



part **4**

modes of
constitutional change

modes

The 1987 Constitution provided for three ways to change the constitution. The constitutional convention mode, the constituent assembly mode, and the people's initiative mode.

A constitutional convention is composed of duly-elected delegates of the people. It has plenary powers and is capable of drafting an entirely new constitution, if need be. Congress may, by a vote of two-thirds of all its members, call a constitutional convention, or by a majority vote of all its members, submit to the electorate the question of calling such a convention.

The constituent assembly is Congress convened for the purpose of amending or changing the constitution. Under the present constitution, it also has plenary powers and is capable of drafting an entirely new constitution. Previous constitutions restricted this possibility to making amendments of specific provisions only.

Only a simple majority of both houses of Congress, voting separately, can convene a constituent assembly. However, Congress, upon a vote of three-fourths of all its members, may propose amendment to, or revision of, the Constitution.

Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at least twelve per cent of the total number of registered voters, of which every legislative district must be represented by at least three per cent of the registered voters therein. However, there is as yet no Congressional enabling act for this to occur.

Whatever the way, any amendment or revision shall only be valid when ratified by a majority of the votes cast by voters in a plebiscite.

The people's initiative mode is effectively blocked by the lack of an enabling law. The current issue therefore, revolves around whether to hold a constitutional convention or a constituent assembly to discuss and draft amendments or a total revision as the case maybe.

Proponents of a constituent assembly put forward the following arguments: 1) that Congress has the necessary experience, intellectual capacity, resources, and available time to do it; 2) that it would conserve finances and material resources; 3) that it can focus its attention specifically on required amendments; and 4) that it can finish the work quickly.

On the other hand, they criticize the constitutional convention mode for the following reasons: 1) convention delegates may not have enough expertise and experience for the work; 2) it would be expensive; 3) there is a danger of an uncontrolled plenary body that may revise the whole constitution; and 4) it would take too long.

Proponents of a constitutional convention, for their part, argue for the following: 1) the proposed amendments are of such basic nature that only a body of delegates duly-elected for the specific purpose can do the job; 2) participation of the people in constitution-making is more assured in a convention; 3) Congress should not do it because it would be affected by





There are three ways to change the constitution, through a constitutional convention, a constituent assembly, and people's initiative.

The last mode, however, has no enabling law yet.



the proposed changes; and 4) it is a more democratic, transparent and deliberate process.

They criticize the constituent assembly mode for the following reasons: 1) the influence of traditional politicians with vested interests remains heavy in Congress; 2) legislators did not have the specific mandate to revise the constitution when they were elected; 3) constitutional work will aggravate the problem of too little legislation

in Congress; and 4) expenditure is a lesser concern in the light of the importance of constitution-making.

After a year-long debate and positioning on the question of mode of change, there is now a growing consensus for a constitutional convention. Hopefully, the incoming 13th congress will agree. After all, the First Political Party conference, the Senate, and the President have held for that very position.