

why constitutional reform



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why?

Constitutional reform refers to changes in the fundamental law of the Republic that improves it, updates it, and makes it more effective and more responsive to the changing situation. It is the basic requirement of a good constitution.

The 1987 Constitution was born of the struggle against the Marcos dictatorship—it laid down the strict requirements for declaring martial law and guarantees freedom and democracy. It stressed human rights and recognized the participation of civil society in governance.

However, the constitution did not—and could not, at that time—face up to the challenges of globalization. Globalization became an important issue in the 90s and led to looking again at our ideas about nationhood, state, and international relations.

The constitution was also a product of unresolved and conflicting positions and ended being full of compromises that effectively postponed national unification.

As a result, more than 50 major provisions require enabling laws. The conflicting issues also led to elaborate provisions that made for one of the longest and most inflexible constitutions in the world.

One of the major weaknesses of the 1987 constitution was the mix-up of features of the presidential and parliamentary systems of government, such as the two chamber legislature, multi-party system, party-list system, and the institution of the presidency. There is no clear distinction between the powers of a constituent assembly and a constitutional convention.

The political institutions of the post-Marcos Philippine democracy continue in crisis. The legislature clashes with the presidency, the Senate with the House of Representatives, the legislative with the judiciary, the civil government with the military institution, and even the national government with local governments.

Even worse, there is a general feeling that the political and economic elite,

including former Marcos cronies, continue their monopoly of political power—a democracy, yes, but of the elite. The participation of the marginalized sectors, which compose the vast majority of the citizenry, has been practically restricted.

A change in the constitution should address the weaknesses of the 1987 Constitution. Good government and further national development can be realized first of all through constitutional reform.

Those who formerly opposed constitutional change now favor the move. They perceive the need for reform from the viewpoint of the interests of the majority and not from the narrow perspective of the incumbent politicians or vested interests.

Civil society groups opposed constitutional change during the term of President Fidel Ramos perceiving the move then as a thinly-veiled attempt to allow a second term for the incumbent president.



At first they were open to constitutional change during the first year of President Joseph Estrada's term. This later turned into firm opposition when the constitutional study commission created by Malacañang proposed the ownership by foreigners of prime lands in the Philippines.

Both these attempts failed precisely because the people rejected the proposed amendments right from the start. The changes were simply seen by them as against their interests.

The lesson of constitutional change is constitutional reform. To reform the constitution is to recognize the necessary changes that would advance the democratic aspirations of the people and not degrade or run contrary to those aspirations.

The issue of whether or not the people will support constitutional change includes the way to change. Who will change the constitution is as much an issue as the substance of change itself.

Unfortunately, the constitution itself did not make a distinction between the two

general modes of a constituent assembly and a constitutional convention. Rather, it specified that revision and amendment can be done by either mode. A new method of direct amendment by the people through a people's referendum has yet to be made possible by Congress.

Past constitutions did make the distinction of specific amendments by constituent assembly and wholesale revision through the constitutional convention. In the 1987 Constitution, this was dispensed with—a clear oversight that shows the pressures on that Constitutional Commission to produce a document.

Constitutional reform implies the sovereign people's view and desire for constitutional change. It also implies full agreement within the body politic for constitutional change. Otherwise, it is an empty slogan and only deceives people.

It also forces us to review and present—along with the proposal for constitutional change—the proposed reforms themselves. For advocates of constitutional reform, it also solves the question of how to change.