

# Chapter 25

## Constitutional Reforms

### I. SITUATIONER

The EDSA Revolution of 1986 allowed the country to restore its democratic institutions and restart its economic recovery. However, the country's seriously weakened economy, political instability and unabated corruption have continued to retard efforts to achieve progress. Applying the solutions to these problems depends crucially on the presence of effective political institutions, effective and accountable political parties and more liberal economic policies.

The country's political institutions have become less effective to address problems under the present presidential setup. The separation of powers and checks and balances between the executive and legislative branches often result in delays in legislation and policymaking. The executive has to resort to compromise and concession to pass the annual appropriations bill and the other major initiatives. But even when good legislation is passed, it may suffer from execution problems because of the lack of legislative support to impose or raise taxes that are needed for its implementation. National policymaking has come to depend on the lowest-common-denominator of agreement among executive and legislative branches of the government.

The national government remains highly centralized, slow and unresponsive to the needs of the people in the rural areas and cultural communities. Although local governments are supposed to enjoy local autonomy under the 1987 Constitution and the Local Government Code, they are in fact controlled in many ways by the national government on which many of them have become habitually dependent for guidance and resources. This inhibits local initiative and resourcefulness to effect progress and development within their territories and communities.

The 1987 Constitution provides for a free and open party system that would afford free choice to the people and encourage citizens' participation in governance. Seventeen years into the implementation of the charter, personalistic politics and the lack of effective, cohesive and functional political parties that focus on issues and policies still dominate the political system of the country. The current party system offers no meaningful policy choices since political parties form around well-known personalities and families, instead of well-defined programs of government. This has made popularity, and not intelligence, competence, or experience, the winning qualification for public office.

Though elections enable the country to change its leaders from time to time, these have not made much difference to improve leadership and governance. Elections cannot make political leaders accountable to the people without effective and responsible political parties that offer meaningful policy alternatives.

Along with these political challenges, the paucity of investment and domestic capital resources remain to be one of the fundamental problems of the economy. Though various structural reforms in banking, power and retail trade sectors helped sustain the moderate growth of the Philippine economy, such legislative and administrative reforms fell short of delivering the expected investments that would create jobs and spur economic growth.

It is observed that the problem is systemic, rooted in the protectionist policies in the Constitution. These policies prevent the flow of foreign capital, technology and production skills into our economy.

The Constitutional provision providing for a self-reliant and independent economy effectively controlled by Filipinos, limiting the practice of all professions to Filipino citizens, reserving certain areas of investments, and giving preference in the grant of rights, privileges, and concessions covering national economy and patrimony to Filipino individuals and corporations, stifled economic innovations and reforms that would open up the economy to foreign capital and investment. The question on what constitute national patrimony also remains a problem in determining areas of investments wherein foreign equity may be allowed.

Moreover, the limitations set by the Constitution on the ownership, transfer and conveyance of private lands have barred foreign individuals (save in case of hereditary succession) and foreign corporations to own land. These discouraged foreign investor's confidence for long-term ventures. The limitations of foreign equity in domestic public utilities to forty percent (40%), advertising industry to thirty percent (30%), educational institutions to forty percent (40%) and no equity participation at all in mass media prevents access of both international and domestic capital and the transfer of new technologies. These would have delivered the vital facilities and services in an economical and financially prudent manner.

The difference between the ownership requirement in media (100% Filipino) and in telecommunications (40%) likewise hinders the convergence of media, information technology and telecommunications industries. On the other hand, limiting foreign equity participation (40%) in companies engaged in developing natural resources and confining involvement of foreign corporations to technical and financial assistance in the large-scale exploration, development and utilization of minerals, petroleum, and other mineral oils, are major stumbling blocks in the entry of capital and more efficient technology needed in the exploration of natural resources.

## **II. GOALS, STRATEGIES, ACTION PLANS**

The reassessment of the Constitution through a Constitutional Convention to implement the needed structural and systemic reforms in political institutions and in the electoral and political party systems is imperative. The reassessment may include: (a) shift from the current presidential form of government with its separation of powers between the executive and legislative to a unicameral parliamentary form of government that would unify and coordinate those two functions in the parliament; (b) change from the present centralized unitary system to a decentralized federal system; (c) structural and functional reforms affecting the electoral and political party systems; and (d) defining political dynasties and making the Constitutional prohibition against political dynasties self-executory.

Fusing the powers of the executive and legislative in a unicameral parliamentary system would reduce if not totally eliminate delays in legislation and policy-making. As such, development efforts and other poverty reduction initiatives would be immediately acted upon. A unicameral parliament will likewise make law-making simpler and more efficient by doing away with duplication of effort in a two-chamber legislature.

This basic change shall be accompanied by meaningful political reforms, particularly a law on political parties. This would spur the rehabilitation of societal organizations and mass movements, and clean up of our electoral processes. Measures to subsidize political parties in the margins of competition will be promoted to diminish the influence of moneyed power brokers in the electoral process. This will also assist the parties in advocating public issues and reasonable options for the nation's future.

The structural and functional reforms affecting the electoral system and political party system shall be pursued to create the fertile ground for true reforms. The politics of personality and patronage must give way to a new politics of party programs and a process of institutionalized consultations with the people.

The shift from unitary system to federal system would remove the centralized structures and systems that impose and sustain local dependence and stifle local initiative and resourcefulness. Federalism is not merely a political form. It will have implications on the political economy of the nation. The new structures and processes and responsibilities under a federal setup will challenge and energize local governments and cultural communities to effectively deal with local poverty, unemployment, inadequate social services and infrastructures, and low productivity. Decentralization of progress and development to the countryside will thus be achieved. Nonetheless, the issue of economic viability and the preparedness of component states under a federal setup shall be addressed.

The country now lives in a global economy, closely interconnected by trade and investments. Thus, government should also be able to effect fundamental reforms and changes in the restrictive Constitutional provisions on national economy and patrimony to bring in investment that will create jobs and opportunities and eventually reduce poverty.

Specifically, the Constitutional preference to Filipinos in the granting of rights, privileges, and concessions on national economy and patrimony and in certain economic activities shall be reviewed. A categorical definition and scope of the national patrimony shall also be provided.

The identification and/or strengthening of appropriate regulatory frameworks, safeguard mechanisms, conditions and limitations shall accompany the changes in the economic provisions of the Constitution.