

NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE BILL NO. _____

**THE CONSTITUTIONAL CONVENTION ACT OF 2022
Through “Indirect Initiative”, Sections 3(b) and 11 of R.A. 6735
or the Initiative and Referendum Act**

Introduced by Kapatiran Party

EXPLANATORY NOTE

CHARTER CHANGE

The issue of charter change is no longer new.

In 1997, President Ramos’ partisans tried to form a movement to amend the Constitution to allow a second presidential term. Two major approaches were explored, namely, conversion of the Congress into a constituent assembly (Section 1 of Article XVII) and mobilization of a people’s initiative (Section 2 of Article XVII). Both did not prosper.

Then Archbishop Jaime Cardinal Sin and former President Corazon C. Aquino opposed the move. They mobilized a mammoth prayer rally in Luneta and sent a strong message to Ramos saying that tampering with the Constitution was a political suicide, in which not only could he lose the charter-change campaign but also the prestige he had attained as a leader. A few days after that rally, the Supreme Court in *Santiago v. COMELEC* ruled that the signature campaign of the People’s Initiative for Reform, Modernization, and Action (PIRMA) could not legally lead to a call for constitutional amendments through people’s initiative.

On those two counts, Ramos then abandoned moves to extend his term, thus consequent the failure to change the Constitution.

Another clamor followed during the term of President Gloria Arroyo when her political camp sought to eliminate what they viewed were obstructions to her goal of attaining a strong republic.

Her allies, from the local government units to the House of Representatives of Congress, persuaded the people in supporting a call for charter change through people’s initiative that sought to push for a shift to a unicameral parliamentary government and the lifting of restrictive economic provisions that hamper the entry of foreign capital. Caravans, television and radio commercials, internet websites, print advertisements and flyers were resorted to in order to increase the people’s awareness of those plans for reform.

As in *Santiago v. COMELEC*, the same controversy was hurled to the same court in the case of *Lambino v. COMELEC* in which the Supreme Court ruled to dismiss that people’s initiative for failure to comply with the basic requirements of the Constitution. What are

allowed by the Constitution are amendments not revisions if to be directly proposed by the people through initiative.

On December 7, 2016, President Rodrigo Duterte signed Executive Order No. 10 which created a consultative committee to review the 1987 Constitution. The move officially set in motion the process for amending the then 30-year-old charter and set up a federal system of government in the Philippines aimed at ending the Moro conflict and further opening up of the Philippine economy. The President received the proposed federal constitution drafted by the Consultative Committee on 9 July 2018 that never saw the light of day.

OUR PRESENT SYSTEM

One of the most serious problems in our present presidential-unitary system is the concentration of too much power in the Presidency.

The doctrine that the three branches of our government – the Executive, the Legislative and the Judiciary – are coequal is in reality a mere fiction. The President may not really find it impossible to overwhelm Congress and the courts. With his implementing power over budgets, he can extend financial favors to legislators to compel them to tow his agenda, the height of which were exemplified by the PDAF and DAP anomalies. The President's wide-ranging appointive powers allow him to name his minions in the courts and independent constitutional bodies.

When independence is invoked, the President may quarrel with his Congress which in turn may also rebel against him and in the process systematically obstruct his administration. Issues, hence, may remain unresolved for the duration of their terms at the price of stifling the nation in a stubborn and unbreakable deadlock.

To borrow further from the exhortation of the Catholic Bishops' Conference of the Philippines in 1997, ours is a system that has degenerated into an arena, where the interests of the powerful and rich few are pitted against those of the weak and poor many. The constitutional principles of separation of powers, and of checks and balances, are on the one hand abused, to create deadlock for political mileage and, on the other hand, conveniently set aside on occasion for reciprocal advantage. Political debts are paid with appointments to high offices of those to whom elected officials are indebted, blind loyalty counting as the most important criterion in the selection of public officials. Interference with the administration of justice and the equal application of the law is prevalent, heavily tilted on the side of the politically connected. Many a politician looks at elective posts as a means of enrichment, and a source of influence and power for self and family enlargement, at times treated as some sort of private property to be passed on from one generation to another. Come elections, the first focus of attention is on getting oneself chosen as the candidate of a party that can help him fulfill his ambitions, without regard to common ideology and platform. He solicits or accepts contributions from vested interests, who expect a return after the elections. The laws of ordinary morality are suspended, in favor of office seekers and their patrons, where winning at any cost and by any means has become the paramount governing principle and where election-day turns into vote-buying, the use of flying voters, the intimidation of voters, violence, even murder.

To put an end to this political insanity, we must dismantle the present to build anew. And we can only do these by changing our Constitution.

THE CHANGE AGENDA: FORM OF GOVERNMENT

The duty to establish a government that shall embody the ideals, promote the general welfare, conserve and develop the patrimony of the Nation, and secure the blessings of democracy under a regime of liberty, truth, justice, love, equality and peace is an evolving and never-ending task.

Succinctly, the agenda calls for a shift from the present presidential-unitary to a parliamentary system of government with option to federalize. Both are types of democracy.

The institutional differences between presidential and parliamentary rule revolves around how voters elect and how government is run.

In a parliamentary system, voters elect only the members of the Legislature, from which the Chief Executive or Prime Minister is drawn or chosen from among party leader-members whose political parties deemed them to be their respective best. In this sense, the quality of leaders tends to be better unlike in a presidential system where elections can be popularity-driven, where those with the best name-recall win.

The Prime Minister along with his Cabinet, which members he selects also from the elected members of the Legislature, performs the executive functions of government.

A parliamentary system tends to be more efficient. Because there is always a majority party or coalition of parties collaborating with the Prime Minister, needed laws are more easily passed. Deadlocks are passé.

There are regular parliamentary sessions where the Prime Minister and the Cabinet are called to account for their actions and decisions. These keep them on their toes. Hence, accountability is more defined with the majority party ultimately taking the burden of responsibility. Indeterminate accountability in a presidential system often ends to finger-pointing between the Executive and Legislative branches.

There are mechanisms for change in leadership in a parliamentary system. A new election may be called for prior to regularly scheduled elections, for instance, in case when the Legislature is dissolved or by a vote of no confidence. Change of leadership in a presidential system can only be done via impeachment that more often than not can be tall order.

Some would thus argue that parliamentary systems are superior to presidential systems.

On federalism, a federal government simply divides up power between a strong national government and small local governments unlike our present unitary system where almost absolute power is held by Imperial Manila.

It is thus unfortunate that criticisms over Duterte's federalism agenda abound – from deeper entrenchment of political dynasties to, of late, term extension and no elections for ten years arising from some transitory provisions that have been recently floated.

These apprehensions speak of the fact that the truth about our declining democracy will not be easy to unravel.

The late Senator Claro M. Recto, president of the 1934 Constitutional Convention which drafted the 1935 charter, believed we were too deeply under the spell of the American system to give much thought to any alternative. But now that we have presumably been freed by the declaration of our independence...the Filipino people may soberly consider (another) system... to harness the power of government to the will of the people.

The great Dr. Jose Rizal, once said: Routine is the declivity down which many governments slide. We should thus be wary – that if we, as citizens, merely continue with business as usual amidst the anxiety of ending up with more of the same – we may soon regress from a fragile to a failed state.

Changing our system of government is a worthwhile, far-reaching endeavor we can strive for and wish to see for ourselves and bequeath to our children and our children's children.

THE CHANGE PROCESS: CONSTITUTIONAL CONVENTION

It must be emphasized thus that the object of this Constitutional Convention Act of 2022 for purposes of charter change is to address the entirety of our nation's socio-political problems brought about, in large part, by our present system of government alongside shortcomings in the present Constitution.

Time and again, the underlying resistance to past initiatives on Charter Change revolves around mistrust – changes benefiting the incumbent, changes being self-serving.

To diminish suspicions of political motivations, a Constitutional Convention is the best way forward. Hence, this proposed Constitutional Convention Act of 2022.

This Act is hereby filed before the 19th Congress under provisions of R.A. 6735, the Initiative and Referendum Act, which states:

- Section 2. Statement of Policy. — The power of the people under a system of initiative and referendum to directly propose, enact, approve or reject, in whole or in part, the Constitution, laws, ordinances, or resolutions passed by any legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed.
- Section 3(b). — "Indirect initiative" is the exercise of initiative by the people through a proposition sent to Congress or the local legislative body for action.
- Sec. 11. Indirect Initiative. — Any duly accredited people's organization, as defined by law, may file a petition for indirect initiative with the House of Representatives, and other legislative bodies. The petition shall contain a summary of the chief purposes and contents of the bill that the organization proposes to be enacted into law by the legislature.

The procedure to be followed on the initiative bill shall be the same as the enactment of any legislative measure before the House of Representatives except that the said initiative bill shall have precedence over the pending legislative measures on the committee.

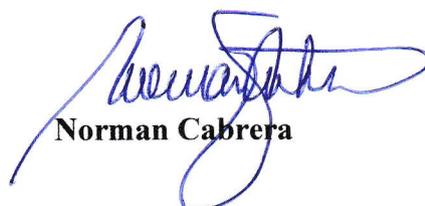
Hence, approval of this Act is earnestly sought.

SIGNATORIES

For Kapatiran Party and as Taxpayers:



Ediberto Cuenca



Norman Cabrera