portion of section 3 article 17 reads and we all know that in congress with a majority vote of all its members submit to the electorate the question of calling such a convention. Two things before closing, this process will take long, so let's start now. Second, when we elect the next president in May 2010, elect a man who is sincerely for charter change but like Nelson Mandela of South Africa incapable of succeeding himself of exploring charter change to remain in power.thank you.

Input Presentations

Cost and Benefit of Each Mode

Atty. Raul Lambino
Managing Partner
R. Lambino law Firm

Good morning to everyone. Most of the things that I'm going to present today have already been mentioned by the previous speakers. But as Joy was asking if there was a way that we can possibly change the constitution after the flaws that come out in Article 17. Let me start by saying that the constitution must be rock solid but it cannot stand unchanged, it must exude stability and continuity but it must likely to improve a change in order to give meaning to the so called prescription on sovereignty in the constitution which says that sovereignty resides on the people and the government authority emanates from them. In our discussion with the constitutional law, there are two ways of changing the constitution. One would be informal ways of changing the constitution and formal ways. And when we talk of formal ways, those are those stated in Art. 17 of the constitution and which we are going to discuss later. Let me go first in the informal ways of changing the constitution. First is these take place when the Supreme Court exercises its power of judicial review and Dean Leonen has mentioned several of these decisions of the SC. When the SC decides on a constitutional issue, this becomes a constitutional doctrine. And the only way that this constitutional doctrine can be changed is either through a new ruling of the SC which varies form time to time depending on the composition of the SC. This is a legal realism as Dean Leonen also said a while ago. Of course the other way of informally changing the constitution happens when the executive department tries to issue proclamations, checks with orders and other opinions more particularly emanating from the DOJ giving some interpretations of the different provisions of the constitution. We have seen some of these like Proclamation 1017, CPR, EO 464 which fortunately, the SC had all trashed in the different decisions two years ago and last year. Now before we discuss the formal codes to change the constitution, let me discuss very briefly the major parts of the constitution. Dean Leonen again discussed several subjects in the constitution, but I tried to group these several subjects into four with all due respect to some political scientists and authors of constitutional law which only mentioned three major parts. Namely, constitutional liberty which transformed fundamental rights of the people and imposes certain limitations in the power of the government as a means of exercising or enjoying his rights. In our 1987 constitution, these rights are embodied in Art. 2, Art. 3, Art. 13, Art. 14, Art. 15, Art. 16. Then we have the constitution of government, which deals with the framework of government and its powers laying down certain rules for each administration and department in the electorate. In our constitution, that can be found in Articles 4, 5,6,7,8,9,10 and 11. Then we have the constitution of sovereignty or the mode of procedure of amending or revising the constitution. And our constitution has also a provision on the economy that is why I called this the constitution of economy which prescribes the economic models and principles that the government has been used to and promote. Now, why do we have to know the process of amending or revising the constitution? Firstly, the prescription of sovereignty is higher than the constitution. This simply means that the constitution is source from the people and therefore the people can opt to have a different constitution anytime. Second, written constitutions are more rigid and definite. They are more flexible than the unwritten constitution as what they have in England. Now there is little room for interpretation and extension of this meaning even

from the course. Thus, it may not be able to address immediately the pressing needs beyond the passing pulses of the times. It is in this regard the amendment clause is greatly needed. Third, as mentioned by Dean Leonen, it can provide a safety bulb and this was the opinion of Commissioner Regalado Maampong who was the member of the 1986 Constitutional Commission who is now part of the Court of Appeals Justice. Who said that the amending process could actually avert a revolution by providing a safety bulb in bringing about changes in the constitution through pacific means. Now Commissioner Regalado Maampong quoted the opinion of Professor Walter Deleger of Harvard who wrote that the formal amendment process represents a domestication of the right to revolution. Let's go now to the provisions of the 1987 Constitution. Proposing constitutional changes…congress as a constituent body…when congress proposes amendments to revision of the constitution, it is exercising a non-legislative power and we call this constituent power. And the SC has helped in the case of GonZales vs. Comelec that SC said that when the senators and members of the Congress exercise this power to amend the constitution, it is a component element of a constituent assembly. Now this is very important for us to know because there is a debate on how the congress as a constituent body may propose amendments to the constitution. Now legislative power, as we know is the power to enact laws as mandated in Art. 6. I keep on saying that Congress cannot exercise the power of amending the constitution in the manner that it is exercising legislative power. Precisely because the amending provisions are found in Art 17 (garbled). Congress is a bicameral body composed of the Senate and the House of Representatives. Commissioner Sarmiento noticed that in the 1986 Constitutional Commission, the template that was used by the Commission was used during the 1973 constitution which provided for the unicameral legislative body. But in the last minute they changed the legislative composition into a bicameral house. Now one interpretation of Sec 1 Art 17 of the constitution was not advanced by Former Speaker De venecia in 2006. And most of the member s of the House, with due respect to my friend, Mayor Jaraula, which I strongly oppose and I have been consulted by Mr.de Venecia on this because I am the legal counsel and I said, that cannot be done Mr. Speaker. But he was very insistent, which unfortunately now is being echoed by Speaker Nograles, well he must do that because there is a threat that he would be removed. To the effect that ¾ of the votes of all the members of the House and the Senate taken together in joint session. At least in joint session, maybe they will accept that. That would mean that there are now 230 House members(garbled).

So only ¾ of 261 as mentioned by Dr. Joel, 196 members are all that is required to adopt changes in the constitution. Under these few, once the 196 votes are obtained, it does not matter whether all came from the House alone or some from the Senate. And is say that I don't subscribe to this view. But there is another one that is even worth. That there Is no need even for Congress to meet in joint session. All that has to be done is for the House to pass a resolution. With a vote of 196 members,(garbled)
Now I think that is the worst opinion and there is no argument to oppose Cha-Cha by constituent assembly that looks dubious. The counter argument from the Senate which came out I believe in 2006 in one of the papers and I even heard it says that (garbled)
(wala na pong voice after nito)

Hon. Constantino Jaraula
Mayor, Cagayan de Oro

Marched with three hundred armed people from Banggasi in Butuan to Camp Evangelista in Cagayan de Oro, everybody was suspect. And when Ruben Canoy was arrested, I was his counsel. Then After one hour, an order from camp Aguinaldo was issued, also arrest the lawyer. So I stayed stuck for two nights, only ruben stayed for one night. At any rate, that is the situation. So, again let us look into this. Let us discuss charter change. Because we perceive in all honesty, there is something wrong in the constitution. That there is something that must be changed because there is something more desirable than what you can read in the constitution. And to introduce this more desirable, you need a change. Possibly, change has been abused. Possibly, we can make a constitutional correction. Because if we agree that there are certain defects, we need to make corrections. Let me digest it into something that has not been discussed fully. One, the definition of our national territory must be corrected. I think that the best definition of the national territory is in the 1973 constitution. When you remove a historic right or legal title from the definition of the national territory, that can not be the same. Two, with the permission of my very good friend and neighbor in Cagayan de oro, in regards to Mindanao. Rencisita Avila, you know, you must look at Mindanao as an area which is economically deprived. When you go to the hinterlands, as Manda Elizalde discovered before. As many people have never seen or have been rich with civilization. And so it is necessary that there must be accessibility to the hinterlands. But the problem is you provide for roads. Every year, they would report the same as having been finished. But the road is not there. It's only in the imagination. So that's the problem in our case in Mindanao. What we need is a real infrastructure project that should be transparent from the beginning until the end until you see the road. Because, again, Mindanao is richer than Luzon and Visayas. If you look into the minerals that we have, if you look into the potential of the Lanao lake which is the third biggest in the world, if you look into the potential of the Ligwasan marsh, with natural gas ad geology niches as the oil underneath the gas. If you look into,gold, copper, etc. in Mindanao, not only just in Surigao. If you want gold, we have gold in Cagayan de oro, very good gold, 22-24 karats. So, therefore, let's go back the 1973 constitution and it's solved finally our claim over Sabah. But the claim over Sabah should not be anchored on sovereignty because we never had sovereignty. The sultanate of Sulu had sovereignty over Sabah before, but it lost sovereignty, given time. What remains and what I am proposing to be pursued is proprietary right. Until Now Malaysia keeps on paying rental but the problem is there are no claimants. That should be settled by the government must intercede to the receive it and settle who is to be legally recognized so that the negotiation with Malaysia will be focused on that. Any payment by Malaysia in 1995, it went into a certain figure to something like$ 600-700 M. that was the talking point. If you have money, you can develop from Tawi-tawi to Sulu to Basilan and zamboanga, etc going into Central Mindanao. That can help a lot. And so, thank you very mush for the time that you have given. As I said, I am more of a revolutionary from the hinterlands than a scholar type.

Hon. Rene Sarmiento
Commissioners, Commission on Elections

Magandang umaga po sa kanilang lahat. A study of constitutions and constitution making is fascinating. One encounters new models, new paradigms, new theories, new philosophies. One runs into debates, discussions, alignments and realignments of delegates and compromises. And one discovers satisfaction from various definitions of constitutions. For instance, a constitution is defined a law for rulers and people. Equally in war and in peace,

it covers with its shield of protection all classes of men at all times and under all circumstances. It is described as a system of fundamental laws for the governance and administration of a nation. In the recent MOA-AD, and under related treatises, chief justice Puno cited dean vicente singco of the UP college of law who explained that the constitution is a written instrument which serves as the fundamental law of the state. A study of the '87 constitution is no exception to the spirit of fascination, for in it are 9 new concepts in the preamble, new principles and norms in the article of declaration of principles and state policies, new marshall doctrines in the article in the executive department, new construction of judicial power on the article of the judicial department, new party system in the article on the legislative department, new independent constitutional office, known as the Commission on Human Rights, in the article on social justice and human rights and new human rights ideas on the article on the Bill of Rights. And now this, I'd like to start with the '87 constitution of the USA, which provides for only two modes of constitutional change namely by congressional action and by special convention, called at the request of 2/3 of the state legislatures. The 1987 constitution, impacted by people power provides for 3 modes of constitutional changeand they are changed by constituent assembly, change by constitutional convention and change. In the long history of constitutionalism of the USA the convention mechanism to amend the 1787 constitution or the US constitution remains unused to this day because of widespread fears of a runaway convention despite a requirement for subsequent escape ratification. All 27 amendments to the 1787 US constitution that have become law of the land have been proposed by 2/3 majority in both Houses of Congress and ratified by ¾ of the Senate. To be more clear, there are 3 modes of changing the 1787 constitution. Two landmark cases after the ratification of the '87 constitution: Miriam Defensor-Santiago vs Comelec, who served as Lambino vs Comelec made a distinction between amendments and revisions. The task of changing the '87 constitution is not easy and painless. On paper the task is effortless a picnic, a walk in the park, it is not. It involves a combination of cost and benefit, advantage and disadvantage. Richard Booker once said that change is not made with convenience, even from worse to better. Let us see the plus and minus dynamic in each mode of changing the '87 constitution: no. 1 in a constitutional convention, delegates start at 215 or more, or 400 according to our friend from Cagayan de Oro city, representing every congressional district as in the 1971 constitutional convention will be elected. This means millions of pesos for holding the elections, and billions of pesos for sustaining the convention. Senator Loren Legarda was once quoted as saying that about 1bn will be spent for holding a constitutional convention. The process may be prolonged and protracted. While the people are maintaining a constitutional convention with a thousand or more personnel, they are also supporting a Congress with two Houses and thousands of congressional staff. The constitutional convention and congress working at the same time will bleed dry the coffers of the Philippine government. No. 2 in constituent assembly, the drawbacks are two, 1 is the nagging perception that congressmen and senators will be introducing amendments or revisions for their own fleeting gains, selfish interests and dynasties;the other is that the quality time that they can devote to legislation will be divided because they are legislators and constitution-makers at the same time, it will be half-day lawmaking, half-day constitution-drafting, or Monday lawmaking, Tuesday constitution drafting and so on. No 3, in change by initiative, only amendments in the provisions can be made. This process, though innovative, is limiting and cannot introduce substantial and meaningful alterations to the constitution. If you ask me, my choice is congress acting as a constituent assembly for the purpose of changing the constitution. Representation cannot be an issue because these legislators were fully chosen by the people in a democratic

election. Perception of legislators turned charter-drafters pursuing self-seeking agenda can be properly addressed if these congress representatives and senators devote their time to constitution making by introducing laudable, pro people provisions and this perception can also be transformed from bad to good if there are stakeholders to monitor and engage the legislators in regular, open and transparent dialogs to resolve competing agendas. Undertaking changes in the constitution with congress acting as a constituent assembly is not new in the Philippines. During the Commonwealth period amendments of the constitution were done by congress. These amendments were the conversion of the unicameral legislature to bicameral legislature,changing of the term of the president, and the constitutionalization of the Commission on Elections. In the US, it has been tried and tested and proves to be acceptable and successful. I close by saying that there is one process of amendment, not written , and need not be written in the constitution, but is fundamentally important to our country's resiliency and advancing in grace, and that is the constant review and renewal of our ethics and values. We amend the constitution, we also make amendments for our daily choices. *Maraming salamat po.*

Dr. Prospero de Vera
Professor, National College of Public Administration (NCPAG)
University of the Philippines

The good and not so good thing about coming in last is that most of what you're going to has already been said and it allows you to escape the accountability of the things tht you're going to say; the not so good news is that you keep on revising your presentation so that you will not look like you copy the presentation of others. So last night at eleven o'clock in the evening as I was repeating one slide after the other, I decided to approach the issue in a little different way, by looking at essentially – I was watching CNN, by the way, at the time, and so six days, actually five days from now, Americans will go to the polls to make a historic choice of who will lead their country during a most crucial period of economic and political change. They will choose between a young African-American, and a not-so-young foreign policy expert or a not-so-young war veteran and a very popular but not so qualified vice-president. In less than six hundred days it will be our turn to decide who will lead this country out of the economic and political quagmire that we're stuck in. The similarities, of course, between political systems and importance of elections are quite apparent in the case of the Philippines and the United States. We transform EDSA into one giant billboard every four years, three years. We are fixated with our elections. Just like in the United States we place great emphasis on elections and political systems that could change our lives. And our relationship with our political leaders is both good and not-so-good. We love our elections but we hate our politicians. *This is a 1963 political cartoon, you fast-forward it to today and it looks like it just appeared on the newspaper yesterday.* We hate our politicians. We think our institutions don't operate the way we expect them to. We often associate the failure of our country to move forward because our politicians don't agree with each other. And do we see our political system and our political leaders as lacking in ethics and captive of vested interests? We also share in common – if you think GMA has broken all records for being the president with the lowest acceptance ratings in our political history, don't be so worried because George W. Bush has also broken the record in the United States. He is now the most unpopular president in the whole history of all American presidents. And if we have a history of having elected actors we shouldn't be worried because Americans have got essentially the same. And if in 2004, many of us were afraid that Ang Panday would

actually become President, don't worry because, did you know that right after McCain selected Sarah Palin as the vice-presidential candidate, one in every 500 web searches containing the phrase 'Sarah Palin' inquired about her support for the *** projector *****

It is of course clear that democratic processes and institutons in the Philippines are the most enduring contributions of the United States to our political development. It is also clear that while the two systems look the same, they definitely have operated differently. The clamor for charter change is the continuing saga in the Philippines showing that many people believe, especially political leaders that the dysfunctions of our political system can be corrected with charter change. Since the topic is cost and benefit, one can argue that improving democracy's prices just like the credit card is a credit card that you see on television. But what would of course compute the costs? This is the cost that congressman Araullo did when he was chair of the committee on constitutional amendments in the house of representatives. This is of course 2004 data as I put plus plus, Comelec and House of Representatives computations say that the Con-con would cost between 4.6-6.3 billion if done simultaneously with regular elections, or kept on its own assumptions being that the expenditures are for one year, two delegates per congressional district and a staff complement of 6 for each delegate. The Con-ass on the other hand would cost a little over 2 billion plus plus computed to 2008 figures assumption being that the cost is for 6 months, House of Representatives and Senate delegates will continue to use their office staff and Con-ass will use existing secretary and staff. All costs of course are very optimistic. Con-con cannot hit the ground running when it is attacked; administrative, financial, technical, and political realities, will delay the start of substantial discussions. What I think we need to learn from is really the experience of the last Con-con, and we haven't really talked about it, because most of the delegates never even note their experiences. We don't have a history in the Philippines of constitutional writing, and so we cannot learn from experience. We have two of them here unfortunately; we are still waiting for Sec. Sabio and Dr. ----- masterpiece on the con-con, to learn about the good and not so good things. A week ago I went over the martial law book of Nene Pimentel. Well anyway, that would end in not so good experiences. The 2nd point is that the time frame of one will conduct the loss. Temptation to augment the bulk of the constitution could be difficult to stop. Could you imagine all these delegates have a very clear mandate, wanting to show how good they are, many of them having political ambitions regarding con-con. Do you think you can really control and say you can only amend this part of the constitution? It can be a never ending experience, in related parameters on what they can do, they cannot do or they can impose. The time frame makes limits on what should be amended in the con-ass. There are arguments that con-con promotes stronger participation of sectors and non-trapos. The question off course is if this really be done in given the existing elite improvement practices in electoral groups, and that is very questionable. Maybe some seats can be reserved for appointed delegates for sectors that are unelectable. But who'd grasp the rules and who appoints these delegates? All election campaign finance and political party reforms must have them before the elect con-con delegates.

There's also arguments that con-con promotes more democratic discourse, broader sectoral participation, and can incorporate amendments that trapo interest would pose. But is there empirical evidence to show this in the Philippines? As I said nobody has done very extensive study of the last constitutional convention, and worse, nobody has done comparative studies of constitution blending across even in the region. In Thailand, they say they had a very good job of drafting a constitution in 1997, but no Filipino scholar, not even one in

the Asian Studies center in UP has done any comparative analysis of how they do it. So, there are no good lessons to learn and not so good lessons to avoid in that particular case. In short, a lot of the arguments on the constitution making in the Philippines are more anecdotal than empirical. And how we wish that there would be scholars who would specializing in the dynamics of constitution making to help guide us and avoid the pitfalls that we could fall into. Con-ass may be cheaper and faster, but it can also result in amendments that will promote vested interests. Although I do not believe in Commissioner Rene Sarmiento that we have enough delegates who think of the national interest. There are also enough delegates who think of vested interest first and some of them have particularly setting publicly already. Like the lifting of term for example has been publicly announced by proponents in the House of Representatives. Again do we really have to stand in helping the US just one in its leading constitution and provisions to be amended? We really have to lay enough of this, what makes them think of the national interest it limit their desire to the constitution and how we can do that in the Philippines. But one can also argue that a con-con an also back the good coalitions in the constitution with delegates chosen using existing so that's mainly in a sense more significant difference if you have delegates who can run mock. So, whatever methods, whatever method to be used, maybe what we must ensure is that you have any constitution to ensure that people's initiative actually works. Because I think this is an option that we have not talked enough about. I included it in the readings, in the Business world, what we think about the people's initiative. While the frameworks of the constitution with due apologies to Comr. Sarmiento, and those who drafted the republic acts here that they got the onset and try to have it at the United States, because the way it is crafted in the constitution makes it very very difficult to run people's initiative. A 12 % and 3 % requirement makes it closely impossible for the loss of initiative without humungous financial resources. And peace makes people's initiative captive of vested interest to talk about deep-heated issues. Surprisingly, a lot of these actually are downloadable using the computer. You can actually download the initiative form in California, I Oregon, in the US, you don't have to rethink the whole thing, and you don't have to devise a new proposal. In California for example, launching only usually requires only 8% of the voters who voted for governor in the past election. So that's very small. It would be enough. And there is no district requirements, you can get all the votes just from one part of California, and be able to launch an initiative. here in 12% made it worse by enacting a law that does not provide for the four choice, and does not provide for the case of the provider. The initiative for example of the many states in the US that are about 26 out of 50 states of the US have people's initiative in their state constitution, requires for a physical note for example on the fiscal implications of the proposal. It rests in the paper that will be signed to oppose or support the particular initiative, there's an analysis of the issue so that when somebody signs in the initiative, there is informed choice. In the Philippines, we don't have that. So finally, maybe when we tackle big issues like change of government to con-con and con-ass, and use the people's initiative to resolve the issues that we conduct to resolve or come to receive diffuses to resolve like political dynasties, I am sure people's initiative can do that, like resolving the reproductive health debate, like minimum wage, in the US most wage increases are now done with people's initiative. I think I left my presentation there. Salamat po.

PRESENTATION AND DISCUSSION ON TOPIC 3: LEADERSHIP AND KEY ACTORS

Facilitators: Dean Antonio La Viña & Atty. Gwen de Vera

Input Presentations

Who are the Key Actors and What Role Should they Play?

Dr. Edna Co
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We can draw lessons from three cases and from there define the key actors and their roles: the United States convention, the Quebec Conference and the Northern Ireland Constitutional Convention.

Very much patterned until the American political system, the Philippine's Constitutional Convention adheres to the American convention in form and process. The Constitution is the basic law of the U.S. drawn up by the Constitutional Convention in Philadelphia during the December of 1787. The American Constitution is far more than a blue print. It contains custom, major statutory provision, and judicial interpretations together rolled into one, which determine the scope and distribution of authority. Some say that in the case of the U.S. constitution, the views of the president, governors, legislatures, congress, and the citizens are tentative and speculative.

In the case of the U.S., the convention is a gathering of eminent figures, the youngest delegate was Jonathan Deyton aged 26 and Benjamin Franklin age 81. Of these delegates, 29 were university graduates and 26 non-graduates included the eminent George Washington and Benjamin Franklin. Only 12 states were represented with some absentee notables prominently missing such as Thomas Jefferson who was serving a diplomatic pose in France. The delegates to the convention were prominently lawyers, merchants, planters, and investors. The delegates were motivated by practical experience rather than by political abstractions.

What is interesting to cite in the case of U.S. convention was the suggestion of Samuel Johnson of Connecticut who pointed out a middle ground of representation. He said in some respects, the states are to be considered in their political capacity and in others as districts of individual citizens. Instead of being opposed to each other, the ideas were combined in one branch, the people ought to be represented in the other, the states and in this suggestion made the essence of this so-called Connecticut compromise.

In this case, the constitution may be viewed as an ordinance of the American people or a compact of sovereign states. However this was not an easy compromise in the end the convention was made up of delegates chosen by the states. The convention drafted the constitution which was submitted to Congress which in turn referred it to State conventions chosen to consider ratification. Debates pro and con endues for months including the preparation of the federalists which set the ground work for putting the government into operation.

In short, the constitutional convention was a happy manifestation of the power of reason in state work an indication that divergent interests and opinions can be brought into a

constructive accord by assembling the wise people of the State. And the declaration of independence claimed that all authority s derived from the people.

Now let's look at the Quebec Conference of 1864. In the Quebec conference, there were sixteen delegates from the province of Canada, Nova Scotia, New Brunswick, Prince Edward Island who all agreed at the close of the conference to meet again at Quebec in October 1864. New Found Land sent two observers but did not participate directly in the proceedings. The conference did not prove to be smooth and easy. The major source of conflict in the conference was between those who favored a strong central government and those who favored stronger political provincial rights. Representatives from Quebec tended to argue in favor of provincial rights because they were fearing that they would lose their cultural identity under a centralized government.

Eventually however, the delegates compromised dividing powers between federal and provincial governments. They also decided to have an elected lower house and an appointed upper house. Although there was considerable debate about the number of senators to be had. The structure of the government was written out into 72 resolutions and at the end of the conference the delegates returned to their provinces to submit the resolutions to the provincial legislatures. George Cartier was largely responsible for convincing the French Canadian members of the legislature to accept the resolutions even though he did not support such a strong federal government. How many and who were the delegates to the conference? There were 11 delegates from the province of Canada, 7 were from New Brunswick, 5 from Nova Scotia, 7 from Prince Edward Island and 2 observers from New Found Land. They were representatives of their provinces some were graduates, others were non-graduates.

Then let's come to the third. What about the Northern Ireland? The Northern Ireland Constitutional Convention was an elected by the set-up in 1975 as an attempt to deal with constitutional issues facing the status of Northern Ireland. The idea for the NICC was first mooted by the Northern Ireland Prof Office when it produced a white paper called the Northern Ireland Constitution in 1974. The document laid out plans told elections to a body which would seek to agree political settlement for Northern Ireland. The proposal law in 1974 later that month with Lord Chief Justice Lowry appointed to chair the body elections were announced May 1975, the elections were held for 78-member assembly using the single transferrable vote system proportional representation in each of the Northern Ireland constituencies.

Initially, the body was intended to be purely consultative although it was hope that executive and legislative functions could be devolved to NICC as agreements were made. Unionists opposed to the NICC bonded together to form a coalition called the United Ulster Unionist Council and disproved successful because they won 46 seats then we have the list of the council and the coalition that won and what's the percentage of the votes they got. A number of leading Northern Irish politicians were elected to the NICC increasing hope that the body might achieve some of its aims. Also elected were a number of younger figures who would go on to become the leading figures in the future of Northern Irish politics. The possibility of power sharing was also considered but neither did this succeed. It was not until 1996 that the idea of a consultative body was revived and the Northern Ireland forum was elected. That forum led to the Belfast agreement and the

Northern Ireland assembly. This is a very politically sensitive issue, the Belfast agreement. Now what do I wish to make based on this point.

The point I wish to make in this tri-country experience is that the process of representation in a convention is not an easy one but the parties and some key figures just have to keep on trying and that those who are in the convention hall represent the broader interest and by that not anymore just the bearers of their own narrow advocacy.

Are there lessons that could be drawn from these exercises at convening the drafting of constitutions and agreement. What might be the lessons? What are the lessons? First, it is a truism that the political beliefs and tradition of the country have to do with the process as well as representation in a political exercise such as a constitutional convention. Although a young nation, the Philippines shares the political beliefs and ideologies of the Anglo-American model. The Philippines has deep respect for the natural rights of citizens. Our history political beliefs and practices articulate governmentality over government. Thus, representation is important and crucial in the constitution was to be owned by the people.

A representation based upon one, geographical jurisdiction is important. The country being archipelagic and politically zoned based on geo-political consideration. It is also important to bring in representations of politico cultural ethno-political group. Second, the Philippines cold probably identify the political complexity of Northern Ireland. In the case of Northern Ireland, parties and union councils are at work and representation was largely determined by parties and union council. However, the Philippine parties and coalitions are practically in disarray and hardly functional. Given this limitation, party representation and affiliation may tie in the geo-political grouping if necessary and feasible.

The challenge for political parties in our case and organized groups including party list is to mainstream themselves into the representation matrix where traditional- political elites already exist. In other words, I'm saying there are those who are, we have to deal with the traditional-political elites. That's a given within the framework of representation and we cannot bat and say we don't want to deal with them because we cannot trust them.

I think what I'm saying here is, the challenge is for the other groups including political parties and party lists to step themselves up and to mainstream themselves into the representation matrix to provide a little bit of a level-playing field. The pluralist representation is decisive if the charter was to be acceptable. To achieve this, a process should possibly reckon a mix of geopolitical as well as proportional representation. So it's a mix.

Third, while the groups or actors mentioned in my suggestions one and two are elected, my paper envisaged that it is vital and of great consequence to bring in nontraditional political players and here I refer to a) the academics b) the specially skilled and experienced circle of people c) individuals of high integrity and credibility that would constitute as a consultative body of the convention.

The constituency of this consultative body is vital at this juncture of Philippine political system for two reasons: One, credibility. We are deeply in need of a credible set of players given that the process works upon a popular government and representation. Bereft of popularity, the present dispensation should enhance credibility and instill respect in the

constitutional process if it is serious about the constitutional process. The consultative body should be a social capital upon which we hope to increase the credibility of a charter change and should diminish political acrobatic. Gate keepers such as respected traditional leaders and I don't mean here the trapo should be brought in to reduce segmentation of our society because a segmentized society will not produce an acceptable charter in the end. Reason two, apart from credibility, enlightened leaders and individuals who have in the past been ignored or sidelined from political exercise such as a constitutional change have an eminent role especially in the substantive and technical discourse on the charter.

Thus the value of such consultative body is for substantive as well as for credibility purposes. Fourth, how the elected and consultative constituencies would dovetail other is the matter to the process to be defined. That is not in my paper. However, it is critical that the consultative body is not a rubber stamp of the elective constituents. The U.S. and Quebec constitutional experiences involved only a handful of delegates each but even so, there was tremendous discourse consultation true and pro processes that went into it making the number inessential. What stands out from such experiences is that even if not all sectors or territories were represented in the convention itself, the document was thrown to a process within state and local mechanisms.

In the end, the basic constituents turned out to be players and actors in the constitutional course. What roles could actors play? First, organized citizens and enlightened political parties including party lists should be challenged to conduct rounds of discussions, outline key proposals within their sphere of expertise and knowledge, and bring these proposals forward for representations. Organizing education circles within their ranks and their influence may be done by organized citizenry, party lists and political parties.

Second, the traditional and community leaders including local government authorities are influential touchstones of information among communities and they should play a role in first, education and information and in gathering feedbacks on the content and mechanics of a constitutional change.

Third, the academics and experts could form study circles that would examine the elements of the constitution and feed this to the convention either to the consultative body or to elected representatives.

Fourth, media and their networks should be the most effective amplifiers of the charter change. Media could steer and cover public discussion among experts and leaders regarding the constitution. The four mechanics and the content in a manner that is
Tape A Side B
So that a popular discourse on the charter is achieved.

Lastly, credible and respected individuals and group representatives should come forward take the lead in organizing a charter caucus. In other words, in the end, it is good to have a charter caucus where you bring in the various actors and players where ideas, initiatives, and actors around the charter may find a convergence. Having said this, the paper envisaged a set of players who would build a constituency that is better informed about the charter and its processes and those who would reduce, and may I emphasize reduce polarization of advocacies and serve as political connectors in more ways than one.

In other words, we cannot remain in the same spot where we are. We have to move a little bit outside of the same plot and recognize the existence of political elites but those who are politically underrepresented should probably stepped up for better representation. I think that's very general but as you will notice, the definition of what the actors could have also something to say about the process and it's important to dovetail actors with the process.

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But I'll be coming from a position which is basically indicative of an analysis. Not really partism or with a reference to the actual processes going on now. What I would to try is present the cognitive factors involved in a successful constitutional reform initiative. But before I can do that I will have to present the premises so I have to start with Marivic's comment.

What is a Constitution? Or more precisely, what is a democratic charter? There are constitutions and there are constitutions. Even a dictator, even a king, anybody who is in charge of a state in practice will have a constitution whether it is written or not because they need to have the rules by which they can govern their subjects. Having said that, it is an assumption that in the democracy where the fundamental principle is supposed to be s.. the people or the powers emanate from them that the nature of the democratic state should have to conform to that particular framework.

That's why the concept of social contract came into being but as I've said to Marivic, I'm not talking to the concept as Locke discussed it. We have already gone beyond Locke for a long time. My own nuance here is that our constitution, we cannot I think retreat it at this time; we put everything in our constitution except I think the right to rebel. We had provisions for agrarian reform, protection for environment, indigenous people's right, everything and everywhere is stated in the constitution that's why everybody thinks it's a long constitution and that it basically describe what a social contract is.

When we approved the constitution there's that expectation that the rulers will follow what was stated in that constitution and many things in that constitution actually concerns the lives of the people. In that sense, there is a social contract. Of course, contracts can in fact in reality, the constitution is a set of rules by which the state relates with its own people or how political forces relate to each other. So we call it, for the lack of a better term, the rules of the game.

In that sense it is not a social contract. It's basically an agreement by which players, political players, agree to contest for power and the agreement of course assumes that everybody will follow the rules. The third point about this is that the constitution, because it describes the way, the branches of a state relates to each other or the actions of government relates to each other becomes a framework of governance. It sets up the state machinery. Within this context, if the rules break down, the contract basically become useless and everybody's asking what is governance. That is the point where you need a new contract, new rules, new framework and we call that point that's the point where you need a new constitution or you need to revise or you need to amend the constitution.

So regard the question of how to do or how to go about it. And I think the question is a political one. Because what I've been describing basically are relationships of political forces so when going into changing the constitution, the first thing that we have to agree on (next slide please) is what we really want. Will it break down when the rules are not being followed? What is the framework of this defective? In the current situation I am trying to cut the arguments here of all those who said that there is a need for a constitutional change.

I categorize them into three. One is the argument to bring the country to a modern age. It may be the review of the nationalistic provisions of the constitution. It may be a recognition for example of the work of OFWs in our economy, recognition of the environmental impact, what else, meaning the new factors that have not been given due account because they are not there yet when the constitution was not yet established.

The second category here and only is unique to a democratic state there has been questioned time and again the nature of post Marcos democracy that is supposed to be the whole point of the 1987 constitution;. We have heard of terms like elite democracy, oligarchic state, etc. etc. or saying that we have now is all but the democracy we have envisioned in 1987 or 1986 people power. Everything that is there is not the one we want. And there is a valid point there because rebellion has not been resolved as part of the situation, that's part of the situation that has been a part of the constitutional discussion then. Many people are still poor, they were asking for benefits we have under the democratic order and many of them are saying life is better under Marcos. Imelda is still there, Imelda is still dancing. And the questions of how to realize the provisions of the present constitution about democracy like banning of political dynasties, multi-party system, and the question of agrarian reform. All of them up to the right of information, all that concerns the actual democracy in society. And defects are being seen in the constitution because this has been largely unimplemented.

The third category is the question of resolving the economic, political, and social obstacles to common progress. Of course this has a lot to do with poverty. There have been ideas from all the participants in the constitutional dialogue and how to resolve this or how to solve the problem of poverty and progress in the country. So these are the, these I think all of them are valid in the sense that if you bring it to that point of broad categorization there really can be seem a need for constitutional change so who are the required instrument for constitutional change?

I would like to divide the discussion into two parts. One is the involved institutions in constitutional reforms. The other are actual actors. The two are not really the same. When you speak of institutions, we speak of the process of the formal constitutional change in the sense that these are the institutions that have a bearing on the success or failure of the constitutional reform initiative. Of course the main one there is congress because all the modes that have been discussed will have to go through a specific process which largely needs a congressional action. Even people's initiative requires a bill to become a law authorizing peoples' initiative which until now of course doesn't have.

The Supreme Court thinks that RA 6735 does not apply to constitutional change process. The constituent assembly and the constitutional convention modes require congressional action but remember the key role of congress actually is only initiating. Even in the constituent assembly, the theory goes that when they convene, congress itself convene, as a

constituent body, they are leaving behind their role as legislators in theory. I don't know if practice will bear this out. But the main role is to initiate the process, meaning the agreement to have a constitutional change will first have to be one in congress. The actor here or the second constitution involved is the president. Much has been said about the key role of the president.

Actually, the formal role of the president is only to sign the law if ever there is one calling for a constitutional convention. There is supposed to be no other role than the role of the president but in realpolitik, the president basically, I will agree with you, the president is all. Time and again, initiative to change the constitution post Marcos period have always been initiated by the president or became serious because the president made it serious. Otherwise, it's just a discussion here in Tagaytay. The reason there of course is unfortunately for us, one of the key elements that need changing in the constitution is the power of the president. That's my thesis all along that actually the 1987 constitution allow the dictatorial presidency to be upheld only the Martial law powers were actually restricted. And my main argument there is, if you want to know the legal basis, is the administrative code. Nobody talks about it much but read it. That's where all presidential decrees about political budget and governmental appointments are written. Nobody wants to talk about it but it's there. And this came from a distillation of various presidential decrees which Marcos did when he gave himself so much power over the government. And for that reason alone, a constitutional change process needs the go signal of the president. The power over the budget for one, she can just veto the budget for a constitutional convention and that's it, there's no budget. Of course it will create a political debate but the power is there.

The third institution is the commission on elections. First because the final step of the process of a constitutional change is the ratification and the one who handles ratification is the commission on elections. If there's an automation, the more important the role of the commission of elections will be because they will be the ones to automatically count the vote. Of course in the specific mode of people's initiative, the commission on elections also ha s a role which is to confirm the signatures in the petition for in the initiative are really valid signatures of legitimate voters. So the question of who is in the commission on elections is a crucial point. Unfortunately when you do that, when you ask the question, you go back to number two, the one who appoints people in the commission on elections.

The fourth institution here is Supreme Court. Again supreme court really doesn't have a role in the constitutional change process. I mean there is no specific constitutional provision saying that they have anything to do with it. Except that when there are questions or controversies that need an interpretation of the constitutional provision as it is today then supreme court becomes a crucial battle ground in the constitutional change process. The question fro example of the joint or separate voting can only be settled in the supreme court.

The next institution, I do not want to call it constitution but for the sake of category, are political parties. I'm not giving a strict meaning to this, I'm saying that those who are aspiring for or actually struggling for political power in this country are within this category because they are the ones who would be interested in having their own political agenda given to them in a legal manner which is true in a constitutional process like elections. So these political parties are obviously interested in any constitutional change there will be because these are the rules of the game by which they will be playing except I pointed out

earlier when political parties or forces do not actually act within the constitutional framework. Then the constitutional process is basically irrelevant to them. I'm speaking of the rebels of course.

The other two, media and the church are really not a part of the political institutions but the reality in this country is that these are two major institutions that have a huge impact on whether or not there will be successful constitutional change process. Media for one, is not really disinterested, none partisan, objective institution that they would want us to believe or we would want ourselves to believe. In our concrete context, they are interest-driven institutions and many of them in the past constitutional change processes have editorialized or made much of that are for or against certain provisions that are to be changed and they have a huge impact because this is an institution which largely determine who will win as president. And they can also rally public opinion for or against an initiative or for or against the substantive content of a constitutional process. And of course political forces also monitor the media. The church is not really an actor in the sense that they directly participate in the process. In the sense they're like media that they have this influence but having said that we have a church, I'm not only talking about the Catholic Church of course the churches of the religions many of them have political agenda of their own and they have politicians among their ranks, they have the mass-based or the political based necessary to produce political pressure and they have the finances and resources to campaign for what they want. In this sense, I'm talking of the church not as a religious institution but as a political institution. Unfortunately for us, even if there's a constitutional provision of the separation of the church and state, in the Philippines for good or for bad, the church is a political actor. (next slide please) but who are really the actors in political change? Meaning those who are for or against and will be the source of initiatives. Number one there is the incumbent president. And as I have said it is a decisive actor, it can easily support and provide the much needed support to an initiative but I'm not saying it's decisive. It is unimportant. A ruling political coalition likewise would be an actor. Wherever the initiative comes from, this is the one that is in congress and is basically ruling over congress, usually they are alive with incumbent president. Precisely because we have a weak political party system. But there are certain times in our history, that the question of a ruling political coalition becomes a questionable concept when politicians are already transitioning to the new president or the would-be president or what the members of the coalition think will be the new president.

So there are two kinds of behavior of the coalition. One, where there is a situation of a strong president and there is a situation of a transitioning or weak president. They react to it. The political opposition in our country, in our post Marcos system is really weak because the constitutional framework right now is that the real strength lies within the president and everybody wants to be on the side of the president so after winning the presidency, the president will always have an easy time forming a majority in congress particularly in the house of representatives because everybody would like to maintain their access to the pork barrel and other perks and privileges attached to an alignment with the president. But having said that, a weak political opposition is not really weak. For one, we have only a one term presidency. The opposition will always be there to provide an alternative and generally speaking except for the one exception in 2001 only one term actually was allotted to each president. So the opposition will always be a factor because they may be the next president.

Secondly, the political opposition in the country in the absence of organized political parties really is a hodge podge of groups and political opposition generally will be the core or the pole upon which these groups gravitate to so their strength is usually amplified outside of the normal political contention or the electoral framework and in a fragile democracy as the Philippines, it may even extend to the extra-constitutional arena. In that sense, the political opposition acquires an influence above more than what the real strength is because of that particular political opposition.

The Fourth actor here are interest group, we can call them vested interest groups but these are groups that have specific interests which is affected by the constitution or affected adversely and this interest will really like to change the constitution in favor of their own interest. In that sense, civil societies advocate actually have much in common with the interest groups because they have also interests although their interests may diverge in the question of "makasarili" or against the community interest. Rebels, while formally not part of the constitutional order, had definitely an interest and stake on what happens in the constitutional change process. Of course the nearest example here is the MOA on ancestral domain because this has been brought up as requiring constitutional change. The MILF certainly would like to have that process or would like to have an influence on the process. Even the CCP while formally saying that they don't have that kind of attention with regards constitutional change are now actually having a position of defending the '87 constitution because they do not want an extension of term or a power extension of the GMA presidency, which is an irony actually because in 1987 they were part of those who called for a boycott of the ratification of the constitution.

International actors unfortunately is part of the game. Not only because there is a question of revising the nationalist provisions but precisely because Philippines in that past few years or decades is in a due political center particularly with the China factor.

But the ultimate actor in any constitutional change process are the people. This is not just an ideological assertion. Not only because the formal process ends with the ratification by the people or by the voters but only but because if there is a considerable popular opposition to a new constitution or to an amended constitution, when if these are passed, there will be a political movement against the political rulers who are ruling by that constitution. The main example there of course is the Marcos constitution by virtue of Martial Law powers, he passed it and he ended up with 13 years of civil war until ultimately he has this illness and the people replaced him (next side please) so my main conclusion is that there may be formal constitutional change process ending in a voter ratification but in the current situation in think demands that there should be a direct participation by the people. I'm not saying here the people as an abstract term. When I say people here, what I'm saying is the political active people. Those who want and will be participating or intervening in the constitutional change process because if they are not participating, or are prevented from participating then they would campaign definitely against such an effective initiative or prevent initiative and we have time and again did that precisely.(nest slide please) so the credibility of a charter change basically rests on the acceptance by the people of the substance of charter change.

The credibility of the leader advocates or the forces advocating it and the people's participation in the charter change process and the last is the people's participation in the charter change process (next slide please). I tried to answer my question before and who

will succeed in changing the constitution? I think the one who can change it and the one will be able to change it will need to satisfy the following criteria.

1) the one who correctly reads the aspirations of the people and put this in the substantive constitutional reforms that they would want because this can be easily understood by the people.

The second of course is the one who earns the highest respect for the people because he would not have trouble explaining the needed constitutional reform to the people. Even if the people don't understand much what he or she is saying because the trust is there.

The third one is who has the political will and of course the acumen to win the people's support. This is different from the trust this is the question really of the seriousness of the effort to change the constitution and the necessary strategy to deal with the obstacles in the process.

The next criteria of course is a practical one. It's the necessary resources and network for educating and exchanging dialogue with the people and the last is the one who would work with the people meaning who involve the people because at the end of the day as I've said, the success of the effort if it will be a popular move. From day 1, if it is unpopular, that's where it will remain in day 1. Day 2 it will not be there anymore. Thank you.

Input Presentations

Who Should Take the Lead? What Kind of "Leadership" is Required?

Ms. Loreta Anne Rosales
Chair Emeritus, Akbayan! Citizens Action Party

The context of charter change. The context that I will be using will be limited to the framing of the 1987 charter to the current efforts, sometimes frenzied efforts to try to amend the constitution from different perspectives. That's the first point. Then the second point is, I'd like to contextualize discussion of this effort again with what is happening right now. And I'm talking about the global economic meltdown that is taking place and that's gonna be with us for quite sometime believe it or not which would probably demand from countries, both developed and developing like us, to take a second look at our traditional development paradigms because much of the reasons from charter change earlier on after marcos had to do in fact with the development paradigm. What was wrong with the 1987 charter and what had to be corrected with the 1987 charter. So if you put that in the context of what is happening right now, where the free market restructuring policies are now being questioned, the globalization effort of trying to integrate developing economies to the international economic order is also being questioned and the financial capital speculative efforts is also being questioned. I think that it would be very helpful for us to look at it in this light. Ok. 87 charter. Its uprising and a revolutionary government. Very exciting. People, one of the golden periods of our time. And I always say when I talk to people, diba, use your imagination. When the people, when the millions marched to EDSA and Marcoses tanks came intending to ram down the people's march. The tanks stopped because the people in their lumbers lead by nuns and seminarians were singing songs of love of country, knelt down in prayer, gave gifts of flowers to the soldiers, spoke of peace to the soldiers, and the soldiers melted. *Huminto sila.* And off course by then the US was already

telling Marcos *itigil mo na yan.* So Marcos could not really push through with that time. It was more of a threat than anything else. That was the context. But for us, I think it would be helpful and instructive even for our children to realize that that innocence was an expression of people's sovereignty. *Ano yan eh, collective will yan.* And if you try to look at it just a little bit more, you'll find out that people were actually cheated by Marcos in the elections. Election is the arena where people are very comfortable with. Pero, they were cheated so they went into civil disobedience led by Cory Aquino and so they went marching and then it lead to EDSA and Cardinal sin called for the protection of the defectors of marcos. That's the context. Who were those chosen for the election? As pointed out, they were not elected by the people. They were selected by the president because it was a revolutionary government, and it was a select few, 48 members *lang, tapos may namatay pa sa isa sa kanila.* And then off course, Lino Brocka resigned. What were the criteria? First, you should not have walked out at the elections. That's why, you know the stupidity of boycotting the election. Jimmy tadeo? I guess token left lang. *Pero, yung mga nagboycott, wala, nag-apply yan.* Everybody wanted to be part of the constitution framing. *Wala.. rejected rejected.. boycott..boycott..*

Dr. Clarita Carlos
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Just maybe some stragglers which I can point out may have not been pointed out and preface initially to what my very good friend Lito had noted earlier rather violently about the use of the word elites.

Elites is not a bad word by the way. I taught that course last term and it's called Elites in Politics and the whole course was really about identifying the pivotal role of elites in many many aspects of political life. In fact if you look at the title, the word leader cannot stand alone without being lead, you know without having the lead. The word "masses" is a relational concept. Every concept that we use in fact is relational. So we cannot say eta is eta. Eta has to be mother of, girlfriend of, student of, etc... so we cannot move away from concepts and what they mean in different contexts.

So the way the assignment to me was titled, I cannot escape from a normative discourse because there should be, ought to be, etc. which is deeply rooted in that kind of question. What we might lead the consensus on would be to locate the leadership, leadership is a role, so it can be one person, it can be a junta, it can be any number. The only qualifying feature of leadership is that first, apart from every other actor in the system, it is the one who can commit the resources of the country. And that is a major characteristic of a leader. Therefore if you need an array of attributes, that is one attribute which you will not find in any other.

That brings me to some comments on the use of the term social contract. Quite a lot of us here had used the term and I thought it was integral to our discussion because the whole notion of constitutional change is really rethinking the relationship between the governed and the governor. So we're saying once upon a time we did not have government. So how did we come about that we now have this paper called constitution? And Marvic alluded to that when he talked of a Leviathan. And maybe we're better off than a leviathan because a

leviathan because a leviathan is Thomas Hubb's rationalization for dicatatorship. So hindi tayo duduguin dito sa mga issues na sinasabi natin ngayon na puro mga lubak lubak. But no, we chose John Locke and Rosseau who claimed that every individual is rational but you need a government because you have to protect private property. That's the whole notion. That is the philosophical bed upon which all our constitutions were embedded.

And so we cannot move away from a social contract or what Husi wants to call a social compact. It is really an agreement between the governor and the governed. And when that agreement is bridged, then we say, let us remove that piece of paper which is our contract like a marriage contract, let us divorce and let us come out with another contract.

You know, I was going Tony over these materials which would give in us. There is one here which is quite interesting that one by Sulliman. And there, when you notice historical chronology of what had happened to our political history in terms of constitutional making, you read that part in 1971, when you read that big big quotation there, it is as if he is describing today. And 1971 is how many years ago? And I think this is the question that we should also ask. Is this change that we are trying to proffer to our young people going to make a difference in their lives? So let me just go very quickly through these points which I have listed down there on the board.

First, you have leaders because they have the power and the authority. And this authority they come from the consent of the governed. And it is important that the leader has the integrity of the person as well as the legitimacy. This has been repeated many many times this thing. Because you need the legitimacy and the integrity of the person so you'll have the power to influence. And this time you're influencing one division. For the rest of the constituency to agree with you to do constitutional reform. That is the one you're selling, yan ang tinitinda mo.

There are two major roles of changing society. One is you change the person. You change his belief system, values, orientations and the like. Or you change the institution in which the person operates and therefore sets the boundaries of his conduct. And so you say, okay. And this institution called marriage, a woman can have five husbands. And so concomitantly, you now have the behavior correlate with following from that institutional structure.

So we say, given the choice between changing the person and changing the institution, we are realy opting for number two which is constitutional reform because we're saying it seems to be the faster track. Because from empirical evidence, we want to change a person's core values and it will take anywhere from 2-3 generations easily 60-90 years. And all of us would be dead, and you know we don't want to do that. But this is not to say that while we change the institution we don't change the person. As we change the institution, we also change the person because the person is compelled to change because of the institutional orders that you have designated.

My requirement for the political leadership would be three. To b able to sell anything and the anything would be the ones listed below, you must provide the philosophical, historical, scientific. The philosophical belongs to the realm of what ought to be. What does the good life, or the better life, what does it look like? Is it better than the now because if it's not better like Marlon said, *"hwag na lang aksaya ng kaperahan."* Historical because the leader has

to move backward, look at history. Sideways, mangopya, imitate. And forward, expect the outcome as seen also from the experiences of other countries. Scientific because we cannot rely on tsismis. We have to look at hard evidence foundations that will declare quite plainly that when we move from unitary to federal, there will be differences. And we cannot just use big words, we really have to give them on the ground unfortunately. And this is the difficult part for lazy people like me. You knot, to say, if we have federal this is what will happen. And what will happen really should be on operational terms and not more big words like presidential and parliamentary.

Then I think t is incumbent upon the leadership to also identify the basic assumption of success. And quite a lot of you have identified the need for electoral reform, the need for political party reform. So you think things would change in 2010 if you have the same political environment? No. the basic environment are all the same and we are going to have more of the same. You will just change the paces of the leaders but they will be working on the same soil, the same fertilizer. That is the reason why I said the constitution if at all must also be designed to change the fundaments. Because if you jus change the fundaments, that is like you just change your clothes and inside you did not change your underwear.

Number 2, the leader must also identify the perils. As we sell the idea of parliamentarism, then we also tell them that look at Thailand, look at india. Because we need to tell them that there is a buffet. Pili ka kung anong gusto mo. And because we say that democracy is yes, unfortunately, counting. Because why we say, majority ruled because we are assuming that no one will deliberately harm himself. That is the philosophical basis of the majority rule. No one will deliberately himself and therefore that we are banking on the future on the next president of 2010 to make these changes then we are banking on nothing because he or she will not deliberately harm himself by a constitutional reform.

Then the last part of that is timing. Timing I think is not a practical issue, in fact it belongs to both the strategic and the operational because timing, you can manufacture timing. You know like when the Americans go to war the can manufacture the weather. So leaders also as part, because they're leaders, they strategize and timing is not tactical but strategic. And finally, to repeat, to sell anything and this time the leader is selling constitutional reform. It should be able to complete the public and there are many many publics of the differences of the quality of their lives whether it involves population management, corruption, transparency…that in fact, constitutional changes will bring this about.

Input Presentations

Citizens' Participation in Chacha: Significance and Mechanisms

Mr. Socrates Banzuela
National Coordinator
Coalition for a Citizen's Constitution (C4CC)

Sige. Yung a binigay sa aking papel ay mukhang tingnan yung pakikilahok ng mga mamamayan, anung kahalagan nito,at kung anong mechanism dapat ilagay para maging makabuluhan ang kanilang pakikilahok. So, much of the ano, ahm I will be sharing batay na rin sa karanasan natin sa Coalition for a citizens constitution at mga reflections specially

during my stin sa Citizes movement for a federal Philippines at sa when I left and joined and have more time sa c4cc. ahm, yung baic premise nitong pagtatalakay, meaningful citizens participation would produce better charter, and better implementation, even increased citizens understanding and ownership. Yun yung pinakaassumption and therefore why we should undertake it and there are basically three main basis. One is historical. To a large extent pag titingnan mo ang pagbabago ng constitution, very minimal talaga yung pakikilahok ng mga ordinaryong mamamayan. And therefore, kitang-kita na yan. Even until the 1987 constitution, millions participated in installing a new government that produced the 1987 consitution, and then, ah, also millions participated in ratifying but ah millions did not participate in understanding the 1987 constitution, and therefore making people look promise to implement it from the president down accountable. And to a large extent, the premise here is ah mukhang dahil doon, kaya rin siguro nagcontribute yun why we are in this messed stop. Off course, the 1987 constitution being the product of a people power , already put the provisions the important roles of NGO's and people's organizations in nation building. So, Constitutionally, anjan na yan, yung citizens participation. And then largely, it makes political sense for us to make people engage and involve and I think that's the whole reason why we also have the people's initiative and everyone understand na mahalagang mainvolve sila along th way. And at the end of the day they will be the ones to ratify and therefore a kailangan silang maengage. Now where are the areas where people or citizens can meaningfully participate? Ahm, I think a, well we've been asking them to participate in coming out with a content. And a be there also in the whole process and a makesure that their participation is contextually a a generated a and let explain everyone. A, one yung content. Eto yung naobserbahan namin, naobserbahan ko no when we had a lot of this consultations. Ang nakikitang focus ng mga basic sectors a yung basic sectors eto yung grupo ng mga magsasaka, maliliit na mangingisda, urban poor laborers, indigenous peoples, women and youth. These are the 7 major basic sector groups whom weve been engaged to over the past 2 years. Ang napapansin naming na focus ng kanilang pag-iisip sa content ng charter change discussion mas on substance. Para saan? Para sa amin ano to? Anong, what is it really for us? No? pero, when we have the professionals, the NGO's the political groups, sa kanila, a medyo malakas yung ano sa structure, a structure of governance and a hindi gaanong focus.parang inaasume na na you know if you change the structure the we'll help alleviate poverty, etcetera ano. May mga ganong assumption pero makikita mo na magkaiba yung focus that's why its very important to understand this, ahm, now yung, the past 2 years, sinubukan naming sa mga conferences, maapreciate muna ano itong 87 constitution. Eto large extent we said in the 87 constitution already its clear there what's the vision, what's the what are the goals. And theres a development strategy and then the structure of governance is there. Ahm, ro mahalaga yung itanong and magkaroon ng judgement ang 1987 constituion ba as written ay pro-poor. When we say pro-poor, maka-magsasaka, maka-magsawalang lupa, magka-laborer, maka-ganayan. The sectors dimensions. It hink that's important. A now, eto, medyo dilemma ko ito. I've been an advocate of federalism and federal parliamentary. Pero, I'm also an advocate of asset reform, ahm, substantive asset reform, and sa AIM tinuro sa amin na the structure, kailangnag may fit eh sa strategy. Structure should follow strategy. And therefore, mahalagang maintindihan natin, maliban sa vision natin of society, ano takag yung development strategy natin sa Pilipinas? At kung malinaw eto sa atin, tayo especially na nagpupush ng changes, kung malinaw eto sa atin, then we judge the constitution as it is. Whether may coherence ba o wala, and kung wala, therefore anong dapat baguhin? Now let me explain a bit, ahm. Ang tanong sa amin, pwedeng itanong ng magsasaka. Ahm, you've bee pushing for federal parliamentary system. Ang concern namin,pano maimplement ang agrarian reform? The 2 million hectares still left

to be distributed sa mga, mga indigenous peoples. 26 percent pa lang nadidistribute sa mga ancestral domains. Sa mga mangingisda, only 2 percent ang naiimplement sa dilneation ng 915 municipal waters,ah, after all these 2 decades of work. Sa kanila, ang tanong, magfederal tayo ngayon magparliamentary, yan bay mapapabilis ang implementation ng agrarian feroRm? Mapapabilis ba ang implementation ng candy distribution, fisheries coat, kasi yun ang meaningful sa amin. Medyo hindi ako makasagot agad dun. It depeneds kung anong klaseng federal and parliamentary set-up mo. Dahil may mga federals systems na examples tayo na mayayaman na bansa top 20 sa HDI pero mahirap na maging basis ng Philippinea ano scenario. Mas, saan ba natin pwedeng ihambing ang Philippines maging federal tayo, ahm, possibly iNdia, ahm possibly Brazil. Pero ang tanong pa rin, in both countries, hirap pa rin ang implementation nga agrarian reform. Ah so, pag naging federal ba tayo, which to many of us ang ibig sabihin ay bibigyan mo ng mas malakas na kapangyarihan ang regional governments, local leaders. Ang tanong ay diba lalong magakakaroon ng kapangyarihan yung mga lumalaban sa agrarian reform dahil yung experience natin over the past 2 decades, those who are against the agrarian reform, karamihan mga LGU's. binigyan mo sila ng kapangyaraihan, ibinaba mo ang anon g a a distrin=bution halimbawa ng lupa. And in this case, this has become a question ho ng ilang mga magsasaka na miyembro naming sa ARMM. Pag nagkaroon ng BJA ang tanong ho nila, may commitment ba ang MI na implement pa rin ang CARP at magkaroon ng lupa, may commitment ba sila na iimplement pa rin ang Kadti, ang ipra. Kasi sa ngayon mayron kaming kadti, hindi lang naimplement ang ipra. Pwede kaming magkaroon ng kadti, hindi lang naimpelement ang arm. Meron kaming fisheries coat, hindi lang namin naimplement. Pero ang mga batas ba nay an ay mananatili with the BJA, ibig sabihin, you give more authorities ang power sa regions. Will, will this facilitate na makuha naming yung gusto naming and to a large extent, medyo dito, seryosong mahihirapan tayo, a at nararamdaman ko itong hirap because we had round table discussions sa agrarian reform movement leaders. Ang conclusion nila, wala kaming libog diyan, sa ngayon. And a , ang kasama namin doon, si off course, we can understand possibly, Jimmy Tadeo and Chris Monsadel, participants sila sa nagawa ng 87 constitution, pero ang experience din nila would say and these are agrarian reformance polic no and Chris Monsod. The ones under mining land reform implementation were colleagues in the federal movement in Negros and others. And one time I had an experience, I was called by a landowner who used to have a movement for federalism at ang position nila they are pushing for federalism because they wanted to kill carp. This was 1988. Berenger and company. So may mga issues sila eh. Then when you have this, may mga ganoong pananaw, and these are your leaders, malaki ang takot nila. Baka, lalong di namin makuha ang gusto naming. So eto yung, yung a. so, what kind of federalism are we a pushing and kung idedeign natin yan, what kind of federal system will be put in place so that, already the social justice provision already the entitlements already generated under the current constitution, the current laws ay hindi mabawasan, maderrogate. Mentras, ay lalo pang lumawak. So basically, this is a major concern. Now cause, eto ab ay isang, eto ay, kahalagahan ng development theory off course there are books that said pag tiningnan mo yung mga umunlad na bansa,agrarian society, Japan, South Korea, Taiwan, now Vietnam, China dictatorship, they are under a dictatorship, but they are in sent in the sense under a unitary system where agrarian reform was implemented, became the foundation of their development. And only later, saka sila nagdecentralize ng power sa local regions and kaya medyo malaki yung ano, kaya, ahm, pag tiningnan mo yung mga models, saan tayo kukuha, walang gaanong model na federal parliamentary system pushing ano so for India because of a federal system, umunlad yung Kerala because may isang prince na nanalo under a Marxist government, dinistribute niya yung lupa niya and therefore later, nadistribute lahat. Pero

Kerala west Bengal sa in many other o kunti sila na model sa sa India so we ask here if we go federal immediately, anong mga regions ang we can say they can push ahead? And so, you can already imagine, western visayas, medyo mahihirapan. Pero baka Luzon, central Luzon pwede na no, o kaya manila ok na yan o kaya cordillera. Off course the Kadpi can be a pwede nay an no. pero western visayas baka mahirapan tayo. So, this consideration no. I just put there here. Eto kasi yung naging fixed stages according to David Corten sa libro niya na paano umunlad yung mga bansang to. And basically the foundation is asset reform, royal infrastructure, and then later, nagagricultural intensification level, ibig sabihin nag rural industryand urban taska export ganoon yung dinaanan nila. Ah, and satingin niya, many agraraian societies are basically working on this kind of model. And therefore, ang naging tanong, those of us who are framers of this cons, how shared is this kind of development strategy which can become the basis of later we ask. Etherfore, what structural system should be put in place so that thi strategy gets implemented. So yun yung basic na na. and then so we take a look at the 1987 constitution, in a sense we already have the goals very clear, asset distribution, etcetera, then a section 1 article 12. In a sense, we have a clear strategy there. a, sound agricultural development agrarian reform as basis for national industrialization and full employment. Ah, makes sense. Pag tiningnan natin ang karamihan sa mga mahihirap natin, lupa, a katubigan.matagl na nilang hinihingi. And its possible, if all these laws get implemented, 4.6 million Filipinos, 27 million Filipinos can have chances to really have build the lives domestic market para maggrow yung mga businesses natin. Sa ngayon, hindi sila participant na meaningfully sa economy, cause they basically do not have assets. Ito lang yung kwento ng mga magsasaka ng Sumilao, and they got the 50 hectares of land after their 2 month 17 hundred kilometer walk. Ahm, now there are 9 researches and then the roundtable discussions,7 sectoral, dalawang thematic. 3 out of 7 sectors. Ito yung ano nila these are leaders ha. 3 out of 7 of them are already happy with existing provisions pertaining to their sectors. In fisher sabi nila wala kaming babaguhin diyan sa 87 constitution kung ang pag-uusapan ay ukol sa pagkakaroon namin ng karapatan sa aming katubugan. Its very progressive not only as small fishers. We have access to the 50 kilometer municipal waters. But Filipinos will have control, hindi pwedeng ang mga, anyway. So ganoon din yung urban poor. Ang ganda na nila. Yung youth, ang ganda na ng mga provisions. Only the agrarian reform, ang position lang nila, but they're not very hot. Position lang nila kung pwede mapush pa na zero retention sa absentee land owner. Kasi, land to the tiller, owner cultivatorship principle. And then, yung indigenous peoples, ang position nila, let's move for a reconsceptualization fo out nation from just saying this is one nation, but in reality we are a nation of nations and that's the stage for a federal system type of reconceptuzalizaton of the structure. Ahm, ahm, then young the women's sector may agenda sila na kailangan palitan yung concept ng marriage na hindi lang yung partenership na kailangang lalaki't ababe talaga yun no. so, bodily autonomy,etc. and then, yung labor, ma sang tingin nila, mas gawin pang progressive, mas quality of life indicators or rejectory and well-ferished state. Now, in general, a, happy sila sa provisions ng national patrimonial economic policy bagamat doon sa mga discussions at sa mga researches. Nakikita na mahalaga ang benefit at control ay kailangang maensure pa rin na nasa kamay ng ga especially sa kamay ng mga mahihirap na Filipinos kasi ang experience ngayon, they're losing, medyo malaking tanong talaga dito sa national patrimony at dito nag-iiba yung positioning nga eh, well, some of us maybe positioning for opening up. A, napakakonserbatibo talaga ng mga basic sectors kasi ang tingin nila ganito. Bibigyan mo ng lupain yung mga yung mga foreigners? Hindi niyo nga mabigay yung 144 hectare na hinihinigi ng mga magsasaka na nabigyan ng ng titulo. Ngayon ibibigay ko ang 1million hectares kay Danding and groups. So, ganito lang yung policy. Sa mga minders, na hindi

taga-atin no. So malakas ang ano nila dito. So kaya very protectionist pa rin sila pero yung protectionist nila ay sana mas mapunta sa community, hindi lang sa mga Filipinos na mayayaman ang pag-aari natin. Then very little pa ang understanding sa federalism, sa parliamentary, in most of the ano no, mga grupo na natin to ha sa Code NGO. Ang daming kailangan pang pag-usapan. Ang general lamentation and exasperation nila,nung nalaman nila yung mga provisions sa 1987 constitution, ang gaganda, hindi naiimplement. At hindi nag-iba talaga ang buahy nila no. kaya in general, ang position nila ay no cha-cha sa panahong ito. Well, the context we discussed and a, gusto na rin nila constitutional convention, in case, makabahagi sila. Ahm, eto nabanggit ko na ito. Eto lang, kaunting ano sa federalism, based on this analysis, ang nabubuo na proposal, off course pwede pa ito for deliberation, ah, a symmetric type. Wala namang umaayaw dun sa federal. Pero yung mga nanininiwala na, ma sang shift ay huwag sabay sabay ang mga pagbibigay ng kapangyarihan sa region, gawing asymmetric or performance based. In regions na predominantly implemented na ang asset reforms, go ahead, perhaps central Luzon, perhaps metro manila, cordillera. At may napapractice na notion of good governance. Well then, you put more powers and authority there. now why should you, why should you give powers and authority to those who are under mining existing laws. Ang yun yung basic na ano no. huwag sabay sabay dahil sa takot na lalong di makuha yung nasa kanila na dapat. Now, basic dito sa process, basic na tanong, who will be the drafters of the proposed changes. Napakahalaga sa kanila ito. Yung mga taong napagtiwalaan namin, game kami pero yung walang, yung di naming pagtitiwalaan, mahirap na yung outpout noon ay ano. So, basic na, second na ano rito, tanong, what mode will bring us to a more progressive set of drafters? May tingin na the 1986 87 constitution basically crafted perhaps by many good people na kilala pa natin. Ang gagaling nila. Ngayon, ang tanong, kalian tayo ulit magkakaroon ng oportunidad na magkaroon ng ganoon kagagaling din na set of officers. I must say ah with due apologies, hindi sila gaanong Masaya dun sa output ng ConCom neither nung ConCor kasi yung mga gusto nila, yun pa yung nawala. And we can sight some of these no. and therefore, when we talk about means, na ito yung mga constitutional, and we must say, some, if not many of us believe na for us to come out with a good set of drafters that will come out with a good or better set of proposals in changing that 1987 constitution , baka this should go beyond the existing con-ass, con-con, PI, given our current political and analysis din mismo natin. And marami talaga na posisyon baka we really need a revolutionary government after a set-up by a people power uprising, something iike that. so, cha-cha after may, so isang ano yan ____-mode, we shold prepare for that. in that sense, we'll be more assured, especially kung pagtitiwalaan natin yung leadership nung people power nay an. we're not talking of an armed revolution but people were not also talking anout cou'p de tat. But ala Cory , cory governments revolutionary government. Baka yung lessons ni Lito nung panahon na yun ay maaply natin. How to transform the mayor's or governor to OIC. Very basic sa tingin ko yung concept ng ownership. Hindi ako gaanong and people would like to understand. And nung nagproduce kami ng parang booklet ng 87 consti, nag-aagawan. They all like to have a copy. So nagrequest na pakopya pa. de, wala na kaming pondo pero they really wanted to have a copy and wanted to read, especially 'to yung mga nasa Cagayan, they really want to understand especially after the conferences noh. Am, ownership and participation ay sa tingin ko ay napakahalagang ano, ahm, concern no. Off course the context we have to work-out. At nabanggit kanina, the importance na ang leadership ng charter change will be credible to them, and yung process, credible din na makakasama sila. Ahm, tapos dama nila, na eto nga talaga. Off course I hope someday they will say ano and then will talk with the leaders of the basic sectors and then sabihin nila handa na tayo we need a charter change. At kung may mga revolutions man, ito yung mga

proposals natin, no. and off course, there are political elite sa hanay ng mga batayang masa. Now, mechanism just, ilang minutes pa ako? 2 minutes?-2 minutes. Ok. Yung mechanism na, basically what we are doing is the building a civil society movement ah, focused dito sa constitutional reform we call c4cc and we're taking more and more people's organizations, NGO's, academe, media, churches. We identify this in 50 provinces now we are working on 50 districts and ang focus naming mga kabataan at organizing, networking katulad ng mga ginagawa na tuloy tuloy na research, education, public. Now medyo from a very passionate advocate, pumapasok kami sa mas iscoursive advocate, pati pro's and cons. Tpaos mobilizing and lobbying. Now, our time frame, tuloy tuloy lang ito, yung mga Gawain na yun na nabanngit kanina, ahm, movement building, and we are preparing for the possible election ng constitutional delegates immediately after the next president and company has been elected. Makaparticipate kami sa drafting, sila, and off course, meaningful education para sa ratification. Kung sakaling naratify na, baka kailangan ng continuing mechanism for constitution or charter watch, para nababantayn natin, we ensure. Our feeling really is from the president, the leadership, from Cory down, hindi talaga sineryoso ang constitution. Constitution has been betrayed not only by the current, but I must say, with due respect sa mga kaibigan, it was betrayed even sa panahon ni Cory when the fundamental task of doing asset reform ay hindi nila nagawa, that's why we are here right now. Salamat po.

Male voice:
Later I have something to say about yung ano yung proposal mo on the ferealism na. kasi were actually facing the same issue in environment. I've also been pushing for downloading everything for local governments. But there are really some local governments who are not prepared diba? Ang sagot ko is a criterion and a process of accreditation diba? Well at a certain point diba, because these conditions are there, then it' completely devolved the power everything over logging, mining, and favor of that goes to the local government. And its actually the only reason why I mention it now because here the local government has become a very important part and of course as some deviatory would be talijg about significant participation but given his work as I thought it would be good to raise that something. Maybe it could also be discussed.

Mr. Ed Tayao
Executive Director
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Actually when Soc has been discussing sabi ko kung may pamabayad lang ako di naa ako magsasalita eh. Biglang nagbago ang isip ko ayaw ko na ng cha-cha. Sabi ko ang dami pa lang issue, akala ko yung lang eh. Anyway, I will substantially deviate from the presentation I prepared because I approached the subject from an academic point of view. And so I will try to give it towards the work of the local government no. So, I started with the phrase of Grain Span no. We're in an age of turbulence. All the while, I thought before the so-called financial crises, na may krises lang dito sa atin no. but ah, now were even talking of the state taking over the you know, control of substantial industries and so on and so forth. So, change is most rapid, widening disparities in the distribution of income are the key concern according to him, no? so, the debate in this sense, is whether society should have or more or less government, especially with the still unfolding crisis, the fate of societies and the possibility of development rest also in the right policies and effective mechanisms no. how big a government should be may not be the question to ask no but how responsive and

representive a government is should be the foremost consideration. Ang problema, wala pa tayo doon sa stage na yun. Ah, we cannot even ask those questions yet. But we are most vulnerable. We have yet to realize the government that actually governs because we're stuck with fundamental issues or reforms. In fact, some scholars would even say wala pa tayong state. We have yet to have a state. And were not even, some scholars, Dr. Abejo would always say we're not even a nation or a nation's state. So I started asking these questions because I think when we talk about cha-cha, its not only about the constitution or you know, the fundamental law of the land. Were talking basically of a the identity of the people. Essentially composing the right constitution especially for this country is about its identity and future. I would agree as some would say, regardless of what vantage point they're coming from, that there are real issues of underdevelopment that we have to address. Nang nagsalita si Soc nagbago ang isip ko, but my answer to this is that cha-cha when considered in its substantial issues could be the ultimate measure to precisely address issues of development. Off course, we could always debate on that. every Filipino will certainly agree that what we need is an effective government. However, it does not translate to an agreement that cha-cha is the way to an effective government. Then there those who understand cha-cha and have been part of its recurring call, the long exchange of thoughts and preferences about it like all of us here. By now, I'm sure there is an agreement between us that cha-cha is the way to an effective government to a certain extent. The problem however is there are also disagreements, way more than there is an agreement. So in a sense cha-cha is a paradox. Are really or that it is only for the benefit of a few people, instead of popularizing it. It is a paradox because the many initiatives to revise the constitution by different actors and administrations at least after democracy was restored in 86, did not campaign in favor of cha-cha, instead it made it an unpopular initiative. Many are convinced the way to a developed Philippines is changing the current presidential-military system of government because many are convinced there are also many voices. Each is calling for cha-cha and each is competing against each other, to a certain extent. If cha-cha is to finally happen, the biggest challenge is to undo the previous initiatives bid to discredit it. The biggest challenge is how these minds have complete change or it could still be changed at all. To my mind, it's a question of time. Compared to previous initiatives, ours has the advantage of time. Time after all according to Lins, is a fundamental part of political democracy, in relation between efficacy, capacity to solve problems, and legitimacy is modified largely by the time perspective of the citizens. In our specific case, we have the advantage of time because one, we can learn from previous cha-cha attempts; two, the current political situation or atmosphere, given the right and comprehensive approach may translate to just the right time to change the constitution. What is crucial here is the time perspective. Citizen's participation should be able to turn this perspective to cha-cha's advantage. The __-shift from presidential to parliamentary started even before the 87 constitution. So many discussions mentioned this already. Drilon and Mabini architects of the Philippine republic, government structure that is essentially parliamentary. We look at the provisions of that constitution. And then there was a call for us to leave our colonial past in the 60's. The nacionalista Claro M. Recto called to replace the US presidential system with a parliamentary system. Off course, this will not prosper, instead end with the coming of the Marcos dictatorship. I would always carefully explain to my students that the Marcos constitution is not parliamentary. The Marcos system could not be parliamentary simply because of the president that exercise the key powers of government executive, legislative and even judicial powers. Off course, given a president, I'm referring to Ramos, that was known to be a military stalwart and a key personality on the Marcos government in 92, the hype of cha-cha initiatives, this disinformation worked. The call to revise the 87

constitution started with this inauguration as president in 92 citing the structural difficulties posed by the presidential system. He called for a revision of a constitution from his inaugural speech. There were atleast 2 cha-cha attempts. Then Estrada came with concord. Sabi niya, the difference is that this is for the people because his purpose is revising economic provisions. Some, on the other hand have heard that the economic elites did not like the initiative as this will effectively remove significant advantages they enjoy under the so-called nationalistic enonomic revisions. What Jerry Sicat would call the Quezon-Recto original sin. In 2004, PGMA included cha-cha in her campaign platform and offcourse Executive order 453 created the con-com lead b Dr. Abueva and eventually the Ad-com lead by Mr. Lito Lorenzana. So lahat to, the same story of failure concluded this initiative. What is common in all these attempts is there's an absence of broad participation. I think everyone will agree with that at this time. With the desire of advocates to age manage the initiative, participation was sacrificed. Siguro if there was any exception was event in the con-com and the ad-com although still it had to effectively garner enough public support. Upon reflection we can still opt for a manageable constituent assembly if we say that even if we come up with a constitutionals convention, we will be electing the same people anyway. They should come with the provision however that there sh ould be broad public support. So, probably this is a consultative body that mam Edna was suggesting earlier. In this sense, significant public participation is sustained while keeping the cross and effort at the minimum. Citizens participation should not be taken to me literally as substantial participation by the general public. I think this was the question earlier when we talked about people are we talking about every Filipino, noh. A constitution theoretically is a contract between those who govern and those who are governed with recurring concept in this seminar. The people on the other hand cannot act on its own initiative without the leadership of key sectors and personalities. I underscore key sectors and personalities instead of only personalities. Contrary to common pronouncements, the citizens of the general public have the capacity to understand the issues, noh. If only there's a comprehensive and conserted way of involving them. This is where the role of the cha-cha leaders and key sectors become handy. Experience of Southern European countries, particularly Spain is what I'd like to suggest as reference point. Spain's case is particularly interesting. The scholars should always refer to it as *reporma tactada, roctura tactaad,* exclusively translates to reform and rupture agreed which is basically a pact between the stakeholders. The key sectors and personalities were all involved in the democratic transition and consolidation processes which could be considered to have transpired simultaneously or immediately after the other. in our case, we are stuck with transition stage, noh. If you will ask who lead the initiative, the answer could only be the king, King Juan Carlos 1. However, when we say credit, this is only in terms of having provided a sort of figure or a face to the initiative. The individual leadership and cooperation of the kortes, the legislature, the catholic church, the Spanish army, other conservative groups including the Francoist themselves and the key leader of the regional government of Catalan were all pivotal to the success of Spain's democratization. For future purposes, we can also look at the similar successes of Portugal and Greece. Some scholars would say ours is more similar to that of Portugal than to that of Spain. I mention the case of Spain because I can only think of sectors in giving shape to citizen's participation. And if I am asked which sector or what do we mean by citizen participation, I would always start with the reference point, with our political landscape being replete with social and economic divisions that excluding one could always result to failure. Ang pinakauna sa tingin ko is the participation of the Catholic church despite the absence of Cardinal Sin.The Catholic Church have all but stigmatized cha-cha and all the previous attempts. So, when it starts to sing a different song, it might convince the public

that aba this is already the right time and probably the ones leading the cha-cha initiative might now be you know the personalities that we can trust no because suddenly the institution that from the very beginning did not support cha-cha is now saying we should proceed to cha-cha. Now the second sector that I think are fundamental actors would be the military. Any overhaul requires time to attain a level of stability. Ang problema doon sa previous attempts, whenever they campaign, they would say, "O, if we shift from presidential to parliamentary, lahat ng problema natin mawala na." We have to also tell the that one's a change actually happens, we can't expect that everything is already stable and that development is already going to happen and so on and so forth. There is also a transition process. So, in other words not because there has been a successful change of system that everything will improve and will finally have an ideal society. A new setup requires adjustment, para kang lumipat ng bahay dito eh. And the multiple political parties and groups that we have, assuming we shift to a parliamentary system, may result to short lived administrations in the interim so pag nakita ng public to, ay mali pala naglipat tayo. This could always invite the military to rule and take-over. In other words, the military's role and participation should be clearly sought and defined. Ahm, most of the presenters have already mentioned, the CSS, the academe and so on noh. I'd like to think that the CSS and the academe would be the substantive players. Because they are the ones who are going to give meat or meaning to the provisions, what provisions are needed, what systems should be in place, and so on and so forth, noh. And if we talk about the base by which how we can organize cha-cha, this is when the role of local government units come-in, because at ___ we always say the local government units are at the forefront of governance. When we talk about government, you ask the people, especially those provinces apart from imperial Manila. Ang iisipin nilang government is their local government eh. In fact my observation is that yung mga probinsya na malayo sa manila, mas malapit sila and they can cooperate with the regional offices of the national government agencies compared to local government units who are near Metro Manila because they can always go straight to Malacanang, noh. So, what I'm trying to say simply is that if the Local government units actually understand its role, and could impact, maximize this role and use it to actually serve the interest of the people. Actually they're not only going to serve the interest of the people but also themselves including the elites who run the local government units. Ahm, in other words, I'd like to think that we should not rely on a particular administration if were convinced that there's a need for charter change now. If we rely on particular administrations, off course everyone will have their agenda. But the problem with a land with an administration with all the resources of government and influence noh, they can very well just do, or shall we say take what they think is going to benefit them. So, in other words, kaya ang title ko dito is To Forge Through Snaps because previous attempts basically would hit a snap always because it's a question of process, a question of involvement, and so on and so forth. In the 90's the debate of which is better: presidential or parliamentary started. Now we are talking of the means and the process. As a way of conclusion, let me just comment on a few items which I wanted to say earlier noh. To mam Edna, I was talking about the media po earlier, I'm not talking of media as a whole. I'm talking of the media practitioners because whenever I get the chance to answer media practitioners, sabi ko, what is your view about changing the provision of the constitution allowing foreign ownership of the media, magtataka, sasabihin nila, ah wala kaming view diyan noh. And ya, off course the media would always say they are a disinterested part of all these process and they are going to objectively report on everything noh. But actually, upon reflection, the way they report already somehow suggest a leaning position. And also, when we talk about the media, the problem always is whether they actually report you know religiously what transpired. Say

for example you invite them in this forum. Mabuti kung paglabas ng report nila kinabukasan, lalabas doon yung mga sunbstantial issues that we discussed. Lalabas doon ah nag-away si senator ganito and so on. So pagdating sa public, cha-cha becomes an issues of personality. In other words, it becomes slumped to other political issues more than making the people understand that it's a substantial issue. Also, we have to understand the nature of Philippine democracy noh. we are a 3rd world democracy using Huntington's classification. In other words, we are playing catch-up. We cannot just say that you know we can rely on a few people and you know write the constitution and so on and so forth because we didn't have the same liberty of time as they did before. Problema sa mga demokrasyang katulad natin na bago pa lang, kailangan nating gumawa ng magandang estado na kumabaga kailngana mong bumili ng kotse ng maganda, pero kailnagan mo ring kumita para makabili ka ng magandang kotse. So we have to do 2 things at the same time. So we have to play catch-up, so in the first place whether we like it or not were part of a global or world economy. Second, as I've mentioned earlier on, were not a nation state. There's considerable plurality if not revision in society that we have to take into account then we talk about a fundamental document such as the constitution. Again, its a question of ownership as mentioned by Soc earlier. This is the same issue that we have in reforming the local government code. Every sector would have his own version of what reforms need to be introduced. At the end of the day, if you don't involve all of them, wala ka, you cannot move forward. Third, we are still pretty much for lack of a better term , a vassal state. So I don't really know how to put the picture of the Philippines being you know I don't know really whether we are vassal to the US or vassal to China, or whichever. Again, foreign influence have to be considered when we look into successes and failures of Charter change no. Fourth, my problem here is we're in come kind of a contradiction. We're supposed to be a new democracy but the contradiction is we have a very vibrant and remarkable civil society. Whether that is an advantage or a disadvantage, I throw that to this buddy no. has a very competent collection of table who can comment on politics and so on and so forth. We can always talk about our argument and decisions should be based on facts and figures no. But ang problema kasi we have not yet been there eh. Probably the only point that we experience that parliamentary system was when Aguinaldo was president but that was even short-lived. So we can only say that our arguments are based on sound-footing. But, at the end of the day, what e have only is comparative no. My last statement is this no. I was thinking from the start what is it that we Filipinos have gained out of the continuing exercise of charter change. I realized the public is learning substantially public issues. The problem is, we are still learning.

Dean La Viña:
Thank you. That is the last. It's really a long marathon of ano. But I really don't regret doing it. I apologize _____. But I really felt that in the 2 days, 1 and a half days, very thorough. We really very thoroughly went to _____ like if we go to the next stage now, we have the material, certainly intellectually. But even in the discussions will go about doing this no.

Mr. Lito Lorenzana
I have a comment. Some misimpressions kay Ed no. Number 1 is about the born participation. I would like to contradict that because I think during our time, we had the broadest participation. There was any debate or discussion in the attempt for charter change for the past impra, con-con. It was broad but it was not very big. Certain is that we really have a problem. Now looking back, it was really a problem of credibility of our sponsors.

The other is stigmatization of the church. Now, this I can tell you now is that at that time, I was responsible also to report to Malacanang. It's not because I have to report but because the president thought that we have to report the hierarchy about our progress. Cardinal and together with the bishops were so very enthusiastic about the charter change. Except that, when we came into the picture, we promise them that we are going to come up with the debate, except, even before we really started informing the people about what we did in the concom through the adcom, Senior Mambino's boses manipulated the people's initiative.

The other one which is also very important is the local government code. This is not the original version of the local government code. The original version was written by Nene Pimentel and the bureaucracy of the DILG. I was the undersecretary then and Dodong Osmena was one of the tough guys. He was the bureau chief together with Cosio. Cosio and Osmena, they were the bright people of the DILG. We came up with a very good document which was made by us. That was meant to be the basis for a possible federal state. It was I said the original. But, when it went to congress, when nene brought it to congress to be brought to law, it was smuggled by Mitra, he was the speaker. Mitra and his minions. So what came out is the local government code with a watered down version. It has nothing to do anymore with our concept of a federal state.

Shifting to Soc here, Soc, itong position mo, what is federalism for the magsasaka, the sector. I'm just citing this because I recall the conversation I had with the group of Ladlad. They were speaking very nice. Sabi nila, "Hi Mr. Lorenzana. Wala ba kayong provision diyan for same-sex marriage? " ay wala kayo, edi ayaw naming ng federalism.

I am not saying with the basic sector when they are saying. I'm not saying that this is parallel. Discuss the issues and fight it out. This is what you call the dynamics of constitutional making. Federalism, is not supposed to give you the framework which problems are looked into and solved. Remember that our concept of what we came up with concom is a 2-step eh. Hindi kagaya ng kay nene Pimentel ngayon where immediately they were divided into 30 states. Really that was not our way, that was not our position. Our position was first, the regions group themselves into state, and then decide to form themselves into autonomous territory. Afterwards, when they decide already, self-determination. Ok. We are now ready not only to become autonomous, but we want to become a state. We give a chance a period of 10 years where the local regional territories will find time to look to all of this so that they can decide if they want to become a state. So, yan ang position ng concom.

Dr. Clarita Carlos:
Short comment on Ed's proposal for the military to participate in the constitution making. I think that's very dangerous proposition because we're now trying to institutionalize the participation of the AFP, the military in politics, wherein we should not encourage that. what will I agree to is just like other sectors, they should be consulted because they are also part of the citizenry but to involve them as an institution, I think that that's something very dangerous.

Atty. Raul Lambino:

After listening to Congresswoman Gonzales' presentation and Soc and also the comment of Mon this morning regarding the administrative code that gives the president enormous powers that I believe and I continue to say this that there is really no more separation of powers so to speak and checks and balance in this government that I'm more motivated to go for charter change. When Congresswoman Eta sadi that the basic reforms that are needed like the implementation of the political party reforms, or the bills that need to be passed, or the agrarian reform, the anti-graft law, __ in government, etc., the reason is what could be the reason behind why these bills have not become laws, or why they were not improved. And Soc said, mentioned of the different constitutional provisions of that were really good noh, provision on the economy, provisions on social justice, etc. and still, we are not able to implement this 1987 constitution in 21 years. The local government code also is a very good law but even the constitution requires that every 10 years it should be reviewed and it should be amended if needed to and that is even mandatory in the provisions of the constitution. But nothing has been done so far. What may be the reason behind this? Because of this structure of our government as provided in our constitution. If you want to amend the administrative code now, 1987 administrative code, in order to remove the excessive powers of the president, as enshrined in the previous executive orders of proclamation or ED's that are not part of the administrative code. The president will always object, and it may pass 1 house, it may not pass the other house. That's the reason why I said that we should do something about this situation now. Marlon said about the senate perhaps the last department or agency of government that may have save this country that may save the country from the abuses of the executive. That's not really true. In fact, the executive, the president has also taken advantage of this weak system. The senate is also good in propagandizing itself by coming with exposes and investigation. But insofar, in coming out with laws that with truly implement the good provisions of the constitution, it has a very dismal record. Yah. Very wanting as Atty. Medieva is saying. So, I hope that we can come up with the ways and means of effecting immediate structural reform. This can be done thorugh charter change or what, and when will that be, I really don't know.

Male voice:
Historical note on Atty. Lambino. Prof. Gwen and I actually were trained and mentored by justice vivi Mendoza in our constitutional law. Justice Mendoza's theory is that the president of the Philippines is not based on the American president. Its powers of the governor general. That's why you have those kind of powers. It's a colonial power. It's an oppressive power. The purpose is to consolidate everything for oppression.

Dr. Edna Co:
I'm really bothered because I have a fundamental question now. When I listen to Soc, my question is, are our basic sectors, are we happy then with the present set-up or are we not? Because I think on the one hand we keep on moaning about our situation. On the other hand, if we consider a possible structural change, then we say were happy with the way our provisions of the constitution say so. Sa akin, what is really here? But connected to that, I think is a reflection, again, I look outside, if we look at the Quebec experience, this is a question of federal state, provincial, cultural identity at stake. I think, if we look at advocates, those who represent their advocacies, meron silang capacity to go beyond the specific own advocacy eh, which at some point you say, this is my advocacy, yung sa atin, and I'm also reflecting on other countries no, like yung sa india, meron talagang advocacy

yung sector. But they can afford to transcend that sectoral advocacy. And say at some point, I have to abandon this, and look at the larger advocacy, which is good for the larger population. There is a union advocacy. At some point, I will stop becoming just a fisher folk because I'm joining hands with others. Eto yung esensya ng nation, having a sense of union and a nation that to me, hindi ko Makita masyado sa atin, and therefore, we tend to be tolerized because we say if doesn't represent my sector then I cannot support it and vice-versa, and whoever speaks of it. So if let's say ladlad does not find support for same sex marriage, can ladlad consider.. sa akin, parang yun yung isang block in terms of transcendence. And to me, sa akin block na malaki yun kasi we will not come together eh. It's expressing a disturbance. And honestly, I need some enlightenment on that

Male voice:
Just to stress your point about the difficulty. Even in Philippine offices, in NGO's, its so hard to get people to act as a whole, and I've insisted that people don't group together as divisions as groups. In the school of government, you have to be inter-disciplinary and you have to see the whole. You have to work on parts, because that's how the world is organized. It's really a struggle. I'm spending a lot of my political capital on my stock, it's a very young stock but it's a struggle because they want to be grouped together, even to be 5 minutes with each other

Male voice:
I have two points. About Soc's presentation. I think the question of substance and sectoral response to constitutional change within the framework of a substance is basically a manifestation of the level of political consciousness of the sectors. In fact, that's I think one of the weaknesses of the constitution that we try to bring into document all the concerns of each and every sector which basically are innumerable, and try to be a catch-all for all the concerns, this type of fragmentation are not seen by the sectors as invalid. In fact, it's the reverse. It became their primary basis for rejecting or supporting a particular charter change process. My own view there is that, there is a gap actually existing in that situation. The gap is called political party. You need a mechanism that translate the sectoral issues and concerns and blend them into the question of governance or state. Meaning, there should be a political articulator of those concerns. Because sectors will always be sectors. I mean you ask an ordinary person on the street what he wants. He wants to be rich, he wants to have a good life, he wants to be able to do what he wants. The friends call it liberty, happiness. I think you know the theory about this. But to do that within the context of a political arrangement, there has to be somebody or an institution that can channel the concern in purely political terms, meaning, the program, the platform, and the strategy. And I think that's one of the failure of the whole post-marcos democracy that the sectors are trying to see in that document that platform, in that program, in the immediate sense. Kaya nawala na yung interaction between supposedly political forces, parties as they propose specific proposals and all that. what's the fallacy? Actually the fallacy is this. You go agrarian reform. There's already an articulation in the supreme court decisions, in the laws lie carp what the constitution is all about-agrarian reform. And we all know the problems with carp or with specific supreme court decisions on agrarian reform. You cannot go around eh. Pero pano yan naapreciate ng mga agrarian reform frmers? Binasa nila yung document. Jinudge nila ang document by what they read. They don't know the actual workings of that document. Kahit yung question ng ownership 60-40, matagal nang inenterpret yan sa mining law, galit tayo pero we would still support 60-40. Matagl nang inikutan yun. I mean, you need the articulators, to explain to the people or to the sectors what the present

constitution really means in their lives. That'smy first point. The 2nd point is, in my presentation, I purposely left out 2 sectors which I think they mop in other presentations, these are the academe and the lawyers. For one my own opinion there is that as an institution, academe and lawyers or the law are not really the institutional part of the process in the sense that they respond to the constitutional change process as an institution. May pagkacross-cutting eh. You need lawyers. Every political group needs a lawyer. Every group needs academe who research, etc. political parties, congress, I mean the institution, who deal with constitutional change, are institutions who are part of the entire political structure. The lawyers unfortunately and the academe, are articulators of ideas or translator into the legal language of what are essentially political agreements among political actors. The same with actors. When we say actors, these are the forces that are working for or against constitutional change. the lawyers again and the academe, unless they become active in the advocacy field, but if they do that they become civil society advocates. By themselves, academe, I think are also cross-cutting as actors

Ms. Joy Aceron:
Response to Dr. Co. It's also really whether a dilemma whether how do you reconcile sexual interest and the general welfare or the common will. Its easy for us if we are not in the position of the marginalized sector to talk about general welfare, to talk about common good no. we need also to understand the psychology of the advocacy of the marginalized sector. They look at their interest because that's what's common among them and they have to act collectively to have a voice. They're able to act collectively based on their commonality and that's the sector they're coming from. So if they protect that sector, that's because that's linked with their struggle collectively. I don't see any problem looking at jst the sector. But what's crucial is to look at the interest of your sector and connect it to the common good or the general welfare. There should be a lot of discussions on this. And we should engage them on this topic. There should really be an effort to make them realize that even if you win your struggle in your sector, or for local governments, if your efforts are not contributing to the general welfare, its not going to be sustained. Structure the question of power relations and how the rules of the game are all important in protecting that general welfare that common good. On the question of leadership. Designing this question, it really follows a logical flow no. we want to first ask the question of why, whether it's urgent or necessary and then we want to look at the different modes. We want to discuss after that the actors and the leadership. Because after determinging the timeling of the charter change process, who then and what then will be the mechanisms in order to realize the modes that we want. So, I want to go back again to the question of leadership. So, among the people here, sino ba yung nakikita natin na dapat naglelead nung constitutional process and what mechanism should be set in place in order to realize it. Credibility. It was raised no. Dr. Carlos provided set of roles no that should be played by political leaders

Synthesis

We have to continue intensifying discussion among ourselves: our institutions, and our networks on how to change the consti and why to change the consti. Obviously we are all exercising leadership but we are still unclear about who should take the lead, but we should all exercise leadership on this issue

Before 2010 elections is not the right time to attempt consti change.
No attempt should be made before 2010

We all agree that the current modes of changing the consti are too burdensome and are flawed

There is agreement that there are several major players in consti change, and the most decisive player will have to be the chief executive who is committed, credible, etc.

The broadest participation of institutions and even ordinary citizens is most desirable but there is a divergence on how crucial indeed is the participation of the ordinary citizens and more crucial is the agreement of the elite groups and the strong exercise of leadership especially among the elite groups