

# Civil Society Monitoring of the Medium Term Philippine Development Plan (MTPDP)<sup>1</sup>

## Assessment of Constitutional Reform Agenda of the GMA Administration

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### A. Introduction

Charter Change or “Cha-Cha” has been the burning issue nationwide since the “Garci tapes” scandal and the mounting calls for GMA’s resignation, impeachment or ouster. Charter Change has now become very politically-charged and is seen by many as directly related to the continuing struggle of the Arroyo Presidency for political survival. This paper assesses the constitutional reform agenda of the GMA administration and raises questions whether indeed Charter Change is a serious reform agenda of the administration or it is just a tool for the President’s continued stay in power.

### B. The MTPDP and SONA Commitments on Charter Change

Soon after the 2004 elections, the Medium Term Philippine Development Plan for 2004-10 was approved by this Administration, including Chapter 25 entitled “Constitutional Reform”. Chapter 25 of the MTPDP summarizes the rationale for charter change as follows:

*The EDSA Revolution of 1986 allowed the country to restore its democratic institutions and restart its economic recovery. However, the country’s seriously weakened economy, political instability and unabated corruption have continued to retard efforts to achieve progress. Applying the solutions to these problems depends crucially on the presence of effective political institutions, effective and accountable political parties and more liberal economic policies.*

#### 1. Mode of Charter Change

The MTPDP also declares that “*The reassessment of the Constitution through a **Constitutional Convention** to implement the needed structural and systemic reforms in political institutions and in the electoral and political party systems is imperative*”.

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<sup>1</sup> The Civil Society Monitoring of the MTPDP is a continuing effort of the Caucus of Development NGO Networks (CODE-NGO) with other civil society organizations; for this assessment, CODE-NGO worked with the Citizens for ConCon (C4CC), Foundation for the Philippine Environment (FPE), Institute on Church and Social Issues (ICSI) People’s Campaign for Agrarian Reform Network (AR Now!), Dr. Cielito F. Habito, Dr. Edsel L. Beja, Jr. and Mr. Roy Cabonegro.

### ***Why ConCon?***

Constitutional Convention (ConCon) was the mode chosen by the President during the campaign trail. In her previous public pronouncements, she chose Constitutional Convention because, according to her, it is less divisive. She also said that she did not want her intention to be suspect.<sup>2</sup>

It is also more popular. Not that Charter Change was popular during that time. The Social Weather Stations (SWS) survey showed that most of the Filipino adults did not see the need for Charter Change. But for those who believed that ChaCha should be pursued, most wanted a Constitutional Convention.

Various civil society groups led by the Citizens for ConCon (C4CC) coalition, Churches (Roman Catholic, El Shaddai, and Iglesia ni Kristo), influential business groups and personalities like Cory Aquino and Cardinal Sin were all for a Constitutional Convention. This position was clearly manifested during the 2003 Senate hearings on Constitutional Amendments when most of these groups staged a rally in front of the Senate Building and jointly fought the Constituent Assembly being proposed by the Chairperson of the Senate Committee on Constitutional Amendments, Senator Edgardo Angara. Most of the senators led by Senate President Franklin Drilon had earlier signed a resolution for Constitutional Convention to counter the offensive by the House of Representatives led by Speaker Jose de Venecia for a Constituent Assembly mode. The Senate finally passed a resolution for a Constitutional Convention and by December of 2003, Speaker de Venecia had to change tune and said he was already amenable to a Constitutional Convention. But it was too late. The Senate decided that there was not enough time before the 2004 elections, and instead attended to the 2004 budget.

This was the backdrop of the 2004 Presidential campaign. The President's campaign platform included federalism and Constitutional Convention elections to be held simultaneously with the 2004 Barangay elections. There was already a consensus among the government and many civil society organizations for Charter Change, though they may differ on their reasons or agenda.

## **2. Content of Charter Change**

The MTPDP states that *“The reassessment may include:*

*(a) shift from the current presidential form of government with its separation of powers between the executive and legislative to a unicameral parliamentary form of government that would unify and coordinate those two functions in the parliament; change from the present centralized unitary system to a decentralized federal system;*

This shift is seen to address the weakness of the Presidential system.

“The country's political institutions have become less effective to address problems under the present presidential setup. The separation of powers and checks and balances between the

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<sup>2</sup> January 15, 2003, in a round table discussion with Japanese media people.

executive and legislative branches often result in delays in legislation and policymaking. The executive has to resort to compromise and concession to pass the annual appropriations bill and the other major initiatives. But even when good legislation is passed, it may suffer from execution problems because of the lack of legislative support to impose or raise taxes that are needed for its implementation. National policymaking has come to depend on the lowest-common-denominator of agreement among executive and legislative branches of the government.”

***(b) the restrictive Constitutional provisions on national economy and patrimony to bring in investment that will create jobs and opportunities and eventually reduce poverty. Specifically, the Constitutional preference to Filipinos in the granting of rights, privileges, and concessions on national economy and patrimony and in certain economic activities shall be reviewed. A categorical definition and scope of the national patrimony shall also be provided.***

This agendum is most elaborated among the rest.

“Along with these political challenges, the paucity of investment and domestic capital resources remain to be one of the fundamental problems of the economy. Though various structural reforms in banking, power and retail trade sectors helped sustain the moderate growth of the Philippine economy, such legislative and administrative reforms fell short of delivering the expected investments that would create jobs and spur economic growth.

It is observed that the problem is systemic, rooted in the protectionist policies in the Constitution. These policies prevent the flow of foreign capital, technology and production skills into our economy.

The Constitutional provision providing for a self-reliant and independent economy effectively controlled by Filipinos, limiting the practice of all professions to Filipino citizens, reserving certain areas of investments, and giving preference in the grant of rights, privileges, and concessions covering national economy and patrimony to Filipino individuals and corporations, stifled economic innovations and reforms that would open up the economy to foreign capital and investment. The question on what constitute national patrimony also remains a problem in determining areas of investments wherein foreign equity may be allowed.

Moreover, the limitations set by the Constitution on the ownership, transfer and conveyance of private lands have barred foreign individuals (save in case of hereditary succession) and foreign corporations to own land. These discouraged foreign investor’s confidence for long-term ventures. The limitations of foreign equity in domestic public utilities to forty percent (40%), advertising industry to thirty percent (30%), educational institutions to forty percent (40%) and no equity participation at all in mass media prevents access of both international and domestic capital and the transfer of new technologies. These would have delivered the vital facilities and services in an economical and financially prudent manner.

The difference between the ownership requirement in media (100% Filipino) and in telecommunications (40%) likewise hinders the convergence of media, information technology and telecommunications industries. On the other hand, limiting foreign equity participation (40%) in companies engaged in developing natural resources and confining involvement of foreign corporations to technical and financial assistance in the large-scale exploration, development and utilization of minerals, petroleum, and other mineral oils, are major stumbling blocks in the entry of capital and more efficient technology needed in the exploration of natural resources.”

***(c) structural and functional reforms affecting the electoral and political party systems;***

“The 1987 Constitution provides for a free and open party system that would afford free choice to the people and encourage citizens’ participation in governance. Seventeen years into the implementation of the charter, personalistic politics and the lack of effective, cohesive and functional political parties that focus on issues and policies still dominate the political system of the country. The current party system offers no meaningful policy choices since political parties form around well known personalities and families, instead of well-defined programs of government. This has made popularity, and not intelligence, competence, or experience, the winning qualification for public office.

Though elections enable the country to change its leaders from time to time, these have not made much difference to improve leadership and governance. Elections cannot make political leaders accountable to the people without effective and responsible political parties that offer meaningful policy alternatives.”

***(d) defining political dynasties and making the Constitutional prohibition against political dynasties self-executory.***

There is no elaboration in the document regarding the rationale for this agendum.

**C. Performance of the GMA Administration in its Constitutional Reform Commitments and Targets**

**Two-Step Process and Content**

From the reports and documents of the Constitutional Commission and the House of Representatives’ Committee on Constitutional Amendment and the resolution of the so-called “People’s Initiative”, it is apparent that Malacanang is pursuing a two-step Charter Change. The first step was aimed at installing a unicameral parliament (originally by mid-June of 2006) through a combination of Constituent Assembly (Con-Ass) and “People’s Initiative”. The second was to do a Con-Ass before the year ends to address the federalism issue, delete the nationality provisions in the current Constitution, and to extend and expand the powers of the President and her allies.

## **Mode of Charter Change**

- 1. The GMA Administration succeeded in pushing for Con-Ass and People's initiative instead of ConCon as promised.***

The GMA Administration has committed to three modes of Charter Change over the past two years abandoning in the process the MTPDP and Presidential campaign commitments. Prior to the "Garci tapes" scandal in June 2005, it was pursuing ConCon. After the scandal it began to pursue Con-Ass and "People's Initiative" substantiated by a Malacanang-created Constitutional Commission (ConCom).

Amidst the calls for her resignation and ouster following the "Garci tapes" scandal, Ms. Macapagal-Arroyo declared in her July 2005 State of the Nation Address that *"The mode of Charter Change is the exclusive prerogative of Congress. But a Constituent Assembly may well give our people the quickest reforms."*

In August-December 2005, the ConCom drafted amendments to the Constitution and submitted a report to Ms. Arroyo on December 15, 2005. The report was immediately sent to the Lower House as the administration seemed to assume that a Constituent Assembly would then be formed. In that same month, the House passed a resolution calling for a Constituent Assembly. In March 2006, a "People's Initiative" signature campaign was launched through nationwide Citizens Assemblies, orchestrated by the Department of Interior and Local Government (DILG).

- 2. It also succeeded in consolidating its own constituencies such as the local government units, Congress and their mandated organizations formed under a movement called Sigaw ng Bayan.***

Nine million signatures, more than the required 5 million signatures, were said to have been collected in two months since March 2006 by Sigaw ng Bayan movement led by Raul Lambino, a member of the Constitutional Commission. Although the process of signature gathering and the authenticity of many of the signatures were questioned by many groups, this "People's Initiative" mobilized the vast networks of the local governments under the Union of Local Authorities of the Philippines (ULAP) and the DILG.

On another front, House Speaker de Venecia claims to already have around 168 signatures (out of the required 195 or  $\frac{3}{4}$  of total members of the Senate and the House) to support the formation of a Constituent Assembly with or without the Senate's concurrence.

- 3. It also succeeded in getting the ire of civil society (NGOs, POs, academe, media, and Churches), the Senate, a significant segment of the business community, and the political opposition and failed to establish an interim Parliament by mid-year of 2006 as scheduled.***

A pastoral letter by the Catholic Bishops Conference of the Philippines (CBCP), public statements by coalitions such as STOP ChaCha and One Voice and mobilizations in the streets against GMA's Charter Change all combined to delay if not altogether kill the "People's Initiative". Also, the House Speaker still cannot get the necessary number (195) given also the opposition in the House of Representatives and Senate.

Most of those who want Charter Change want to do it through a more democratic, less-self-serving Constitutional Convention or ConCon. But they also believe that ConCon should happen only after Ms. Arroyo is impeached, forced to resign or democratically ousted or removed. They believe that any Charter Change, even through a Constitutional Convention, under the current President who is fighting for political survival will be marred with bribery, cheating, and violence. CODE-NGO, the broadest coalition of NGOs in the country and the secretariat of the Citizens for ConCon Coalition in a statement said: *Changing our Constitution, the basic law of our land, should be done only with utmost transparency, informed people's participation and unquestionable intentions. We believe that the current so-called people's initiative does not measure up to these standards. If this initiative is continued, it will only exacerbate, not solve, the government's crisis of legitimacy and credibility. We ask that this dubious "people's initiative" be stopped.*

The Bishops have this to say: ... *In the light of the difficulties connected with the present efforts to change the Constitution, we, your Pastors, invite the People of God to take up once again the responsibilities of good citizens, who love this country and seek its true good. We remind you of the words of our Holy Father: "The direct duty for a just ordering of society ... is proper to the lay faithful. As citizens of the state, they are called to take part in public life in a personal capacity. They cannot relinquish their participation ... to promote ... the common good." (Deus Caritas Est. 29) We invite you then to reflect and pray over what we have presented in this statement. If, before God speaking in your conscience, you agree, we call upon you to discern the appropriate actions. As Christians, we cannot be complacent and inactive in the face of this present issue of charter change, which is so crucial to the future of our country and people. Vigilance, education, principled opposition may be necessary steps to* take."

## **Content of ChaCha**

### ***The GMA administration has succeeded in substantiating four of the five major agenda as stated in MTPDP***

Over the past year, the Arroyo administration was able to flesh out details of its Constitutional Reform Agenda. Of the five mentioned items in the agenda, four were elaborated quite extensively by the Constitutional Commission. However, the one pertaining to political dynasty was altogether abandoned and was in fact deleted from the proposed Declaration of State Principles and Policies.

The Constitutional Commission Draft of December 15, 2005, the Petition on People's Initiative, House Resolution 1230 filed and signed by 168 Congresspersons on April 25, 2006 are almost the same in most aspects. They propose the establishment of a unicameral

parliament, a long transition to a federal set-up, support to political party reforms, and the opening up of the economy to foreign ownership very much similar to the ones envisioned in the MTPDP.

***(a) shift from the current presidential form of government with its separation of powers between the executive and legislative to a unicameral parliamentary form of government that would unify and coordinate those two functions in the parliament;***

The documents propose:

- the establishment of a unicameral parliament composed of *as many members as may be provided by law*, elected from single member districts, with at least 250,000-300,000 population, for a term of five years;
- the automatic membership of current Cabinet members and Congresspersons in the interim parliament;
- the Prime Minister to be elected from among the members of the Parliament, the President as head of state; and
- the incumbent President to retain powers during the transition till 2010, except those that will be delegated to the Prime Minister who shall serve as Chief Operating Officer of the government.

***(b) change from the present centralized unitary system to a decentralized federal system;***

More elaborate and intensely debated in the Constitutional Commission, members agreed not to rush the shift from unitary to federal system. Joel Rocamora of the Institute of Popular Democracy described the ConCom's proposal as sophisticated from the vantage of institutional design.

The body suggested a process to start with strengthening local autonomy. Art. XII, Sec.3 says that "Parliament shall strengthen the existing Local Government Code to provide for a more responsive and accountable local government structure instituted through a system of decentralization and devolution with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources."

The next step addresses another major consideration, getting local people to take the initiative in determining the boundaries of federal states and when they take that step. Art. XII, Sec. 12 says: "An autonomous territory may be created in any part of the country upon a petition addressed to Parliament by a majority of contiguous, compact and adjacent provinces, highly urbanized and component cities, and cities and municipalities in metropolitan areas through a resolution of their respective legislative bodies." Parliament will then pass "...an organic act which shall define the basic structure of government for the autonomous territory, consisting of a unicameral territorial assembly whose members shall be elective and representative of the constituent political units. The organic acts shall provide for courts consistent with the provisions of their constitution and national laws."

Section 16 delineates the powers of the federal state. The new federal state will be formed after it is approved in a plebiscite within the territory. “Within one year and after at least sixty percent of the provinces, highly urbanized cities and component cities of the country shall have joined in the creation of different autonomous territories, upon petition of majority of such autonomous territories through their respective regional assemblies, the Parliament shall enact the basic law for the establishment of a Federal Republic of the Philippines, whereby the autonomous territories shall become federal states.” (Art. XX, SEC. 15, Transitory Provisions)

Through this measure, the shift to federalism is allowed sufficient implementation time, one that is not predetermined, and is paced by local initiatives. To assist the process, “...a constitutional Preparatory Commission shall be created that shall study and determine all constitutional, legal, financial, organizational, administrative, and other requirements necessary or appropriate... “. (Sec.16)

The House Resolution, however, only gave one paragraph in the entire document to the envisioned shift to a federal system, as follows:

Sec. 24. A federal system of government consistent with the unicameral parliamentary system provided for herein shall be installed within ten (10) years from the approval of these amendments. The parliament shall provide by law the division of the country into as many “independent states”, allocating uniform powers thereto, and reserving to the federal government powers on national defense, foreign relations, monetary policies, and such other powers it may deem imperative.

***(c) the restrictive Constitutional provisions on national economy and patrimony to bring in investment that will create jobs and opportunities and eventually reduce poverty. Specifically, the Constitutional preference to Filipinos in the granting of rights, privileges, and concessions on national economy and patrimony and in certain economic activities shall be reviewed. A categorical definition and scope of the national patrimony shall also be provided.***

The ConCom Report and the House Resolution 1230 both proposed the deletion of nationality provisions in the 1987 Constitution to expand foreigners’ participation in vital areas of the economy in particular the use and ownership of land, natural resources, media, advertising, education, and public utilities. The Con Com drafts eliminated the following provisions:

“...the State shall protect Filipino enterprises against unfair foreign competition and trade practices.” (Art. XIV, Sec.1, A. National Economy)

“Parliament shall, upon recommendation of the economic and planning agency, provide for limitations on foreign ownership in certain areas of investments when the national or public interest dictates.”

The ConCom, however, limited the acquisition of alienable lands of the public domain to Filipino citizens. “Save in cases of hereditary succession, no private agricultural lands shall be

transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain. Lands classified in accordance with law as industrial, commercial or residential may be transferred or conveyed to foreign individuals or corporations with foreign ownership. Parliament shall define the conditions for ownership of allowable lands by foreign individuals and by corporations with foreign ownership”. (Art. XIV, Sec. 6, “National Patrimony”).

In the House Resolution, however, one section that seemed to be a catch-all was added: “*Sec. 12. Notwithstanding the provisions of sections 2 and 11 hereof, citizenship restrictions are hereby lifted relative to the ownership and lease of alienable lands of the public domain which include agricultural, residential, commercial and reclaimed lands, development of natural resources, ownership of franchises and of public utilities, mass media, education, insurance and advertising, unless otherwise provided by law. Parliament shall provide for limited foreign ownership in regard to franchises granted to corporations involving public utilities of large scale.*”

***(d) structural and functional reforms affecting the electoral and political party systems;***

The ConCom draft has the following provisions:

*SEC. 2. Parliament shall provide a system for securing the secrecy and sanctity of the ballot as well as a system for absentee voting by qualified Filipinos abroad. It shall also design a procedure for the disabled and the illiterates to vote without the assistance of other persons. Until then, they shall be allowed to vote under existing laws and such rules as the Commission on Elections may promulgate to protect the secrecy of the ballot.*

*2) The members chosen by the political parties shall constitute thirty per centum of the total number of members including those elected by Parliament. In the choice of such members, the political parties shall ensure that the labor, peasant, urban poor, veterans, indigenous peoples, women, youth, differently-abled, and such other sectors as may be provided by law, except the religious sector, are properly represented.*

The House Resolution on the other hand has the following:

*“Sec. 6. Political parties must be strengthened and must receive equitable subsidy from government. Incumbent elective officials shall forfeit their seats if they change parties within one year before the next elections.”*

***(e) defining political dynasties and making the Constitutional prohibition against political dynasties self-executory.***

The ConCom draft and the House Resolution did not provide for this section. Instead the ConCom draft deleted the section on political dynasty (Sec 26, Art 2). The House Resolution just retained the previous provision which did not make it self-executory.

## **D. Assessment of Targets and Commitments**

### **First, Staying in power seems to be the main determinant in the President's push for Charter Change.**

1. ChaCha seemed to have been pushed during the Presidential campaign period to win over those that will deliver the votes. It was an expected tight Presidential contest. Ms. Arroyo might have pushed for federalism to win over the votes from Mindanao and of civil society, and the local governments nationwide pushing for federalism. Unicameral Parliamentary was pushed to cater to Speaker de Venecia's Congress' advocacy. She also chose Constitutional Convention because it was more popular than Con-Ass. She also wanted it done early on in the next administration preferably simultaneous with the Barangay Elections in 2004 not only because it would be less costly. It was also genuinely less-suspect and acceptable.

2. When the President finally "won" the 2004 Presidential elections, however, two things could be immediately noted. First, the State of the Nation Address of 2004 postponed discussion on Charter Change for a year to focus government's energy on the fiscal deficit. Second, unlike the campaign promise, the MTPDP was silent on the timeframe for the Constitutional Convention. Indeed, for almost a year President Arroyo was silent on Charter Change. More disturbingly, during this period, she abolished the Office of the Presidential Adviser for Constitutional Reform.

3. She only began to talk about it again in May 2005. She was still for Constitutional Convention. In March 2005, leaders of the Citizens' Movement for a Federal Philippines (CMFP) met with Executive Secretary Rigoberto Tiglao and proposed that the President take leadership in crafting the changes to the 1987 Constitution through a Constitutional Commission. She rejected this proposal, saying it was redundant, and affirmed her earlier position to do a ConCon. The broad coalition Citizens for ConCon (C4CC), a coalition of ten national NGOs and networks held a press conference in early June 2005 lauding the President for publicly announcing her preference for a Constitutional Convention.

### **Second, political survival and continued stay in office seem to determine the mode and content of Charter Change.**

The "Garcia Tapes" scandal and the struggle for legitimacy influenced the charter change process and content. Charter Change has become more a tool for political survival than for real and meaningful reforms.

#### ***The Garcia Tapes Scandal and Con-Ass***

The "Garcia tapes" scandal broke out in June 2005. The tune changed amidst massive calls for her resignation and ouster. Immediately Malacanang was already talking about a Constituent Assembly and in the July 2005 State of the Nation Address (SONA), she mobilized her LGU supporters in Congress and announced the start of the Great Debate on Charter Change. She expressed her preference that the debate to happen in a Constituent Assembly. These

pronouncements received the longest standing ovation from the gallery mostly composed of her supporters. The opposition Congresspersons were notably wearing “(im)peach” ribbons and dresses, and some of them were outside and in the streets with thousands of protesting people shouting for her ouster and confronting the heavy phalanx of police formation and barricades. The “Garci tapes” scandal and what the government planned to do about the burning issue at that time were totally ignored in the SONA.

### ***ConCom***

Malacanang pursued the momentum. By August, Malacanang revived the idea earlier proposed by CMFP, and formed the 55-member Constitutional Commission, almost all of whom were supporters of Ms. Arroyo. Four prominent leaders of CMFP were in the most influential positions in the Commission, namely: Dr. Jose Abueva, Chairperson, Rey Magno Teves and former Senator Ting Paterno, Chairpersons of the Committees on the Structure of Government and Economic Provisions, respectively, and Lito Lorenzana, Secretary-General<sup>3</sup>. At the height of the impeachment proceedings at the House of Representatives, the ConCom members were barnstorming the provinces with consultations on Charter Change. By December 2005, the ConCom report was finished and the House had passed a resolution on Con-Ass.

### ***Peoples’ Initiative<sup>4</sup>***

Noting the adamant opposition of the Senate led by Frank Drilon, who, together with his colleagues in the Liberal Party (LP), allies in civil society and resigned Cabinet members of Ms. Arroyo (Hyatt 10), earlier called for the latter’s resignation, the so-called People’s Initiative was launched. Purportedly to mobilize “people power” to overwhelm the Senate’s

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<sup>3</sup> It must be said here, however, that CMFP was divided on the legitimacy issue. In fact most of CMFP members including its Secretary-General were calling for GMA’s resignation/ouster.

<sup>4</sup> The constitutional change proposed by a newly formed Sigaw ng Bayan and assisted by DILG and ULAP that would transform the current bicameral-presidential system into a unicameral-parliamentary system is not an amendment but a revision and therefore illegal. Also, the Supreme Court has ruled in *Santiago versus COMELEC (1997)* that the current law on referendum and initiatives is not sufficient for amending the Constitution and the COMELEC was enjoined from ‘entertaining or taking cognizance’ of a petition for initiative on amendments to the Constitution.

The Catholic Bishops Conference, in a Pastoral Letter dated April 7, 2006 criticized the way signatures have been collected: “*We view with alarm, however, the present signature campaign endorsed by the government. Signatures are apparently collected without adequate information, discussion and education. The manner in which these signatures are supposedly collected, including door to door campaigns, are not conducive to the kind of informed participation that such fundamental changes demand...This lack of clarity on how the changes will truly benefit our nation raises disturbing questions about who will truly benefit from these changes. It seems that the changes as they are being proposed now will benefit mainly those who already hold positions of power and privilege in the current political system. This raises questions as to the authenticity of this signature campaign and the motives of those who promote it. Is this truly a "people's initiative" or the initiative of self-seeking political players wanting to entrench in power? We might further ask the question of the source of funding for this entire operation.* “

opposition, 9 million signatures were gathered across the country in two months by newly-formed and Malacanang/DILG-supported Sigaw ng Bayan movement.

***Content: From Progression to Retrogression***

While substantive discussions and proposals were drafted by the ConCom on the issues of federalism, parliamentarism, and economic provisions, one would wonder whether they are indeed structures and forms of government and policies to further the reforms initiated in the 1987 Constitution or whether they were bringing us back to the dark years of Martial Law and to ensure the political survival of the President. The findings of various civil society and lawyers groups are quite disturbing.

*The proposed revisions will change the direction and development strategy of the country and make it retrogressive.* The development strategy bias will shift from self-sufficiency and equity-led sustainable development to import-dependent growth-without- equity development strategy previously pursued by the Marcos administration. In the proposed Preamble, for example, the significance of social justice is de-emphasized. Important words such as “independence”, “the rule of law”, “truth”, “freedom”, and indeed even “love” are also proposed to be deleted by the Constitutional Commission . Also, in Article 2, on the National Patrimony, section 2 which declares as national policy and principle that “national development and industrialization will be based on sound agricultural modernization and agrarian reform” will be deleted. The section that provides for the exclusive use to Filipinos of the country’s fishing grounds is also proposed to be deleted. The indigenous peoples and small farmers will also be forced to deal with the influx of investors hunting for land to lease either as plantation area or for mining, logging, or real estate purposes. The section establishing a 40-60 ownership in favor of Filipino businesspeople and the land lease terms and ceilings will also be deleted in favor of 100 percent foreign ownership. Land prices can be expected to rise as more foreigners would look for land to buy or lease. It would then be more difficult for urban poor people to acquire a piece of land for decent housing.

*The proposals will make government more repressive* as they curtail civil liberties such as adding the word “responsible” in the exercise of freedom of expression, the “defanging” of the judiciary by the removal of “expanded” judicial review as well as the deletion of the entire paragraph establishing the duty of the court to settle controversies, etc., and most dangerously, making it easy for the government to impose Martial Law with the deletion of the requirement of report to Congress/ National Assembly and a Supreme Court Review.

*They will undermine the country’s independence and make it more vulnerable to foreign military interests* as they delete the word “ independence” in the preamble and the national policies on freedom from nuclear weapons (Art 2, sec 8) and foreign military bases (Art 18, sec 25).

*Finally, and most dangerously, the proposed article on transitory provisions (Art 18) will ensure GMA to rule both as head of government and state until 2010 and beyond, a virtual dictator,* as it cancels the elections scheduled in 2007, gives to the Interim Parliament the decision when to hold elections, and ensure overwhelming majority of loyalists in the Interim

Parliament which would then be composed of all existing Congresspersons, Senators, and existing Cabinet members.

In sum, the gains that we made after the 1986 People Power Revolution would be reversed, with the power of GMA and allies expanded while that of citizens and civil society will be significantly diminished.

**Third, serious questions are being raised by credible personalities whether indeed the objectives as set in the MTPDP would really need Constitutional revisions.**

Is it possible that the five agenda enumerated in the MTPDP could be addressed already using existing laws and structures? Is gridlock between the Senate and the House and between the executive and the legislative branches the real problem? Or it is the leadership of the President? Studies have not shown the direct correlation between economic development and the parliamentary systems. There are highly developed countries with unicameral parliamentary governments just as there are corrupt and least developed countries with unicameral parliamentary governments. The proposals by ConCom and the House are like jumping from the frying pan to the fire, according to Rocamora. The unicameral parliament as proposed will just consolidate the local elites hold in national government.

While many believe and concur with the idea of building up federal system in a more systematic and unhurried way as suggested in both proposals, questions are raised whether the leadership is really serious in it. Why then have they not moved and made a priority legislation the expansion of local government's share of the national wealth? Why can not the national government start to devolve more powers to the regional governments? A legislation may do and a Constitutional revision may not be needed for this.

It is also being asked no less than leaders in the business community why there is a big preoccupation by the ChaCha proponents on opening up the economy to foreign investments. First, 99% of our enterprises are small and medium including our 12 million jobs in the agriculture. One wonders who will benefit most from the proposed Constitutional revisions. Even big business leaders have not put constitutional reform as priority. They listed corruption and poor infrastructure as priority concerns.

They also say that the country does not need constitutional change to enact a political party reform legislation. This was promised in the MTPDP but nothing is moving in Congress in terms of helping build strong and program-based political parties.

Finally, if indeed they are serious in reforms, why did the proponents propose the deletion of the section on curbing political dynasty in the Declaration of Principles and State Policy, contrary to the one written in the MTPDP? It is already recognized that one of the major maladies in the country is the proliferation and the continuous expansion of power of local political dynasties that undermine the implementation of current social reform laws.

## Conclusions

*First*, As of now, the elite traditional politicians and their voices seem to be dominant in the current Constitutional change content and processes. According to a political analyst Ramon Casiple, the proposed ChaCha is not Constitutional reform but a democratic regression!

*Second*, the GMA administration has not succeeded in getting the support of key institutions for its ChaCha agenda. The Senate continue to provide a big obstacle while the various civil society groups (NGOs, POs, Churches, media, academe), and business institutions are consolidating against it. Most importantly, the general public does not accept the agenda. The most recent SWS survey showed that if pursued and a plebiscite is held today, 67% of Filipino voters will vote NO to the administration's proposition!

*Third*, the substance and process of Constitutional Change has been markedly influenced by the continuing struggle of Ms. Arroyo to survive politically, thus, making Charter Change less a tool for meaningful reforms but more a vehicle for her continuous grip on power. Thus, unless the legitimacy issue is resolved, charter change led by GMA will not be credible, objective, unifying, and popularly acceptable.

Most progressive civil society and political parties believe that Constitutional reform is necessary to substantially expand political, economic, and cultural democracy. Many of them believe that perhaps a federal-parliamentary government would be a better system in the Philippines. But they also believe that good governance and broader implementation of asset reforms that would expand the number of independent middle class do not necessarily need immediately a charter change. After all it is the balance of forces between the progressive movements and the traditional politicians that would eventually determine the fate of the country. Perhaps, the STOP (Sa Tamang Oras at Paraan) ChaCha movement is in the right direction.

## E. Recommendations

1. Continue to address the issue of the President's legitimacy and electoral fraud.
2. Ensure the 2007 elections are held and become a real referendum on the President's legitimacy issue.
3. Ensure a mechanism for a thorough, broad-based and meaningful debate and public education on key Constitutional reform issues for people to form informed opinion and position.
4. Create a civil society/basic-sector-led process, which may include the creation of a Citizens' Constitutional Commission, to review the 1987 Constitution towards a more expanded social justice and human rights provisions, more autonomy to regions, more gender/ethnicity/age/environment-sensitive, expanded representation of the basic sectors' interest.
5. Do reforms now by revamping the COMELEC and modernizing the elections, passing a political party reform law, and by prototyping a federal-parliamentary system in a couple of autonomous regions.

## References

AKBAYAN Citizens' Action Party. *Gloria's Cha-Cha: A Dance of Desperation*. 2006

CHR/PAHRA. *Mga Lihim sa Cha Cha ni Gloria: Mga Dapat Malaman Hinggil sa Charter Change*. Printed by C4CC. 2006

Citizens for ConCon. *Primer on Cha Cha ni Gloria: A Guide for Civil Society*. 2006

Institute of Popular Democracy. Political Brief: *Constitutional Change in the Philippines*. Reprinted by Citizens for Constitutional Convention (C4CC), 2006

Ramon Casiple. *Constitutional Change Proposals: A Critique*. A Powerpoint Presentation, 2006.

Republic of the Philippines CONGRESS OF THE PHILIPPINES Thirteenth Congress, Second Regular Session: *Resolution No. 1230: Resolution Proposing the Revision of the 1987 Constitution*. April 2006

*One Voice paid ad. What People Don't Know About the Proposed Cha-Cha*. 2006

[www.neda.gov.ph](http://www.neda.gov.ph) NEDA web site. *Medium Term Philippine Development Plan 2004-2010*

[www.pcij.org](http://www.pcij.org). Philippine Center for Investigative Journalism website

Consultative Commission, December 2005. *Proposed Revision of the 1987 Constitution*