

From A Distance

By CARMEN N. PEDROSA

Charter change is not about President GMA

Recently, I was interviewed on Charter change by an academic. He wanted to know what I thought would make it possible. He also wanted to know why it was possible to do it 1986 and never again since then. The first question was easy enough to answer, the second more difficult.

In theory, if we simply follow the Constitution this could be done in three ways — a constituent assembly, a constitutional convention or a people's initiative. But that is only in theory. In practice it is close to impossible, to implement Charter change through any of the three.

The reason is politics. And politics, as one political analyst wrote, is anything but simple. Politics is a maze of conflicting interests. And it isn't a reality one can disentangle the knots because it is the very nature of politics. The only way one can break through the barriers democratically is to act and act boldly after all protagonists have had their say. Anything short of action is bound to be a stalemate sanctioned by theory and righteousness.

What is less talked about is that a stalemate favors the status quo. And that has been the situation since 1986. The stakeholders of the status quo need only raise their voices and the reformers wilt into the background, often shamed and berated as politically motivated as if those against were not themselves politically motivated.

Today's reformists have been stopped from Charter change advocacy no differently from other such attempts in the past. I have seen it happen in two administrations and the pattern is consistent: demonize the incumbent. But since only an incumbent has the means and power to make Charter change possible, it is doomed from the start.

Charter change advocates were encouraged when President GMA actively supported their campaign at the beginning of her second term. It definitely increased its chances of finally getting it done. But it failed just as well. She was accused of merely using constitutional reforms to 'extend' her term and that was not acceptable. It is a familiar refrain. In President Ramos' case it never got to the point when he would have been condemned and vilified like President GMA. He buckled under the threat of a combined church-oligarchy threat led by Cardinal Sin and former President Cory Aquino. After 1986 any constitutional reform is simply tarred as a way to extend the term of the incumbent president as Marcos did. End of discussion.

Never mind arguments that Charter change addresses reforms at the very heart of the system, among which are the debilitating costly presidential elections which is at the root of graft and corruption so deplored, the lack of continuation of programs, a more effective structure for local autonomy, removing nationality as a basis for investments and so on. Each of these reforms is anathema to powerful interests but none more powerful than oligarchs who control media. As constitutionalist Jose Abueva said "a switch to a unicameral parliament would very likely facilitate other constitutional changes that would threaten their monopoly of the economy." It will also be harder for business oligarchs to control government to suit their needs.

Charter change is not about President GMA. More correct is the observation that such political restructuring would be too risky for the elite that dominates this third world country.

It is taken for granted that government should be strong enough to stand up to interests determined to hang on to the status quo. But the truth is that it is not. It does not matter that the case has been made that the present system is unable to address the problems of the country.

In other countries with an urgent need for constitutional reforms, the favored route would be the most expedient and least costly. That would be through a constituent assembly. But this is thumbed as self-serving for legislators. A convention which establishment groups champion as more representative and unselfish come from the same political pool and we have seen it equally corrupted as it was during the time of Marcos.

This leaves us with a people's initiative. Again it has its drawbacks but these defects can be remedied. (One way is to treat the gathering of signatures as any election supervised by the Comelec. The signatures are immediately verifiable.) Once remedied, it would be the superior mode because it gives primacy to people's sovereignty.

I would think in terms of combining the constituent assembly route with participation of the public. That was the intention of the 2005 constitutional commission. The body submitted proposals to Congress after nationwide consultations. Over 200 meetings all over the Philippines were held and these were debated and voted upon before it was finalized for submission to Congress. Alas, this was not acceptable to the anti-reform groups.

Neither was a people's initiative. That, too, was turned down as fraudulent by the Supreme Court. A case could be made questioning how the Supreme Court arrived at its decision whose task is to rule on law rather than on fact. To quote a former chief justice who publicly coached those who were against the initiative. "All they had to do was come up with one fraudulent signature" and the people's initiative was finished." Now, really? What is the redress for such thinking from the powerful court of last resort?

Still, the same court led by Chief Justice Reynato Puno, conscious perhaps of the wrongness of its decision left the door open for a future people's initiative. It accepted that there was, after all, an enabling law, R.A. 6735. The high court had denied this to put down the first people's initiative.

In the debates led by its sponsor, the late Cong. Raul Roco on R.A. 6735, he included an important provision. The enabling law cannot be treated separately from the Comelec Rules and Regulations 2300 which provided the details for the conduct of a people's initiative. These rules and regulations provide for an orderly and independent conduct of signature gathering in the same way it would an election. So can it be done? It can and it should. After all any such initiative is still subject to a referendum for those against to register their vote.

Sadly Charter change has been so successfully blocked even before it can be put before a national vote, courtesy of oligarch and church opposition. That can hardly be called democratic. For that reason alone reformists should not give up the ship nor be misled by alleged calls for debate. It is time to push for action.

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