



**GLUM FACES.** About to deliver her briefest State of the Nation Address, President Arroyo is flanked by Senate President Franklin Drilon and House Speaker Jose de Venecia. NEWSBREAK, AUGUST 29, 2005 / DENNIS MALLARI

# SHALL WE DANCE?

(First of a two-part series on Charter change)

■ By Pepito Frias and J.M. Villero

**R**IGHT in the midst of the raging controversy over the “Hello Garci” tapes, when her grip on the presidential power seemed to be slipping away as she faced the worst crisis to challenge her 4-year leadership, President Gloria Macapagal-Arroyo revived the issue of amending the 1987 Constitution. During her State of the Nation Address (SONA) at the 13<sup>th</sup> Congress on July 25, 2005, the president said that it was “time to start the great debate on charter change.” According to her, the country’s political system “has now become a hindrance to our national progress.”

But Charter change for President Arroyo and her supporters means shifting from a presidential to a parliamentary-federal form of government. And the most eager advocate of this shift is no less than former President Fidel Ramos. He is peddling the idea that the swing to parliamentary system would cut short President Arroyo’s term.

This ought to be good news to those who want her to step down, in light of allegations that her family is involved in the illegal numbers game popularly

known as “jueteng” and that she cheated her way to victory in the 2004 presidential polls. For President Arroyo herself, this would give her a “graceful exit.” She would give up the presidency before 2010 but not in the humiliating way as demanded by her opponents.

This seems to be a “win-win” situation, so it comes as no surprise that this idea has found support in the likes of Cardinal Vidal, some members of the influential Makati businessmen, El Shaddai leader Mike Velarde and even some anti-Gloria

A besieged president wants to cha-cha her way to a ‘graceful exit’

formations.

It seems that the 1987 Constitution, a document crafted during the euphoric period following the fall of the hated Marcos dictatorship, will soon be fiddled with.

Yet this time, there is no fierce public outcry being heard.

## That old tune, again

Arroyo’s call to amend the charter is nothing new.

Since the time of President Ramos, charter change (popularly referred to as “cha-cha”) has been a recurring theme, resurrected every now and then and quickly dropped in the face of popular opposition. Ramos had to abandon his plans to revise the Constitution after it was widely protested as a ploy to secure him a second term he had been drooling over but was prohibited by the Constitution.

Before he was ousted, President Estrada also attempted to rework the charter, through the Constitutional Correction for Development (Concord). Erap tried to distinguish between his Concord from Ramos’ cha-cha by declaring that he was not after the Constitution’s 2<sup>nd</sup> term prohibition. Concord aimed to rewrite the restriction on foreign ownership of land and the 40% foreign equity limitation on local businesses.

## Tinkering with the Constitution

Like a pesky fly that refuses to go away or an irritating refrain of a radio hit tune that



**HEROIC CALL:** stop tinkering with the Constitution.

keeps running through one's brain, cha-cha calls are back.

This time though, Arroyo seems hell-bent on amending the Constitution. And she has made no secret of her intent to push for a shift to a parliamentary form of government.

Wise to the wiles of politicians, cause-oriented groups and the Catholic Church, and even opposition lawmakers, have assailed the latest cha-cha calls.

For one, they feel that this is hardly the time to be tinkering with the country's Constitution. When the majority of the Filipino families can hardly make ends meet because of unabated increases in prices of basic necessities, and when the legitimacy of Arroyo's leadership itself is doubted and strongly challenged, debating on charter amendments can only be interpreted as a squid tactic – a brazen stunt to deflect public attention from the more pressing concerns of empty stomachs and questions of legitimacy.

"It seems that she has decided instead to stymie all efforts in uncovering the truth by embracing the proposed Charter change to distract her accusers and divert the nation's energies toward the untimely debates on cha-cha," a July 28 statement by former members of the cabinet (dubbed the Hyatt 10) read.

More criticisms were raised against amending the Constitution when Congress shelved the impeachment proceedings against the President. Senator Joker Arroyo has commented why a Consultative Commission was formed when even Congress has not yet decided to change the Constitution.

Other groups, particularly the Church, has also expressed reservations on amending the Constitution. Manila Archbishop Gaudencio Rosales said: "I think that ultimately any development and progress in the country cannot be found in changing the system, but in changing the values and attitudes of people within the system."

But Arroyo was hardly fazed by popular opposition. On August 19, 2005, she issued Executive Order No. 453 to create a consultative commission that would, among others, study the provisions of



**WITH BANNERS, STREAMERS AND AN EFFIGY: public loathing for a president popularly believed to have rigged the 2004 elections.**

the 1987 Constitution that are "no longer conducive to the economic requirements of the 21<sup>st</sup> century," conduct nationwide sectoral consultations, and duly propose to Congress changes to the charter. An initial fund of P10 M was made available for the commission.

Executive Secretary Eduardo Ermita said the commission will be composed of the "best and the brightest among the citizenry of recognized probity, competence, honesty and patriotism who have a broad understanding and knowledge of the Constitution and political systems."

#### **A rubber-stamp?**

Appointed to the Consultative Commission were old-time politicians, educators, newspaper columnists and businessmen, most of whom are enthusiastic supporters of a parliamentary-federal form of government. All of them were, unsurprisingly, supportive of President Arroyo. Representatives of the opposition would have been welcome, according to Secretary Rigoberto Tiglao of the Presidential Management Staff, but "unfortunately, no personality identified with the opposition...seemed to be interested."

The initial group of 33 (but already numbering 53 as of last count), promptly elected former UP president Jose Abueva to chair the consultative body. Abueva, a leading voice of the Citizens' Movement for a Federal Philippines (CMFP), is the author of the book "Towards

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a Federal Republic of the Philippines with a Parliamentary Government by 2010." CMFP, for its part, is known for its "Draft Constitution for a Federal Republic of the Philippines with a Parliamentary Government."

The consultative commission has until December 31, 2005 to review the Constitution, hold public consultations, and conduct studies on the changes that need to be made on the fundamental law of the land. It will submit its proposal to the President, who will then present this to Congress.

To ensure that the commission's work stays within bounds, Arroyo further appointed a 5-person advisory board, composed of former president Ramos, former Central Bank governor Gariel Singson, former Senate president Jovito Salonga, Marcos-era prime minister Cesar Virata and constitutionalist Joaquin Bernas.

The party-list lawyers' group, Abakada, promptly challenged the legitimacy of the commission before the Supreme Court. According to lawyer Rene Gorospe, a faculty of the University of Sto. Tomas College of Law, the Abueva-led commission is preempting Congressional mandate to initiate charter amendments. The group likewise said the use of public funds for the commission's activities violates the Constitution. Furthermore, according to the petitioners, the commission's report would undoubtedly be "partisan" because all the members are appointees of the president. Abakada called the consultative body "another well-funded project for a useless purpose." The money should have been spent for better purposes like housing projects, the lawyers said.

In Cebu City, the ConCom's consultation was boycotted by several groups, including the Integrated Bar of the Philippines-Cebu City Chapter and Bayan Muna partylist, for being "a waste of time and money." According to the IBP-Cebu City, the consultation is "suspect because its members are appointees of the President and are beholden to her."

To its critics, what is most reprehensible about the ConCom is the manner by which it is conducting its supposed functions. Instead of sounding out the wishes and opinions of the people first, it is drafting the proposed amendments to the Constitution *before* going out to consult the public. Thus, instead of being a consultative body, the ConCom is regarded as a well-oiled campaign team for the shift to the parliamentary system.

Even members of the ConCom are not comfortable with the decision to approve first the proposed changes even before the public has been consulted. One member called it a "flawed procedure." Andres Bautista, a ConCom member, feared that they would become "an approve-now-consult-later body." ConCom member James Marty Lim, national president of the League of Barangays, bluntly called it a "rubber-stamp commission."

Another problem with the Arroyo-appointed Consultative

Commission is that its recommendations may be snubbed by Congress.

In fact, soon after the SONA, Senators made it known that they will not dance to the latest cha-cha pitch. Senate President Franklin Drilon has said that the proposed amendments will be "dead on arrival" at the Senate. Since the majority of the senators are not inclined to any charter change moves at this time, Arroyo will find it extremely difficult to muster the necessary number in Senate. Not only are a good number of the senators critical of Arroyo; their aversion to charter change is also prompted by self-preservation. A shift to a parliamentary system would lead to the abolition of the Senate. Only a selfless - or stupid - politician would agree to self-destruct.

### Weak public pulse

It appears, however, that the taxpayer who will shoulder the expenses for the "graceful exit" does not care a whit about the ongoing cha-cha moves. In fact, a survey by the Social Weather Station released in August this year shows that 70% of Filipinos "have no suggested constitutional amendments," as against 30% who believe that "there are provisions that need to be changed now." More disturbing was the finding that 73% of respondents "have little or almost no knowledge of the Constitution."

It is within this indifferent and ill-informed public setting that the ConCom and the Arroyo-Ramos-de Venecia triumvirate are hard-selling a shift to the parliamentary-federal form of government. But even Jose Villanueva, a ConCom member, has admitted that in the Manila barangays he consulted, it was clear that the people know nothing about federalism.

This utter lack of knowledge on the part of the majority public could of course work in favor of the cha-cha peddlers, for it would be too easy to give a rosy picture of a government under a federal system. Plus the enticing possibility that it would cut short President Arroyo's term of office without necessarily staging another "people power" or going through the impeachment hoopla.

### Is the Constitution the culprit?

Indeed, one would find it impossible to look for any provision in the Constitution that if changed, it would also change the values and attitudes of people managing the affairs of the State. Because changing a charter or drafting a new constitution is purely political and has nothing to do with changing one's character.

A key function of a constitution is "to indicate hierarchies and relationships of power." Drafting a new charter or amending the existing charter signals that a new alignment of power is being worked out.

When the classic model of the modern-day constitutions—the English Magna Carta—was written in 1215, it was the result of the feud between the English Monarchs and the Pope. The Charter limited the power of the King in favor of the growing influence of the Church.

In the Philippines, the drafting of the Malolos Constitution in 1899 established the sovereign power of the Filipino people after being ruled by Spanish colonial power for hundreds of years.

Changing a constitution can also legitimize a new order of things. When Ferdinand Marcos called for the drafting of the 1973 Constitution, it was mainly to fortify his one-man rule. While the 1987 Constitution facilitated the restoration of the democratic processes and representative form of government that had been eroded during the Marcos years.

It is highly doubtful that the country could attain national progress and become economically competitive in the global scale - contrary to what President Arroyo and company are proclaiming - even if the present Constitution is amended. What it could bring about, as expected, is a new system of government run by the same politicians as before.

As a former Assistant Ombudsman said: "Even if the Constitution is amended to shift the form of government from presidential to parliamentary, the problem of accountability, honesty and integrity in public office will not be solved. A dishonest person will always be dishonest under a presidential government as well as under a

parliamentary government. And if the public official who is dishonest is the President of the country, her being dishonest is not rectified in a parliamentary government."

### How do I change thee?

The legal basis of President Arroyo's Consultative Commission is also under question. The Constitution does not mention such a mechanism; neither does it authorize the President to propose charter amendments. Under the Constitution, changes can only be introduced:

- by Congress, after ¾ of all its members adopt a resolution constituting themselves into a Constituent Assembly;
- by a Constitutional Convention, to be constituted upon approval of 2/3 of all members of Congress or by the electorate after a majority of members of Congress agrees to submit the question to a referendum; or
- by popular initiative, via a petition of at least 12% of registered voters (of which every legislative district must be represented by at least 3% of its registered voters).

All the proposed amendments must then be approved by the electorate through a plebiscite.

Knowing that she still has enough devotees in Congress who can bludgeon their way to a charter amendment, the President has expressed preference for the constituent assembly approach.

Whatever the mode used, any cha-cha exercise will burn up millions, if not billions, of public funds. At a time when the government is plagued with a mammoth budget deficit, such a very expensive undertaking can only be done if the government further reduces the budget for basic sectors such as education, health, agriculture and social services.

The "graceful exit" will come at a very high fee.

And every Filipino taxpayer will be paying for it.

**The current cha-cha "debate" spins around a single issue (the shift to parliamentary-federalism), as if this is the only provision that will be amended. Hardly played out in the media and the public discussions are the other (specifically the economic and nationalist) provisions of the Constitution that are targeted for amendment. These include the foreign restrictions on land and business ownership, exploitation of natural resources and operation of communication media, which, if amended, will imperil the economic rights of each and every Filipino. (Next issue: "Cha-cha and human rights").**

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