

CHARTER CHANGE:



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**Different *Strokes*
for
Different Filipinos**

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¹ Philippine Daily Inquirer, 12 March 2003.

² Only Senators Edgardo Angara and Robert B. Reyes are supporting constituent assembly mode while 14 others are proposing exclusively a constitutional convention via a vote the dated for 10 weeks in order that constituents directly vote.

³ Manila, Manila. Debating Economic Charter Change: Fast as Politics at Foreign Land Overseas.

⁴ Debating Charter Change: Congress: Plausibility: Good of Charter Change Remains The Same. "BON Spoke" 2 Review No. 47, April 1975, p. 10.

⁵ "2001 Charter Change: A Look Back," a press statement by the Commission on Charter Change, Philippine Daily Inquirer, 24 June 2001, p. 12.

What is Charter Change?

Charter Change: Different Strokes for Different Filipinos

In March 2003, the House of Representatives became a constant news item as it adopted Concurrent Resolution 16. The resolution calls for a change in the form of government and the abolition of restrictive economic provisions in the 1987 Constitution.¹ Congress specifically presses for Senate to concur with the proposed plan of constituent assembly in altering the current constitution. However, as of press time, majority² of senators are still adamant to give-up on their preference for another mode of charter change. Senate temporarily shelved the issue while still a number of priority policies are on their desk.

Since 1980s, the parlance of Charter Change or *Cha-Cha* has been on the forefront of discussions among different sectors of Filipino society. It has also taken on different faces in the past political regimes. Various shapes of pro-charter change arguments may be categorized into two major dominant terms: **economic³ and political.⁴** Political arguments point largely to lifting term limits of politicians, changing government's structure⁵ as well as relaxing rules on arrest. Economic arguments rally for the removal of barriers to foreign investments in order that the country can competitively advance itself in the global economy.

¹ Philippine Daily Inquirer, 12 March 2003.

² Only Senators Edgardo Angara and Robert Barbers are supporting constituent assembly mode while 14 others are proposing constitutional convention vis-à-vis the need for 18 votes in order that constituent assembly win.

³ Estella, Marisol. *Debating Economic Charter Change: Fact vs. Fiction in Foreign Land Ownership*.

⁴ *Beyond Cha-cha and Concord Phraseology: Goals of Charter Change Remain The Same.* IBON Special Release No. 47, August 1999, p. 10.

⁵ *The Constitutional Amendments We Seek*, "a press statement by the Coalition for Charter Change, Philippine Daily Inquirer, 24 June 2003, p. 13.

What is Charter Change?

Charter change, for its proponents, rests on the premise that the 1987 Constitution has reached a point of obsolescence in advancing the nation's economy and thus merits revisions or amendments in order to gain strength in governing the country. Current cha-cha advocates are using this very same rationale.

As an attempt to delist cha-cha of personal interests to prolong power in the government, it was renamed CONCORD for Constitutional Correction and Development⁶ during deposed President Joseph Estrada's term. According to Estrada, moves for political changes will take a backseat in favor of changes to economic provisions but will still have to be attended to after his term expires in 2004.⁷ Interestingly, vigilant Filipino constituencies did not easily give in to this change in rhetoric and maintained a strong position not to malign the 1987 Philippine Constitution in order to advance the interests of the few.

What possible forms can charter change take?

Changes to the Philippine Constitution may materialize either as **amendments** or **revisions**. Amending the charter entails "isolated and piecemeal changes" of its provisions while revising it mean a rewriting of the whole document. These concepts have also been implemented throughout our political history.⁸

The current constitution provides for three ways by which it can be changed. Section 1 of Article XVII states that "any amendment to or revision of the Constitution may be proposed by a Constituent Assembly (Con-AS) or through a Constitutional Convention (Con-con)."⁹

⁶ "Beyond Cha-Cha" and "Concord Phraseology: Goals of Charter Change Remain The Same. IBON Special Release No. 47, August 1999, p. 10.

⁷ Ibid, p. 4.

⁸ Ibid, p. 2.

⁹ The Constitution of the Republic of the Philippines, ratified in 2 February 1987.

A. CONSTITUENT ASSEMBLY (Con-Ass)

Charter change through a constituent assembly implies a convening of senators and congressmen who for a vote of three-fourths (18 out of 24) of all its members may propose amendments or revisions to the Constitution which shall be then submitted for ratification through a plebiscite.¹⁰ Needless to say, this mode is not immune to abuse of power by the landed elites who dominate the legislature.¹¹

B. CONSTITUTIONAL CONVENTION (ConCon)

For lack of confidence on current lawmakers or suspicions that self-serving members of the legislature may exploit the process to extend their terms of office¹², constitutional convention is considered less of an evil since it requires a national election of delegates to a constitutional convention. It does not differ much from Con-Ass except that it is costly but it presents a wider representation of the nation's populace. However, this does not guarantee immunity from the partisan interests and caprices of sectoral representatives.

C. COMBINATION of A and B

A third option was actually considered by deposed President Joseph Estrada when he proposed for a two-step process. He planned for a Constituent Assembly for 2000 to address economic changes while a constitutional convention in 2004 were thought to touch on the political aspects of the constitution.¹³

D. PEOPLE'S INITIATIVE

A fourth mode is the value added by the 1987 Constitution to its 1935 and 1973 counterparts. It brought forward the lessons of the 1986 People Power Revolution where direct action is adopted as a mechanism for the general public to express their will. This, however, limits changes to amendments, as it is impossible

¹⁰Pagayatan, Alvin T. *"The Road to Constitutional Change: The Truth Behind the Lies."* unpublished report by LRC-KSK, 2000.

¹¹"LIYAB Statement on ERAP's CONCORD: State-sanctioned land and resource-grabbing," *Tan-Awan*, Tomo 2 Blg. 2, Nobyembre - Disyembre 1999, pp. 14-15.

¹²Rep. Erico Aumentado himself, echoed the same view in relaying that Con-Con is being proposed rather than a constituent assembly undertaking charter change so as to avoid any possible conflict of interests of some incumbent members of Congress whose term will expire on June 30, 2001.

¹³*Beyond "Cha-cha" and Concord? Phraseology: Goals of Charter Change Remains The Same.* IBON Special Release, No. 47, August 1999, pp. 3-4.

for an entire electorate to revise the constitution unless it was made through the extra-constitutional mode: revolution¹⁴ as exemplified by the 1986 People Power Revolution. It is extra-constitutional in that unlike people's initiative, it has no constitutional basis.

Inevitably implied by the different modes presented except for option D, charter change only subjects the constitution to risks of exploitation favoring the interests of those in power to change it.

What are the implications of constitutional change to Filipinos?

Changes in the constitution's economic provisions at first glance may seem promising with the myth that foreign investments will necessarily breed an influx of job opportunities for Filipinos. However, the sad truth remains that charter change implies a mere siding on the dictates of international alliances (e.g. European Union) by stripping the constitution of "Filipino-first" policy.¹⁵ Furthermore, cha-cha promotes more serious implications in areas of agriculture, forestry, mining, energy and water resources.

Agriculture

For decades, farmer communities have been battling their stake on lands against landed clans as a result of land use reclassification schemes. Their experience sum up a strong basis for their skepticism that their fate with landed families will not further displace their rights as did Agrarian Reform. With Con-As, these farmers find it impossible to figure a proper position of the law in an assembly that "will likely be predominated by elite, landholding interests." Furthermore, opening the land market to foreign ownership would only encourage landed parties to sell their land rather than subject it to agrarian reform.¹⁶

¹⁴ Pagayatan, Alvin T. "The Road to Constitutional Change: The Truth Behind the Lies." unpublished report by LRC-KSK.

¹⁵ Ibid.

¹⁶ Liyab Statement on ERAP's Concord: State-sanctioned land and Resource-Grabbing. Tan-Awan, Tomo 2 Blg. 2, November to December 1999, pp. 14-15.

Charter change also aims at institutionalizing the active participation of multilateral development banks (MDB) in the area of agricultural development. In order to ensure that the "inefficiencies" in its implementation are resolved, MDB officials claim the need to influence concerned policy directives.¹⁷

Forestry

Cha-cha's call for increased foreign influence on development projects extends to the forestry sector. Dubbed as programs to reduce poverty, previous and on-going foreign-assisted community-based programs of the Department of Environment and Natural Resources (DENR) have become funding-driven and "they do not have any real intention of devolving full control and tenure over natural resources through these programs to the communities themselves."¹⁸ Thus, confusing public service with profit generation.

Mining

Cha-cha proponents bank on the argument that the provision on a 60-40 ownership ratio stake in the management of the Philippine mineral resources in favor of Filipinos have been perceived as major disincentive by foreign investors. They further argue that the long "unresolved issues of land access and security of title" oftentimes create uncertain business climate for most companies.¹⁹ These arguments have been repeatedly put forward even by cha-cha proponents within the government structure amidst the popular cases of local communities directly affected by mining operations. We have yet to learn from the lessons we ought to deduce from the wasted river of Boac in Marinduque. In recollection, it has not only buried community properties into mud, released the Maguila-guila siltation dam, but have gravely affected their primary livelihood of small-scale fishing and farming. To-date, Marcopper and Placer Dome mining companies have yet to face their accountabilities.²⁰

As has been pointed out time and again, a glaring philosophy behind charter change whatever form it may take is the irrelevance of land ownership in the era of

¹⁷ Unpublished Position paper on the Proposed Constitutional Amendments by the LRC-KSK, 2001, p. 28.

¹⁸ Ibid, p. 18.

¹⁹ Ibid, p. 20.

²⁰ Asuncion, Melizel F. Atty., *Wasted Rivers. Tan-Awan*. Tomo 4 Blg. 1, April-June 2001, pp. 23-25.

²¹ Unpublished Position Paper by LRC-KSK, 2001.

globalization so long as it is rendered productive and its use can provide gainful employment.²¹ Instances of unsustainable resource extraction evidenced by foreign-owned mining companies have but only downgraded fellow Filipinos to cheap labor. Culturally, these have eroded customary laws sustainable resource management practices inherent in IPs culture. These have been the same mining operations supported by the government through the Board of Investments (BOI), DENR and the National Commission on Indigenous Peoples.²² Hence, charter change is likely to take the same direction of enshrining the primacy of commercial use of natural resources over the rights of IPs who have tilled and protected the same land since time immemorial.

Energy and Water

Pressures on the government to privatize public utilities will be strengthened by moves to charter change. MDBs have been clearly advocating for privatization of both water and electric utilities. Once their influence in development policies are institutionalized, it will be inevitable for public service delivery to ensure human interests over profit-centered structures.²³ In addition, institutionalizing foreign investments in marine resource management does not make most Filipino fisherfolks competitive as their machinery are not at par with that of their commercial counterparts.²⁴

Human Resources

In general, rather than treat the "women and men from basic sectors as asset in itself through community-based resource management schemes,"²⁵ local Filipino communities especially indigenous peoples "whose lives, cultures and practices revolve around land and natural resources would find themselves further subjected to physical and economic displacement by the large business and foreigners"²⁶ to whom the government willingly bows to fulfill its goals. This consequently presents an easy way out for government officials to arrive at their work objectives

²² LIYAB Statement on ERAP's CONCORD: State-sanctioned land and resource-grabbing. *Tan-Awan*, Tomo 2, Blg. 2 Nobyembre-Disyembre 1999, pp. 14-15.

²³ Forum on ADB Issues at the Philippine Rural Reconstruction Movement on 26 June 2003.

²⁴ Unpublished Position Paper by LRC-KSK, 2001, p. 19.

²⁵ *Ibid*, p. 15.

²⁶ *Ibid*, p. 14.

without dealing at the very root causes of poverty and other social concerns they are entrusted with by the larger populace.

The greater impacts of charter change are also reflected in the likely place of women across sectors in the Philippine society. A "charter change on the economic provisions (i.e. land ownership and access to resources) will further increase the multiple burdens of women (domestic and income-generating activities) and may force them to work overseas."²⁷

Why constitutional changes are not recommended for now?

Changes should always be sought for especially if socio-political and economic inquiry exists but these should be progressive such that they strengthen weak points of the constitution in advancing social equity within Filipino society. However, we must never forget that the current constitution in itself was "a product of tenuous alliance of the forces of change in 1987." And that was mechanism for upholding the rights of marginalized sectors, it stands not the best but their only hope to preserve whatever is left. Changes in the constitution will inevitably touch on the lives of future generations who for the most part entrust to us the courage to signify our great numbers in opposing the move to amend the constitution.

Charter change has ever since lacked legitimate causes, devoid of personal interests by those who support it. Rather, it supports inequalities in favor of foreign investments. It depicts an administration that depends on the largesse of foreign corporate interests to fulfill its goals rather than of its own populace's strengths.

²⁷ LIYAB Statement on ERAP's CONCORD: State-sanctioned land and resource-grabbing. Tan-Awan, Tomo 2, Blg. 2 Nobyembre-Disyembre 1999, p. 15.

Why the need to be vigilant now?

Recent developments on charter change imply the increasing use of the present administration of mythical economic reasons. The legislature (Congress and Senate) is fast tracking the process with less difficulty and is even with the unofficially-announced support of the current administration.²⁸

Changes in the constitution imply concerns not limited to natural resources management but also to a gamut of other rights of Filipinos. This even touch on national security matters. If permitted to gain constitutional grounds such may rebound to a much worse case of martial law. Beyond rhetoric on economics, charter change proposes issues of fundamental concerns.

Much has been said about the poor implementation of existing policies in the country management. However, vested interests still crown the interpretation of the constitution.

²⁸ News analysis of broadsheets during the second quarter of 2003 show Pres. GMA's support of charter change.

LRC-KSK

The Legal Rights and Natural Resources Center-Kasama sa Kalikasan (LRC-KSK/Friends of the Earth-Philippines) is a policy and legal research and advocacy institution. It is organized as a non-stock, non-profit, non-partisan, cultural, scientific and research foundation duly registered with Securities and Exchange Commission. It started its actual operations in February 1988.

It is the Philippine member of Friends of the Earth International (FoEI) and of the Alternative Law Groups (ALG).

The goal of the CENTER is to empower the marginalized and disenfranchised peoples directly dependent on our natural resources so as to be able to effect ecological sustainable, culturally appropriate, economically viable, gender-sensitive, equitable uses, management, conservation and development of our natural resources.

The CENTER's main advocacy has been that recognition and protection of the rights of indigenous peoples, rural communities and other long-term occupants of forests and uplands should be the main, if not the primary components of any program on sustainable development.

Empowerment, is essential but is not the only requirement to achieve meaningful reforms. The people's aspirations must eventually be adopted, articulated and implemented by the State.

Hence, the CENTER seeks to bridge the gap between the informal articulation of the aspirations of the peoples organizations on the one hand, and the formal, technical, bureaucratic and legal language used by the State.

To accomplish its goals, the CENTER maintains three major programs: Research and Policy Development, Direct Legal Services, Campaigns Support and Linkages. To bring the various services and programs of the CENTER within their defined territorial areas of concern, Regional Branch Offices are established.

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