

Civil Society Advocacy on Constitutional Reform (Phase II)

**by the
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Abstracts of Commissioned Researches and Roundtable Discussions

The following are the abstracts of researches and round table discussions, commissioned by the Coalition for a Citizens' Constitution (C4CC) in 2007, to guide the reader in the course of reflecting and making a stand on the issue of Constitutional Reform.

The Long and Arduous Journey to Institutionalization: A Commentary on the C4CC Constitutional Reform Proposals

by Atty. Ibarra Gutierrez III

In this paper, Atty. Ibarra gave a review of the research studies presented in succeeding pages, which offer proposals for Constitutional reform relating to asset reform, sector-specific issues and changes to over-all political framework for government. The review was done from the perspective of looking at the Constitution with a far greater degree of permanence and stability. And that while the possibility of changing it is provided to respond to continuously evolving social and historical contexts, the process is not made easy, to discourage hastily conceived and ill-advised changes.

In several of these research papers, the author commented that the proposals revolve around the need for legislative changes and more faithful implementation of the Constitution, and less on the need to revise its fundamental principles. This is true for Umali's paper on the fisheries development agenda, for Adem's study on the urban poor agenda and Abad's paper on the youth development agenda. This is also the call in Lim's paper on the agrarian reform agenda, except that Atty. Ibarra posits that the Constitutional right of the farmer to own the land they till should reflect an actual recognition of a fundamental entitlement, instead of a functional purpose of solving agrarian unrest. Meantime, Hamada's paper on the indigenous peoples' agenda points to the fact that regardless of specifics of any proposed changes to the charter, equally essential to the substance or content of the reforms is the commitment to ensure that IPs and communities are able to participate meaningfully and effectively in the process of change.

The other papers refer to reforms in constitutional framework itself. In the paper on the labor agenda by Garcia and Galgo, the constitutional approach involving the "balancing" act between the rights of labor and capital has, in practice, led to curtailment in some situations of workers' rights. Masilungan's study on women's gender and development constitutional agenda calls for specifying provisions in State Policies and the Bill of Rights to address gender equality issues, women's self-determination and bodily autonomy, and protection from gender violence. Rocamora's paper on national patrimony poses a question on the point of this administration's push for change purportedly to open up certain areas of economic activity, when both the government and foreign investors rampantly circumvent constitutional provisions protecting participation of Filipinos in these economic activities. Rodriguez' paper on federalist agenda cites that decentralization and devolution still remain the preferred approaches to the effective implementation of social justice programs. However, experiences with poor governance by traditional politicians point to the need for a more gradual and organic approach to federalism, and that the necessary preconditions should be in place (i.e. that local autonomy should guarantee self-determination and people's empowerment) before a formal shift is made.

While compelling arguments have certainly been put forward to support the idea of revision of the present Constitution, they nonetheless must be assessed with care, and pursued with an appropriate awareness and respect for the pivotal role that this core instrument plays on ensuring the stability of many modern societies.

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Constitutional Reform and the Agrarian Reform Agenda

by **Ernesto G. Lim**

In his historical review of our Philippine Constitutions from 1899 to the 1987 (present), the author concludes in this paper the progressive development of the agrarian reform agenda from one Constitution to another. The 1987 Constitution, he said, is a major improvement because of the following provisions: the declaration that all agricultural lands (and not only rice and corn lands) are covered by the agrarian reform; the inclusion of "regular farmworkers" as beneficiaries; the inclusion of support service delivery as integral part of agrarian reform and the declaration that agrarian reform is the foundation for the nation's industrialization. However, it is short of what radical and militant peasant groups would consider to be a genuine agrarian reform, when it set retention limits and payment of just compensation for acquired lands. These fundamental provisions declare that the State will pursue agrarian reform under a "democratic" framework instead of a confiscatory "land-to-the-tiller" principle - which, the author cites, has been the framework under most successful agrarian reform initiatives were undertaken.

The author then presented the following proposed amendments to certain sections of Article XIII (Social Justice and Human Rights) of the Constitution:

- recognize the rights of farmers and farm workers to directly or collectively OWN, CONTROL and POSSESS the land they till
- declare the responsibility of the State to provide support to Agrarian Reform Beneficiaries through adequate technology, financial, marketing and production support services
- the State to implement an investment program, supported by funding and fiscal incentives, to encourage landowners to invest the proceeds of agrarian reform program.

At the round table discussion following the presentation of this paper, however, the participating peasant and ARRD groups agreed that the rights of small land owners (the basis of 5-hectare retention limit) should be respected, and the leasehold provisions under the Comprehensive Agrarian Reform Law (CARL) is sufficient to address the rights of tenants or leasehold agrarian reform beneficiaries. The groups likewise agreed that there is no pressing need to introduce substantial amendments to the Charter, particularly under the context by which the Arroyo administration was pushing for the changes. The groups said that Charter change within the current context will strongly diminish the agrarian reform provisions of the Constitution. It was cited in the discussions that failures in agrarian reform resulted from resistance from the ruling/elite class and the absence of a symbiotic relationship between industry and agriculture. What needs reform then is the Comprehensive Agrarian Reform Law (CARL) to be able to address the flaws of implementing the agrarian reform program.

Ernesto G. Lim is the Coordinator of the People's Campaign for Agrarian Reform Network, Inc. (AR Now!). He has worked in the past for various peasant and agrarian reform advocacy groups such as the Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA), Congress for People's Agrarian Reform (CPAR), PhilDHERRA and the Upland NGO Assistance Committee (UNAC).

Citizen's Constitution Making: Research on Aquatic Resources and Fisheries Development Agenda

by Jorge “Bas” Umali, Jr.

The author began his paper with a situationer of the Philippine fisheries sector, the participation and contribution of women in the industry and its development over the past few decades. Marine resources have been protected by the Constitution and a special law, Republic Act 8550 or the Fish Code. Albeit marine produce is central to national food security, much of the sector's operations are driven by the export demands especially from Japan and other parts of east Asia and most recently the European Union. The problem lies not in the Constitution, but on how its provisions and the other laws are being carried out. Despite the guaranteed protection of the rights of the subsistence fishermen to the preferential use of all marine and fishing resources under Section 7, Article XIII of the Constitution, government agencies have been playing a pivotal role in pushing for open access policies, and thus paving the way for the unabated exploitation of our marine resources by foreign fishing vessels. This, in turn has led to the further depletion of our resources and economic insecurity among our local fisher folks.

Hence, the paper stands firm against the National Economic and Development Authority (NEDA)'s pronouncement blaming the Constitution's protectionist policies as the root of the country's economic problems. Mr. Umali asserted that Charter change as being pushed by this administration would not necessarily address the root cause of problems experienced by the sector. He stressed that poverty in coastal communities has been due to low productivity of land-based resources or lack of access to land; low productivity of aquatic resources mainly due to habitat destruction and stock depletion; resource use conflict particularly in coastal waters; and lack of adequate basic services delivery, i.e. health, education, shelter, infrastructure, etc.

The author further explained that Charter change would only weaken the constitution's protection of natural and human resources since the proposed move is mainly geared towards liberalization of related industries, including opening the exploitation of our natural resources to 100% foreign owned corporations. Also, federalism as espoused by proponents of Charter change would not necessarily mean better governance as local government units have yet to prepare themselves for devolved functions and powers. The reforms needed are in the faithful implementation of the Fish Code. Despite its weaknesses, the law nonetheless has progressive provisions which, when properly implemented, would boost the capacity of small fisher folks; enhance LGU governance; and improve the fiscal condition of the industries within the fisheries sector and without posing a threat to marine environment.

Charter change must also be appreciated in its political context. The current efforts to amend the Constitution point to GMA's desire “to protect and secure her current position”, amidst the continuous doubts over the legitimacy of her presidency. The sector concludes then that Cha Cha is not needed at this time.

Jorge “Bas” Umali, Jr. is the area coordinator of Tambuyog Development Center-Tayabas Bay. He authored several publications that discuss various issues concerning fisheries such as property rights, CBCRM and fish trade. Close to the subject of charter change, he also authored “Archipelagic Confederation” published by Red Lion (Canada) and circulated by AK press.

Seeing One's Self in the Other: Charter Change and the Politics of Identity

by **Maxine Tanya Macli-ing Hamada**

Throughout our history, Philippine nation-building has been marked by exclusivity and uniformity, forcing our indigenous peoples (IPs) to conform to an imaginary standard of citizenship. Even the language of our Constitutions has perpetuated an attitude of distrust and reflects disregard for them as self-governing people, labeling them through time as “non-Christian tribes” or “cultural minority.” The author asks, what if the Preamble of our Constitution begins with “We, the sovereign Filipino peoples...”? Will this create the space to build upon the diversity and complexity of our heritage and open a deeper discourse on the politics of shared identity and the right to self-determination?

In this paper, the author recommends the following:

1. Infuse the Charter with a more inclusive attitude towards the diversity and complexity of the Filipino peoples.
2. Utilize terminologies to signify the diversity and identity of indigenous peoples.
3. Ratify international instruments that protect and promote IP rights and complement local struggles with international perspectives on IP rights and self-determination.
4. Strengthen provisions recognizing IPs’ rights to self-determination and eliminate ambiguity between provisions on economic development and resource use.
5. Institute a process for consultation and genuine participation by IPs in Charter change as defined by them and supported by national initiatives.
 - Ancestral domain-based
 - Inclusive and not dependent on existing administrative-political structures
 - Access to all relevant information
6. Adopt the guiding principle that IPs are distinct and unique; an IP agenda must therefore be multi-level and cover a wide range of issues and geographical areas.

In the course of changing the Charter, it is also important to confront the following issues:

- Self-determination - open and deepen discourse on self-determination and raise advocacies on identity, particularly for IPs of Mindanao.
- Autonomy - defining it should be in the context of the emerging federalism issue
- Mining and extractive industries - the effect of global economic and market trends on the economic rights of IPs will come to a head in this decade. These must not be taken at the expense of political and cultural rights of IPs.
- Justice and security issues - the legacy of IPs and the armed struggle colors most, if not all the aspirations for self-determination. The threat of repression again lurks in the Human Security Act.
- Political participation - the realities that define the challenges will only be found in the domains and territories of the IPs.

In the round table discussion where this paper was presented, the IP groups said that the time is not yet ripe to change the Charter. The issues cited above must be resolved first before Cha Cha is carried out.

Maxine Tanya Macli-ing Hamada is a project technical staff of InciteGov and a core member of Young Public Servants and Youth Vote Philippines. She is Ifugao, Ibaloi, Bontok and Japanese.

Ang Saligang Batas sa Paggawa nina Arsenio M. Garcia at Arnel Galgo

Inisa-isa ng mga may-akda ang mga tukoy na probisyon ng 1987 Saligang Batas tungkol sa paggawa, partikular ang Artikulo XIII Seksyon 3 (tulad ng ang paninindigan ng Estado na ang paggawa ang siyang pangunahing pwersang pangkabuhayan ng lipunan, ang pagtaguyod ng "full employment" at pantay na pagkakataon sa paggawa para sa lahat, ang pag-garantiya ng karapatan ng manggagawa na magtatag ng sariling organisasyon, atbp.). Binanggit din ang mga probisyon sa Artikulo II na nagtataguyod ng kapakinabangan ng sektor manggawa (pagkilala sa kababaihan, proteksyon sa kabataan, kapa-kanan ng magsasaka, karapatan sa pag-uunyon, mabilis na disposisyon sa mga kaso, atbp.) Nasa kasalukuyang Saligang Batas din ang pagtukoy sa sektoral na representa- syon ng manggagawa sa party-list sa lehislatura at pamahalaang lokal; ang karapatang ng bawat pamilya sa "family living wage and income"; gayundin ang proteksyon sa sektor sa ilalim ng mga pangkalahatang probisyon sa Declaration of Principles and State Policies, National Patrimony at Social Justice and Human Rights.

Gayunpaman, binanggit din sa pag-aaral na ito ang mga limitasyon at posibilidad ng 1987 Saligang Batas sa konteksto ng pagsusulong ng interes ng sektor-paggawa:

- Ang karamihan sa mga karapatang itinatakda ng Konstitusyon ay mas tinatamasa lamang ng mga manggagawang organisado at may employee-employer relationship.
- Mahina ang salitang ginamit na "magtataguyod" ng "full employment" bilang papel ng Estado (ang full employment ay dapat sineseguro ng Estado)
- Pagbabalanse ng karapatan ng manggagawa at may-kapital
- Ang napakalimitadong konsepto ng "Sahod na Sapat na Ikabuhay" (Living Wage)
- Ang masikip na puwang pa rin sa usapin ng representasyon ng mga manggagawa sa pag-ugit ng pamamahala.

Ilan sa mungkahi ng mga may-akda ang mga sumusunod:

- pagtakda na responsibilidad ng pamahalaan na tiyakin ang isang "buhay na may kalidad" (quality of life) at hindi lamang "living wage" o "minimum wage"
- pagtakda sa pamahalaan ng katungkulan na tiyakin na may sapat na probisyon sa ikabubuhay ang mga taong walang trabaho, nagkasakit, o nabaldado.
- Kung sakaling magkakaroon ng pag-amyenda sa Saligang Batas, mas makakabuti kung bawasan ang detalye sa mga probisyon, at maglaman lamang ito ng mga prinsipyo, at iwanan sa paggawa ng mga batas ang mga detalye.

Binanggit din sa pag-aaral ang pananaw ng sektor paggawa sa mga kasalukuyang naga- ganap na pagtatangkang amyendahan ang Saligang Batas:

- Walang malinaw na probisyon sa Saligang Batas na nais baguhin ng sektor pagga- wa, nang may pagkakaisa
- Wala ring isang kaparaanan na sinusulong ang buong sektor hinggil sa pag-amy- enda ng Konstitusyon
- Ang malinaw lamang ay, ang matinding pagtutol ng karamihan sa mga nagdaang pagtatangka na baguhin ang Saligang Batas, mula sa panahon ni Ramos hang- gang sa kasalukuyang administrasyon.

Arsenio Garcia has had more than 20 years of experience in organizing and strengthening people's organizations and NGOs. He has a solid experience on labor concerns through his past works with the Center for Community Services (ADMU), Kristiyanong Alyansa ng Makabayang Obrero and Labor Education Research Network.

Constitutional Reform and the Urban Poor Sector's Housing and Urban Poor Development Agenda

by **Elisea Adem**

On the basis of assessing the adequacy of the 1987 social justice provisions, there is no need for a Constitutional reform, based on the author's consultations with urban poor groups for this paper. Article XIII on Social Justice and Human Rights, with specific provisions on Urban land reform and housing (Sections 9 and 10) are entrenched in the Charter as the State's commitment.

Instead of a constitutional reform on housing and urban development, the sector clamors for a just and proper implementation of the landmark legislation R.A. 7279 or the Urban Development and Housing Act (UDHA), especially the so-called provisions on demolition. For the sector, the Constitutional provision for "just and humane" eviction and demolition does not get translated in the urban poor's situation because of the repeated violations of the law on demolition. Among the other recommendations of the author to properly implement UDHA are providing incentives for landowners to make more land available for social housing and for land sharing (mix uses of lands occupied by informal settlers for commercial/industrial and social housing); development and disposition of proclaimed social housing sites; institutionalization of local housing boards and localization of the Community Mortgage Program (CMP) scheme.

The sector, however, opposes the economic provisions of the GMA-inspired proposed draft constitution, i.e. "that industrial, commercial or residential lands are transferable to foreign individuals or corporations with foreign ownership," because of its negative repercussions on proclaimed sites for socialized housing.

The urban poor groups consulted on this paper also shared the view that, based on their dealings with local government units (LGUs), the Philippine society lacks the maturity for a change to a federal government, even if it is perceived to reduce corruption and making LGUs more independent from the national government. Warlordism may be exacerbated, and there have been no consultations with the grassroots. No stand was made on the Con-Com's Proposal for a parliamentary form of government because the group is not well-versed with this topic. Despite this, however, they agreed with the Constitutional convention as a mode of Charter reform.

It remains crucial then for the sector to receive adequate information on what is at stake for them should the core changes be made in the Constitution. Only then can the sector meaningfully engage in the discourse on Constitutional reform, and influence others within their ranks.

Elisea Adem has more than 30 years in social development work as a community organizer, researcher and educator. She completed her master's degree in Sociology from Xavier University, Cagayan de Oro City and her graduate course in Demography at the Australian National University. Her most recent stint is coordinating the land administration and management project of the Institute of Church and Social Issues.

Women's Gender and Development Constitutional Reform Agenda

by **Elena O. Masilungan**

The author posed a question about the timing of current moves by the administration for Constitutional change citing a lingering distrust that only the political elite will benefit from it, and that it can be done sometime in the future when Filipinos are less polarized and the political situation is more stable.

The author cited the following limitations of the 1987 Constitution and existing laws relevant to women's gender and development agenda:

- Family is understood in the context of marriage between a man and a woman in accordance with law, even if the concept of family has evolved to include same sex unions. Such a position does not grant gays and lesbians the right to formalize their union, even if they are in a loving and supportive relationship.
- It is silent about the right of women to self-determination and bodily autonomy, including reproductive right.
- The Declaration of Principles and State Policies proclaims equal protection for the life of the mother and the life of the unborn from conception, effectively making abortion or termination of pregnancy a criminal act, even in cases when the mother's life or health is threatened.
- Sec. 4 Article III is not explicit in ruling out discrimination based on one's sexual orientation and gender identity.

The author also presented the following initial recommendations gathered from a consultation done by the National Commission on the Role of Filipino Women with various women's groups in 2005 at the height of the Charter change debate:

- ensure that proposed provisions in the new Constitution are responsive with the signs of the times such as globalization that has tremendous effects on women
- Strengthen and improve (at the maximum) or protect (at the minimum) the progressive provisions of the Constitution on social justice and national patrimony
- Compel the State to fulfill its obligations and commitments to international conventions and treaties such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Platform for Action
- Ensure that gender perspective is mainstreamed in the entire Constitution and not only in women-specific provisions.

Elena O. Masilungan is a freelance writer. A strong believer in the women's cause, she writes mostly on women and development issues. She is a member of the women's group PILIPINA.

Constitutional Reform and the Youth's Development Agenda

by **Julia Andrea Abad**

In this paper, the author cites that the present Constitution has the most comprehensive provisions supportive of youth-development policies: it affords the highest budgetary allocation for education, it mandates primary and secondary education as the State's responsibility, it recognizes the youth as a partner in nation-building, and provides direct participation of the youth in policy and decision-making through the Sangguniang Kabataan, Youth representation in NAPC and Party-List system, and in the National Youth Council.

At the same time, the author reviewed and recommended reforms on the areas most critical for the youth's development agenda - education, health, employment and participation in governance. The reforms needed, however, do not necessarily require Charter change, but a more faithful implementation of stated policies. Articles II, XIII and XIV of the 1987 Constitution already provides a "wish list" of policies to support the development of young people in these areas. The author cites that among the mandates which need strengthening relate to improving access and quality of education, particularly for tertiary and vocational education; the promotion of closer collaboration between employers and educational institutions to improve opportunities for employment; lowering barriers on return migration to encourage young migrants to come home and live and work in the Philippines; promotion of health awareness; and strengthening participation and effectiveness in youth ministries such as the National Youth Commission.

The paper also stressed the importance of ensuring the participation by the youth in any serious attempts to Constitutional change. This does not simply entail that the State provide formal opportunity for the youth to participate, but to take a more active stance in encouraging youth engagement. Providing the youth information on all facets of the Constitutional reform issues is critical so that the sector can develop its stance on the ongoing Charter change debates.

Julia Andrea Abad is the Chief of Staff of Senator Benigno "Noy" Aquino Jr., and former Program Officer of the Asia Pacific Philanthropy Consortium. She completed a BA degree at the Ateneo de Manila University before earning her Master in Public Policy at the Kennedy School of Government, Harvard University.

What Good is Our National Patrimony if We Cannot Make Money Off of It?

By Joel Rocamora

The debate on national patrimony may be the most emotionally explosive in the issue of Constitutional reform. On the one hand, Constitutional restrictions may not be the most effective. On the other hand, there is no evidence that foreign investors will respond to opening up the economic provisions of the Constitution. Instead, investors generally point to political factors – corruption, unstable regulatory and policy environment, peace and order situation – as the main investment disincentives.

While the Constitution protects our national patrimony, it has been relatively easy for the government to get around these constitutional restrictions. The author noted a related study by Eric Quevedo (2006) of the legal dodges availed of by the government to open foreign participation in restricted industries, where “property and contractual rights are unbundled and repackaged into new institutional arrangements, so that the components parceled out to foreign participants do not add up to operation and control of the public utility by a foreign entity.” The author cited examples of how the government gets around the Constitutional restrictions, i.e. in power generation, water distribution, MRT operation, lotto operation, in the ownership of land, in media and in mining industries. A specific example where the “unbundling” of the industry structure may be observed is cited by the study in power generation – foreign entities generating power for their own use and selling excess to NAPOCOR are not constitutionally impeded to do so since, as ruled by the Department of Justice (DOJ), the furnishing of electricity to one client does not make the furnishing entity a public utility. Another case is cited in water distribution – although foreign shares in Maynilad and Manila Water are kept to 40%, both companies are challenging the constitutional restrictions and have pending cases in Supreme Court on this. DOJ again ruled that “while a foreign company may not be qualified to operate water facilities if it will take, divert and pump water from its natural sources, it may legally process or treat water after it is removed from the source by a qualified person.” Also the MWSS Board later resolved that Maynilad and Manila Water are mere contractors.

The author recommends preventing the government from making the national patrimony provisions inutile:

1. More than advocating that we keep the national patrimony provisions of the 1987 Constitution, we should carefully examine the restrictions on foreign investment one by one, then pick which provisions we want strengthened and which ones we believe are unnecessary or go against other economic goals.
2. The Constitutional provisions on national economy and patrimony must be reviewed and strengthened, not only on the basis of “who owns”, but more on “who controls” and “who benefits” from the operation of protected industries.

Joel Rocamora is the former Director of the Institute for Popular Democracy and a fellow and former co-Director of Transnational Institute (TNI), an international network of activists-scholars committed to critical analyses of today's global problems. He was in political exile during the Marcos regime, returning to the Philippines in 1992 where he worked as a political analyst at the Ateneo Centre for Social Policy and Public Affairs and as a consultant to several development NGOs. He has written prolifically on his main areas of interest: Philippine & South East Asian Democratization Process, New Kinds of Political Parties and Participatory Democracy.

Rethinking Federalism in the Light of Social Justice

by **Agustin Martin G. Rodriguez**

The civil society and academe's campaign for federalism since the 1990s was borne out of the experience that our nation is badly-governed. Federalism is seen to address centuries of injustice and ill-governance. In most recent years, the campaign gained support from the politicians. What could have been ideal for the federalism movement became a nightmare, because the politicians perverted it – the calls for federalism for empowerment and good governance were being used as an instrument for consolidating traditional political power and to sustain an administration that is losing its credibility. This move to reformulate the very basic structure of governance to serve elite interests reflects how Constitutional change is being used as a tool to serve a group in power.

There have been success stories of LGUs using their power to raise revenues, enter into successful development ventures with the private sector, and formulate viable development plans. But overall, it seems that devolution and autonomy are not enough. Even in the autonomous regions, the president still has the power of general supervision.

It seems then that it is not yet time to push for a federal Philippines. Selling federalism should not even be the focus of the campaigns in the next three years at least. The present administration and its allies among patronage and traditional politicians would undermine social justice and would bring greater chaos and hardship if a federal Philippines is pushed today. There is no clear civil society consensus behind the move and, from the administration-sanctioned proposals for Constitutional change, there is no indication of consensus on the how and when of federalization.

The question then is: can we still meaningfully push for Constitutional change and for federalism under the current administration? The author believes we can, but it must follow an organic process and deep constituency building.

- Focus efforts on the local level before we build a stronger national movement.
- Be on discourse mode on which the whole process of consultation is designed so that it becomes a shared process of reflection that asks the hard question: is federalism necessary and are we ready for it?
- Start a national policy study, versus anecdotal and best practices studies, on how devolution is proceeding.
- Include the federalist agenda in many ongoing reform campaigns.
- Undertake networking with local leaders who are able to realize the potentials of local autonomy for development and good governance.

Even at the round table discussion where this paper was presented, there was consensus that the issue of federalism is not only a question of governance and politics, but more importantly of social justice. If there would be asymmetrical implementation of federalism, those with successes in local autonomy and self-determination, as well as complete implementation of social justice reforms, i.e. agrarian reform, UDHA, Fish Code, etc. are the ones ready for the adoption of the federalist frame.

Agustin Martin G. Rodriguez is an Associate Professor of Philosophy at the Ateneo de Manila University and has published several books on Politics and Governance.

Constitutional Electoral Reform Agenda

By Ramon Casiple

The 1987 Constitution laid the ground for broadening democracy by providing: right of suffrage for overseas Filipinos, a system of direct people's initiative and referendum in lawmaking, establishment of a party-list system for marginalized and underrepresented sectors, ARMM and CAR, local sectoral representation, guarantee of opportunities for public service and prohibition of political dynasties, recognition and participation of non-governmental organizations in governance, and various human rights safeguards. Yet only some of these provisions are being implemented, albeit with weaknesses.

There are many areas for reform in the election process, and some of them can be addressed through legislative or executive means. However, there are also electoral weaknesses precisely because of constraints in the Charter, such as: 1) right to suffrage is not fool-proof of vote-selling/buying and many sectors (e.g. overseas Filipinos) are disenfranchised; 2) no equal right to public office because of the "required" election spending that comes with running for office; 3) no corresponding implementing rules and regulations on the ban on political dynasty; 4) no constitutional framework to enable the growth of political parties system; 5) role of civil society in the electoral process is undermined especially when government officials select the NGOs which can participate in the process; 6) lack of integrity in the selection, qualification, appointment of election commissioners (appointed by the President); 7) weak authority and power of COMELEC – instead of administering the elections, it largely works on deciding election protests; 8) lack of integrity in the institution that handles electoral protest – no clear jurisprudence; electoral tribunals are handled by legislators; 9) initiative and referendum process is being utilized by politicians for their own ends.

The author stressed that the Constitutional reform process should be done within a framework that broadens people's participation in democracy, ensures free and fair elections and other democratic processes and consolidates our democratic institutions. His Institute for Political and Electoral Reforms (IPER) proposes the following:

- Mandate the development of genuine political party system, citizen-voter education, participation of people's organizations in elections and ban political dynasties;
- Mandate a permanent and publicly accessible list of voters, viable process of registration dispute resolution, and safeguard voter fraud;
- Appoint COMELEC and local electoral boards on a per-election basis, while maintaining a permanent election secretariat whose role is to administer elections;
- Make transparent the appointment of COMELEC and local election boards;
- Abolish all Congress electoral tribunals and leave the job of addressing electoral complaints to the courts;
- Limit election spending, audit election finances of parties and candidates, strictly prohibit use of government funds, personnel and resources for election campaigns, and ban vote-buying, turncoatism and election violence
- Remove barangays from the President's general supervision
- Prohibit interference of government personnel, police and military in the electoral process.

Political analyst **Ramon Casiple** is the Executive Director of the Institute for Political and Electoral Reform (IPER). His opinions on Philippine politics and elections are much sought after, as Chairperson of the Consortium on Electoral Reform (CER), a coalition of organizations committed to strengthening Philippine democracy by pushing for electoral reforms and organizing activities that broaden citizen's participation in democratic governance and promote credible elections.