



Spotlight

Who Wants Cha Cha?

Four presidential aspirants bare stands on constitutional amendment or charter change

Last July, the House of Representatives passed House Resolution 1109 calling on the Congress to convene itself into a constituent assembly for the purpose of amending the 1987 Constitution. The controversial bill sparked intense debate and ignited resistance from various groups – movements, political experts, even public officials.

Before HR 1109, there had been numerous attempts to change the Constitution since the time of former president Fidel Ramos. There is a sound indication that though charter change will not happen before 2010, the Cha Cha debate is far from over and it still is a significant issue that the presidential contenders must address.

Knowing a presidential candidate's stand on this issue is important before we make our choice who to vote for. Their position reflects how they view the significance of the Constitution, as an institutional-legal framework, in achieving the goals and objectives of government.

Teodoro: Change our 'reactive' Constitution

Of the four key presidential candidates, it is Defense Secretary Gilbert 'Gibo' Teodoro who has categorically expressed support for Cha Cha.

In his own words: "...oras na manalo ako, hihikayatin ko ang Kongreso [na] mag-Charter Change tayo [sa pamamagitan ng] Con-Con" (If I win, I will encourage Congress to undertake charter change via a Constitutional Convention). He said he has been in favor of amending the Constitution since he started his term as a congressman of Tarlac.

Sec. Teodoro said he finds the 1987 Constitution 'reactive' or 'reactionary'. He observes that its main purpose, which was "the removal of the vestiges of the Marcos regime," has already been served. Sec. Teodoro is not in favor of piecemeal legislation as this does not favor sustainability. For him, the purpose of Cha Cha can only be achieved by changing the very framework of our institution.

The specific changes he wishes to focus on,

if given the chance to propose amendments to the Constitution, are "those concerning autonomous regions, and foreign ownership of lands and corporations." He is not in favor of shifting to a parliamentary form of government because he recognizes the great possibility of resistance from the people (them not being able to elect the head of the government). Instead, he proposes a transition to a presidential unicameral form of government. On the issue of federalism or extending the local autonomy, Sec. Teodoro said that Congress should be given authority to decide whether a region or a local government unit is ready for greater autonomy. He also wants to loosen the restraints on economic provisions to encourage foreign and domestic investments.

The other presidentiables are against Cha Cha before 2010. Their position, however, on Cha Cha *per se* is not as clear-cut.

Escudero: Resolve first the Cha Cha debate

Sen. Francis 'Chiz' Escudero only went as far as proposing a way to resolve the debate

on whether Cha Cha should be undertaken or not. He proposes that a referendum be conducted to ask the people whether they want ChaCha and what specific provisions they want changed. He further said that once the new Charter has been prepared, the people must again be asked to approve it in detail and not just present to them the general terms because, according to him, "...even periods, commas or hyphenations in the Constitution matter".

Sen. Escudero, who chairs the Senate Committee on Constitutional Amendments, has yet to present the specific changes in the Constitution that he will support if Cha Cha pushes through. Although he was a signatory to Senate Resolution Number 10, authored by Sen. Aquilino Pimentel, which seeks the transition from a unitary to a federal State, Sen. Escudero qualified that he signed the Resolution with "reservations on the mode and timing". He made other statements that further complicated his position on Cha Cha. He said, for instance, that the country's problems stem from the poor implementation of the laws and that changing these set of laws will not address these problems.

Villar: Ok to Cha Cha following legal process and public approval

Sen. Manuel 'Manny' Villar, Jr., meanwhile, expressed that he has no problem with Cha Cha as long as it observes the standard process. "*Basta tama lang ang prosesong, wala akong problema dyan*" (As long as it follows the process, I'm ok with it), he said. However, he opposes any change in the Constitution before President Arroyo steps down, so as not to make the motivation of its proponents questionable. In fact, he filed Senate Resolution 599, which labels HR 1109 'unconstitutional'. He also accused that its proponents only proposed the amendment to the Charter's economic provision as a way to get more support for Cha Cha.

While Sen. Villar said he will go for Cha Cha if the public wants it, he has yet to identify what provisions he would like changed. He has given his pre-conditions (i.e., following the legal process and public approval), but is not really advocating any specific changes at the moment. He said that what is important is leadership – what we need is a leader with good managerial skills. He added that regardless of the system of government, presidential or parliamentary, it will function efficiently if the leader is efficient.

Aquino: Make sure first that we really need Cha Cha

Sen. Benigno 'Noynoy' Aquino III, son of former president Cory Aquino, wants to have constitutional debates and consultations first to ensure that a revision of the Constitution is indeed necessary. He said: "*Bago po natin guluhin ang lipunan, manigurado tayong kelangan nga natin iyon*" (Before we further mess up our society, let's make sure first that we really need charter change). If the public approves of Cha Cha, Aquino believes that the proper way to do it is through a Constitutional Convention, and it should not be done anytime before the 2010 national elections. He stated that a 'social contract' must be upheld if we amend the Charter, limiting the changes to certain provisions only.

Sen. Aquino further expressed his apprehension about Cha Cha, which can cause disruptions in the system, especially in the economy, during the process of Charter amendment. For instance, he said, investors may put on hold their investments until the amendment is done. Given the possible disruptions it may cause, it is crucial, he said, to assess whether the benefits of Cha Cha will outweigh the costs.

Isyu-Sera

Electoral Reform Through Charter Change: A Critical Issue in 2010

Electoral practice in the Philippines is vulnerable, flawed, and thus, highly problematic – a crisis that threatens the very foundation of Philippine democracy. We find so many interconnected dilemmas stemming from this inefficient and vulnerable electoral system, all of which lead to contentious elections and illegitimate results.

More fundamentally, we have an electoral system that allows undemocratic practices to persist. We witness electoral fraud at various levels - disenfranchisement of qualified voters, registration of unqualified voters, *dagdag-bawas*, vote buying, ballot box snatching and/or destruction, and falsification of election documents (ballots, ERs, CoCs, etc.). What we have now is systematic electoral cheating that also involves the institutions that should supposedly protect and uphold the clean conduct of elections. In recent years alone, a Commission on Elections (COMELEC) commissioner was involved in an election scandal; some members of the military and police force became instruments of political violence and intimidation; and campaign finance and election guidelines were circumvented, if not heavily abused.

Election violence also persists, with an underperforming government that fails to prevent violent means of contesting or attaining power. In the past national and local elections, there were a total of 121 deaths and 176 injured, while 2 persons were reported missing (IPER 2007).

Cha Cha Train to Electoral Reform

If we are to address this problem, important institutional reforms are called for.

The 1987 Constitution installs an electoral system that is unstable, susceptible to error and unfavorable to true democratic deepening. Three inherent constitutional flaws lead to contentious, erroneous and vulnerable elections, which fosters undemocratic and patronage-based politics: (1) Minority president and the 'first-past-the-post' type of elections, (2) Weak multiparty-system, (3) Weak election administration system under the COMELEC.

Minority Presidents

Experts say that the multi-party system mandated by the 1987 Constitution is nearly incompatible with a majoritarian, 'first-past-the-post' type of electoral system as it results in minority presidents. A **minority president** is a president who won the most number of votes among the candidates but failed to garner votes from more than half of the voting public. Because there are so many political parties, each having their own candidate vying for the presidency, it is virtually impossible to have a president elected by the majority. In fact, all presidents elected after the inception of the 1987 Constitution (Fidel Ramos, Joseph Estrada and Gloria Macapagal-Arroyo) were minority presidents. Having a minority president weakens the very foundation of democracy and renders the elections problematic, for the winning candidate was not elected by the majority (majority decision is the essence of democratic representation). The Office of the President, thus, is inherently under a crisis of legitimacy: if majority of the voters didn't vote for the president, do we really consent to his/her rule?

This also poses a governance problem. The elected president would only have a small base of support. This effectively makes it harder for the president to enact his or her agenda. Would s/he then be able to perform the mandate supposedly given to him/her as the representative of the people?

The 'first-past-the-post' type of electoral system also makes election fraud, manipulation and other illegal means the most viable methods to win the elections. According to political scientists, this kind of system reduces the political leadership selection into a 'winner-takes-all' contest, which primarily relies on the margin of votes garnered by each candidate. Eliminating the opponent (by vote count manipulation, ballot tampering, etc.), thus, becomes the most efficient way for a candidate to win. (Co et. al. 2005).

Mushrooming of Underdeveloped Political Parties

The open or multi-party system tolerates an unlimited number of political parties. With Martial Law still in the minds of the people, this kind of system was put in place to prevent concentration of power in the hands of a few. The problem with this, however, is that it allows a saturated pool of personality-based, non-programmatic parties to exist and compete for political power. Given that the Philippines have 'immature', non-programmatic and personality-based political parties, the multi-party system gives ample room for patrons to establish their own parties, which in reality, consist of an entourage of clients who stand to gain from the spoils of elections. Functioning ideally as accountability mechanisms of the people, these parties instead serve as breeding grounds for corruption and clientelism.

In the last three elections, for example, we see a number of new political parties and coalitions rallying around personalities instead of developing their party platforms and agenda, and strengthening their mechanisms to ensure that their candidates adhere to and carry out the party platform and agenda. We see party alliances and mergers carried out to form more powerful blocs and serve as a political vehicle for a certain presidential aspirant like the Laban ng Makabayang Masang Pilipino or LAMMP (a coalition of three major parties supporting

Table 1. The winning presidents.

Election	President	Political Party	Official Tally	Percentage
1992 Elections	Fidel Ramos Lakas	Lakas-NUCD	5,342,521	23.6%
	Miriam Defensor-Santiago	People's Reform Party	4,468,173	19.7%
	Eduardo M. Cojuangco, Jr.	Nationalist People's Coalition	4,116,376	18.2%
	Ramon Mitra	Laban ng Demokratikong Pilipino	3,316,661	14.6%
	Jovito Salonga	Liberal Party-PDP Laban	2,302,124	10.2%
	Imelda Marcos	Kilusang Bagong Lipunan	2,338,294	10.3%
	Salvador Laurel	Nacionalista Party	770,046	3.4%
1998 Elections	Joseph Estrada	PMP-LAMMP	10,956,610	39.6%
	Jose de Venecia	Lakas-NUCD-UMDP	4,390,853	15.9%
	Raul Roco	Aksyon Demokratiko	3,772,505	13.6%
	Lito Osmena	Probinsya Muna Development Initiatives	3,363,599	12.2%
	Alfredo Lim	Liberal Party	2,397,224	8.7%
	Renato de Villa	Partido para sa Demokratikong Reporma	1,337,856	4.8%
	Miriam Santiago	People's Reform Party – Gabay Bayan	807,506	2.9%
	Juan Ponce Enrile	Independent (Liberal Party)	344,532	1.2%
	Imelda Marcos	Kilusang Bagong Lipunan	247,094	0.9%
	Santiago Dumlaog	Kilusang Para sa Pambansang Pagpapanibago	39,833	0.14%
	Manuel L. Morato	Partido Bansang Marangal	19,770	0.06%
2004 Elections	Gloria Macapagal-Arroyo	Lakas-CMD/K4 Coalition	12,905,808	40%
	Fernando Poe, Jr.	Koalisyon ng Nagkakaisang Pilipino (KNP)/LDP	11,782,232	36.51%
	Panfilo M. Lacson	LDP – Aquino Wing	3,510,080	10.88%
	Raul Roco	Alyansa ng Pag-asa/Aksyon Demokratiko	2,082,762	6.45%
	Eduardo Villanueva	Bangon Pilipinas	1,988,218	6.16%

Estrada: Laban ng Demokratikong Pilipino, Partido ng Masang Pilipino and the Nationalist People's Coalition).

Other political parties divide when two presidential aspirants arise in the party. For instance, the *Laban ng Demokratikong Pilipino* had to formally split into the Aquino Wing, which supported Senator Ping Lacson, and the Angara Wing, which supported Fernando Poe, Jr., in the 2004 elections.

Lackluster performance of COMELEC

The Commission on Elections, born out of the 1987 Constitution, has been hounded by issues of corruption. Many of its commissioners had been involved in controversial scandals, the most notable of which is former COMELEC Chairman Benjamin Abalos, who was implicated in the ZTE-NBN scandal, and former Commissioner Virgilio Garcillano, who was involved in the 'Hello Garci' controversy. These involvements in fraudulent and illegal activities, coupled with its inefficient administration of elections and electoral processes, further decreased public trust in the COMELEC. The COMELEC only had a 60% trust rating even before the 'Hello Garci' scandal erupted (SWS Survey 2004), and half of the population believed there would be cheating in the 2007 elections (SWS Survey 2007).

The Constitutional parameters that guide the processes of the Commission remain weak and flexible. The appointment of COMELEC commissioners by the President gives the incumbent president an immense power over elections. The Constitution, as interpreted by the Supreme Court and the administration, also allows the president to appoint COMELEC commissioners while Congress is in recess, and thus, unable to reject the appointments through the Committee on Appointments. Virgilio Garcillano and Manuel Barcelona, for instance, were appointed by Arroyo before the 2004 elections while Congress was in recess; hereafter, 5 of the 7 COMELEC commissioners were appointed by President Arroyo. Moreover, erring commissioners can only be removed via an impeachment, which reflects a weak check and balance system in electoral administration (Ayco 2007).

The main mandate of the COMELEC as stipulated under the Constitution states that the Commission has two primary functions: electoral administration and adjudication (or resolution) of election-related protests and cases (Casiple 2007). With a weak and poorly capacitated bureaucracy, insufficiency of resources, and institutional vulnerability to partisan political pressure, the COMELEC is consequently limited in its performance of both functions. Its quasi-judicial function effectively becomes subject to political lobbying, which further makes the COMELEC ineffective in administering the elections.

The Problematique of the Philippine Electoral Framework

What we had in the past two decades is a framework that disallows true representation of the Filipino people and breeds personality-based politics through a multiplicity of underdeveloped and dysfunctional political parties. This framework subsequently installs favorable conditions for corruption and unconstitutional contestation for power. Addressing these issues requires us to seriously consider a revision of the constitutional framework of the electoral system.

The three presidential elections conducted under the current electoral system produced a democracy in crisis; the upcoming elections, for sure, would not be an exemption. We still see a lot of presidentiables coming from undistinguishable political parties that only leaves the voters confused and alienated from the political sphere. The threat of a weak COMELEC and a corrupted electoral system further hounds the government. The existing constitutional parameters that supposedly safeguard the conduct and outcome of elections fail to fully realize Philippine democracy and are easily circumvented to serve particular interests.

The Constitution, therefore, requires reconfiguration in order to address electoral realities that persisted through the past two decades. The issue of charter change remains important in the 2010 elections as the Constitution does not only define the kind of government that we have, but also the kind of democratic representation that we put in place.

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