



This primer was prepared in behalf of 37 organizations which signed the "Moves For Term Extension Will Not Die: Filipino Citizens Should Prepare For Action"; the full statement can be found and may be signed at

www.fsgo.ph

- Akbayan Youth
- Angelo King Foundation (AKF)
- Association of Foundations (AF)
- Bantay-Katarungan
- Be Not Afraid Movement
- Black and White Movement (BnW)
- Caucus of Development NGOs (CODE-NGO)
- Center for Media Freedom and Responsibility (CMFR)
- Central Visayas Network (CenVISNET)
- Coalition for a Citizens' Constitution (C4CC)
- Coalition for Bicol Development (CBD)
- Concerned Citizens Movement (CCM)
- Consortium for Advancing People's Participation through Sustainable Integrated Area Development (CAPP-SIAD)
- Eastern Visayas Network of NGOs and POs (EVNet)
- Former Senior Government Officials (FSGO)
- Foundation for Economic Freedom (FEF)
- Gaston Z. Ortigas Peace Institute (GZO-PI)
- International Center for Innovation, Transformation and Excellence in Governance (INCITEGov)
- Katipunan ng mga Anak ng Bayan (KAAKBAY)
- Kilosbayan
- Kubol ng Pag-asa
- Makati Business Club (MBC)
- Management Association of the Philippines (MAP)
- Mindanao Coalition of Development NGO Networks (MINCODE)
- Movement for the Advancement of Student Power (MASP)
- National Confederation of Cooperatives (NATCCO)
- National Council of Social Development (NCSD)
- One True Hope
- Pambansang Kilusan ng Samahang Magsasaka (PAKISAMA)
- Partnership of Philippine Support Service Agencies (PHILSSA)
- Philippine Council for Islam and Democracy (PCID)
- Philippine Educational Theater Association (PETA)
- Philippine Partnership for the Development of Human Resources in the Rural Areas (PhilDHRRRA)
- Pilipina
- Student Council Alliance of the Philippines (SCAP)
- Western Visayas Network of Development NGOs and POs (WEVNET)
- Young Public Servant (YPS)



A PRIMER ON CHARTER CHANGE

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1. What are the ways of revising or amending the Constitution?

Under the 1987 Constitution, there are three ways: a. Constitutional Convention, b. Initiative, c. Constituent Assembly

2. What is a Constitutional Convention?

A constitutional convention is a body formed for the sole purpose of amending or revising the Constitution. Its members are elected as delegates representing various districts.

3. How is a Constitutional Convention validly formed?

Two ways:

First, by a two-thirds (2/3) vote of all its members, Congress can call for a constitutional convention; or

Second, by a majority vote (50% + 1) of all its members, Congress can submit to the electorate the issue of calling for a constitutional convention. The electorate will decide through a plebiscite.

4. What is an Initiative?

Initiative is the means by which the people, not Congress, can introduce amendments to the Constitution.

5. How is an Initiative validly undertaken?

It is undertaken by a petition signed by at least twelve percent (12%) of the total number of registered voters, where every legislative district must be represented by at least three (3%) percent of the registered voters.

6. What is a Constituent Assembly?

A constituent assembly is composed of all the members of Congress (House

sustained action to stand for our rights. Among those we should consider are the following:

- a. Organize large inter-faith rallies featuring prominent spiritual leaders at the Luneta or some other suitable sites
- b. Delay Supreme Court involvement in Cha Cha by filing a case in the lower courts
- c. Invite more like-minded organizations to participate in anti-cha-cha activities and demonstrations as well as the youth and student groups
- d. Orchestrate noise barrage of increasing frequency, coverage and intensity
- e. Encourage lights out in selected areas of our communities
- f. Organize text brigades targeted at legislators to register our opposition to charter change. If need be, swamp them with messages.
- g. Mount email campaign to denounce cha-cha supporters. Clog their mailbox with condemnation of their actions
- h. Set up "Watch groups" to monitor key principals (Senate, House of Representatives, Supreme Court, Malacanang, AFP-PNP
- i. Launch caravans in selected locations
- j. Arrange Pulong bayan in neighborhoods, churches, offices, subdivisions to explain cha cha scenarios and their implications
- k. Urge boycott of businesses owned by known GMA supporters
- l. Encourage first-time voters to assert their right to directly elect the President
- m. Use or wearing of common symbols or images to signify our solidarity against Arroyo
- n. Compile and distribute DVDs featuring anti-cha-cha, corruption cases, abuses committed by the Administration. Saturate the country with audio-visual aids
- o. Consider various forms of civil disobedience
- p. Consider more radical measures if necessary.

20. What does a continuation of Gloria's regime mean for the country and its people? It means more of what we have seen and endured over the past seven years:

Graft, corruption, plunder, human rights abuses of ever-expanding scale. The Philippines may yet achieve the dubious distinction of being the most corrupt country in the world, bar none, as Gloria and those around her help themselves to the public treasury;

More poverty and misery among the poor as graft and corruption siphon off money that could otherwise alleviate their condition

Neglect of education, health care, housing & other basic services;

Environmental degradation and inadequate infrastructure;
Continuing & worsening violation of civil rights and liberties such as the right to information and the right of assembly;

Destruction of what remains of institutions of governance and check-and-balance mechanisms in government;

Institutionalization of a culture of no consequence and no accountability: recall Garci, NBN-ZTE scandal, Fertilizer Scam, corruption of the military, extra-judicial killings, disappearances. Without sanctions, wrong-doers and criminals will be emboldened to do even more violence to the economy and the body politic;

Blind loyalty & fealty to Malacanang as basis for appointments and promotions, leading to even more mediocrity in government.

Preservation of political dynasties (Arroyos in the forefront).

21. What must we do to stop the Cha Cha?

The ultimate authority resides in us, the people, and we should not squander that by sitting idly by while GMA usurps all power for herself. We must express with passion, commitment and vehemence our outrage at any attempt to extend her term even one day beyond June 30, 2010. She and her minions must understand that we are prepared to take concerted,

of Representatives and Senate) who form themselves as a body for the purpose of introducing amendments and revisions to the Constitution.

7. How is a Constituent Assembly (Con Ass) validly formed?

It is formed by a vote of three-fourths (3/4) of all the members of Congress.

8. What is the preferred mode of the pro-Arroyo congressmen in amending the constitution and why?

The pro-Arroyo congressmen prefer Con Ass because through this process they have complete control over the agenda, and it is the quickest way to fast track the changes that Gloria Arroyo and her supporters want. It is also the only remaining option for them. They tried a so-called People's Initiative that was subsequently junked by the Supreme Court for being a "deception" and a "gigantic fraud" because it failed to tell the people what the proposed amendments were. A Constitutional Convention, on the other hand, will take too long and will not satisfy their timeline as the process may extend too close to or even beyond the scheduled June 2010 national elections.

9. How do they intend to form the Con Ass?

They plan to pass a resolution calling for a Constituent Assembly. In their interpretation of the 1987 Constitution, the manner of voting of the required 3/4 of all the members of the Congress is by joint voting as one body and not by the two houses of Congress voting separately. Since a unicameral system is high on the Con Ass agenda, the Senate will never agree to abolish itself.

Based on their interpretation, the pro-Arroyo congressmen believe that there is no need for the Senate to issue a separate resolution calling for the formation of a Constituent Assembly. They will simply gather signatures of like-minded Congressmen and Senators until they reach their target number.

10. Based on this interpretation, what is the number they are trying to reach?

According to the House of Representatives website, there are 238 members (216 district and 22 party list representatives). When added to the 23

incumbent senators, the total number would be 261 legislators. Their numerical target is $\frac{3}{4}$ of this number, or 196.

11. Is their interpretation of Article XVII Section (1) of the Constitution correct?

No. Resolutions convening a Constitutional Assembly and proposals to amend the Constitution require the $\frac{3}{4}$ vote of all the members of the House and the Senate voting separately. This finds support from the following: (a) While the Constitution is silent as to whether voting should be done jointly or separately, the legislative branch is composed of two chambers and any proposal to amend the constitution must follow the procedure for the enactment of bills. Even the rules of the House of Representatives itself, specifically, Rule XX, state as follows:

“XX. PROPOSALS TO AMEND THE CONSTITUTION

Section 139. Proposals. The Congress, upon a vote of three-fourth (3/4) of all its members, may propose amendment(s) or revision of the Constitution.

Section 140. Form of Proposals and Procedure for Adoption. Proposals to amend or revise the Constitution shall be by resolution which may be filed at any time by any Member. The adoption of resolutions proposing amendments to or revision of the Constitution shall follow the procedure for the enactment of bills.” (underscoring supplied).

The procedure of the House of Representatives for the enactment of bills is found in House Rule X: Bills, Resolutions, Messages, Memorials and Petitions and require transmittal to the Senate. The House Rule X is very emphatic that even a **Joint Resolution** which has the force and effect of law must go through the same process. Nothing drives home this point more forcefully than in such mundane legislation as renaming streets. Congress always votes separately before such a bill is passed. What more when the fundamental law of the land is being changed?

(b) Since we have a bicameral system, the presumption is always in favor of bicameralism and separate voting. There are various examples reinforcing this argument.

c. Executive Secretary Eduardo Ermita, the President's alter ego, refused to categorically state during a recent media interview that GMA will step down in 2010.

18. Why is the Arroyo administration so determined to amend the Constitution?

Apart from her addiction to power and all its trappings, Mrs. Arroyo will lose her immunity from suit once her term ends in 2010. She stands to face numerous criminal cases arising from charges of graft, corruption, plunder, bribery, human rights abuses and culpable violation of the Constitution.

19. What is the timeline of the Cha Cha train?

With the impeachment complaint out of the way, the House will next focus its attention on charter change. The committee in charge of constitutional amendments will go through the motions of holding public hearings. Apart from this, there are reported plans by Speaker Nograles, Congressmen Villafuerte, Mikey Arroyo and Martin Romualdez to bypass the committee and submit directly to the plenary or the entire House the resolution calling for the creation of the Constituent Assembly, which can be convened as early as February 2009 assuming they have reached their target of 196 signatures by then. The next stop would be the Supreme Court, to rule on the joint vs. separate voting, probably by the middle of 2009 when more compliant jurors take their seats.

With the field cleared of the legal hurdles, the Con Ass can go through the charade of proposing the amendments. Count another 90 days, the outer limit for holding a plebiscite, and we could have one by September 2009. The plebiscite itself could be manipulated. Voters will be asked to simply vote “Yes” or “No”. Or proponents can take a page from the Marcos Constitution which, with the blessings of a docile Supreme Court, was “approved” by a mere showing of hands during “citizens' assemblies. At all events, the results of a plebiscite would be a foregone conclusion with the Comelec, local government officials and the military delivering the desired results.

15. If that is case, what is the real, bottom-line objective of Con Ass?

Without a doubt, the ultimate aim of Con Ass is to allow GMA to extend her reign indefinitely. The present Constitution bars her from seeking reelection. With a shift to the parliamentary system Arroyo will handily win a seat from her legislative district and then get elected as prime minister. Without any explicit term limit under the proposed parliamentary system, she can stay in power as long as she wants, then at the time of her choosing hand over the government to her anointed successor. To ensure that she cannot be prosecuted for the lengthening list of crimes and abuses committed in office, immunity from suit will surely be an integral part of the new Constitution.

16. How can she be sure that the majority of incumbent elective officials would support the Con Ass initiatives?

By including among the amendments an extension of the term of office of all elected officials. In this way, they will all have a stake in the approval of a new Constitution. As she has done often during her term, she can also use the immense resources of the government for political patronage and dangle enticements to congressmen and local government officials who have yet to see an offer from Malacanang that they can refuse.

17. Is Malacanang behind the Con Ass initiative?

No doubt about it. Consider:

a. Secretary Jess Dureza's prayer that GMA shall have the "tolerance" to remain in office beyond 2010. GMA's thespian powers and facial expressions were on full display: she took the Dureza "gaffe" with feigned exasperation. And instead of publicly berating Secretary Dureza or being petulant as is her wont when her serenity is disturbed, she seemed to be tickled pink by the incident.

b. A day after the Dureza prayer, Congressman Raul Gonzales, Jr. disclosed that presidential son, Congressman Mikey Arroyo has been circulating a congressional resolution calling for the formation of Con Ass. When confronted by media, Mikey Arroyo did not deny he was seeking signatories to the resolution.

Article VII, Section 19 states that the president "shall have the power to grant amnesty with the concurrence of a majority of all the members of Congress". This provision did not specify whether voting is joint or separate. The practice of Congress has always been that concurrence with an amnesty proclamation is by voting separately. Congress cannot now claim that because the Constitution is silent it is presumed to ordain joint voting of both Houses when it has interpreted an exactly similar provision on amnesty as separate voting.

Article VI Section 28 (4) of the 1987 Constitution states that "No law granting any tax exemption shall be passed without the concurrence of a majority of all the members of the Congress. There has never been a joint session or voting in Congress merely to pass a "tax exemption law". Congress has always interpreted this as separate voting.

The 1935 Constitution from which the notion of a constituent assembly came from provides, expressly, that the Congress shall hold session jointly but vote separately in approving the proposed amendments.

12. If joint voting by the two Houses is wrong, why not bring the matter to the Supreme Court for resolution?

Alas, the Supreme Court has lately been inconsistent, to say the least, in deciding on issues before it. It reversed itself, for instance, on the issue of executive privilege, and lately has shown a disturbing tendency to support the Administration line. With the impending retirement of some independent-minded justices, more GMA appointees will take their place. One cannot confidently assume that the issue will be decided strictly on its merits.

The case against the People's Initiative in 2006 was decided by a close 8-7 vote. Since then three of the eight Anti-Initiative justices have retired. Their replacements are among the seven justices who always vote in favor of GMA's cause. By the time Con Ass comes up for decision, Arroyo will have packed the Supreme Court with appointees who are expected to ensure her "winning streak." No wonder the pro-Arroyo congressmen are so confident the Supreme Court will sustain their position that they are daring Anti-Cha Cha advocates to bring the issue before the Supreme Court.

13. Is there a public clamor for Constitutional change?

None at all. If anything, the prevailing sentiment is for the status quo to remain until after the 2010 elections. A recent survey shows overwhelming opposition to Cha-Cha (64 % country-wide, 78% in Metro Manila and 70% in the Visayas) as a means of extending Gloria's stay in office. In a 2005 survey, more than twice as many people (49%) believe impeachment is more important than those who prefer Cha-cha (22%). Ironically, the only survey that showed a different result was in the 4th Quarter 2005 Social Weather Station survey: "54% approve of Cha-Cha whereby GMA steps down."

14. Are there proposed Constitutional changes so compelling that they require urgent approval?

There have been about 28 proposed amendments filed, and there is not a single one among them that cannot wait until after the 2010 elections. A sampling of the proposed changes culled from various pending House bills and resolutions follows:

The President shall nominate and appoint at least 60% of the Members of the Cabinet, including the Executive Secretary, from Members of Congress.

Congress shall be given the power to create more autonomous regions aside from Muslim Mindanao and the Cordilleras.

A shift to federalism, notwithstanding the need for careful deliberation and debate on such a major structural change. To illustrate the haphazard and sloppy thinking behind this, the idea is to create a total of 11 federated states with each state or all states having the power to secede from the Republic. For good measure, the proposal would empower Congress, by two-thirds vote, to allow any of the states to separate or secede, thereby granting Congress the power to amend the Constitution simply by legislation.

One proposal would increase the number senators to 75 and the number of the House of Representatives to 350 for no apparent reason.

The number of terms for each Congressman would be increased to four, giving some of the incumbents a chance to hold office for a total of seven terms.

The quorum requirement would be reduced to "forty members" out of the 350-member House. Theoretically, 21 members or six (6%) of the membership can decide for the entire House!

There are many other half-baked ideas such as those transferring, say, the House of Representative to Tagbilaran, the Supreme Court to Cagayan de Oro, the Civil Service Commission to be housed in three places, including Palawan and Sultan Kudarat; transferring the sole power to prosecute election offenses to the President; removing the judicial power of the Supreme Court to determine if there has been a grave abuse of discretion on the part of the any branch of government.

The proposal of Speaker Nograles to liberalize economic provisions to make them more investor-friendly ignores the reshaping of the world economic order as a result of the current global crisis. The APEC Council meeting had to make a point of issuing a manifesto to suspend any new protectionist policies for a year. This is a tell-tale sign that the members are indeed considering measures to protect their economies at the expense of liberalism and free trade. Moreover, Nograles should know we have less foreign investments than countries with even more restrictive policies for reasons that cannot be solved by liberalizing the Constitution: graft and corruption at several levels of government; inconsistent, irrational rules and regulations; endless red tape; lack of infrastructure.

None of these changes seem necessary at all; if anything many of them seem frivolous, downright foolish or unabashedly Congressman-friendly. None of them are urgent enough that they need to form part of the fundamental law of the land soon. And the sheer number, complexity and diversity of proposed amendments would be so bewildering and beyond the ken of the average voter that he will end up voting on provisions he does not fully comprehend.