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Differing views on con-ass may check federalism rush

Two conflicting viewpoints have arisen on how Congress can transform itself into a constituent assembly, as prescribed by the 1987 Constitution, to amend or revise the Charter and enable a shift from a unitary to a federal form of government—a key project of President Duterte, which he told Mandaluyong businessmen in a speech on August 10: “You will remember me for this, I am sure.”

One view is from the House of Representatives, the other from the Senate.

From early on, Speaker Pantaleon Alvarez Jr. and his “super-majority” in the House have been promoting a timetable which would rush and complete the revision of the Constitution this coming May, via the two chambers sitting and voting jointly. Their scenario includes submitting the approved draft constitution for a federal system of government to a nationwide plebiscite along with the barangay and youth council elections scheduled that same month.

Last Thursday Senate President Aquilino Pimentel III and Senator Panfilo Lacson disclosed essentially similar proposed resolutions, which each one plans to file after the 17th Congress resumes its regular session on Jan. 15. The resolutions will call for the Senate to tackle and vote on all proposed amendments or revisions separately from (though concurrently with) the House of Representatives.

If the Senate adopts the proposal, it will dash Alvarez and his “super-majority” dream of an easy ride for Duterte’s federalism project.

Alvarez has visualized that IF the planned May plebiscite approved the

revised constitution, there would be no need for the mid-term elections in May 2019 (for 12 senators, all House members, and local government officials). Thus all incumbent Senate and House members and all elected local government officials – along with President Duterte – would enjoy extended terms in office until the elections under the federal system shall have been held. (This pronouncement has raised widespread protests from the public.)

Pimentel, however, has drawn up a different, less unreasonably short, timetable from that of Alvarez. He has put the period of deliberations and voting on the targetted revised constitution to run through the whole of 2018, and to submit it to a plebiscite simultaneous with the mid-term elections in May 2019. This would provide time, he said, for the provisions of the draft charter to be explained to the public at least four months before the holding of the plebiscite.

How does President Duterte stand on these conflicting timetables?

After a Cabinet meeting on Tuesday, presidential spokesman Harry Roque said the President “wants to push through with the elections in 2019 and has committed to give us the most honest and most credible elections in 2019.”

Yet he also didn’t rule out any Malacanang support for Alvarez’s much shorter timetable for completing the Charter revision, the holding of the plebiscite by May 2018, and their hope for extended terms of office. “If they [the con-ass] are able to amend the Constitution and have the people ratify it before 2019,” Roque said, “that’s the only possibility of the postponement of the elections.”

* FEDERALISM

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Lacson explained the rationale of his proposal: to protect the integrity of the Senate as a co-equal legislative chamber to the House. If the Senate agreed to vote jointly with the House, he pointed out, it would be rendered irrelevant, given the huge numerical superiority of the congressmen (292) over the senators (24). How can any senator disagree with him in this regard?

This is how Lacson saw his proposal would work: the Senate would constitute itself into a constituent assembly "and wait for the lower house to do the same if they wish"; any constitutional changes the Senate would pass, through three-fourths vote, could be discussed in conference with the House to reconcile any conflicting proposals; from there each chamber would approve the agreed-on proposals through three-fourths vote and present them for the people's ratification in a plebiscite.

On his part, Senate President Pimentel clarified his earlier statement to reporters that he had wanted to file a resolution calling for the Senate to sit together with the House as con-ass "for the purpose of revising the 1987 Constitution, specifically to study the adoption of a federal system of government." On Thursday, he was quoted as saying: "Well, the 'sit together' phrase paints a picture in our minds of a physical joint session. That would not be the case."

Reference to Congress as constituent assembly, he pointed out, "means both the House and the Senate should together exercise the power granted them to propose amendments to the Constitution." The

House, he added, should agree on separate voting on the amendments/revisions.

If each side holds fast to its stand, there would be a deadlock over the manner of voting on the constitutional changes. Alvarez had indicated that should this happen, the House would raise the issue to the Supreme Court. It would be interesting to find out how the Supreme Court would rule on the matter.

But the larger concern over Charter change and the proposed shift from unitary to a federal system of government is the meagerness of the information made available to the public on what the precise proposed changes are. What is made known is that there are two drafts submitted to the House: a Resolution of both Houses filed by two congressmen, and a draft constitution for a federal system prepared by the PDP-Laban - the ruling party led by Pimentel as president and Alvarez as secretary-general.

And whatever happened to the 24-member Constitutional Commission that, five months ago (Aug. 10), President Duterte had promised to appoint to "draft a constitution that would shift the country toward federalism and end the Moro secessionist rebellion in Mindanao"? On Sept. 1, he was reported to have completed the list of its members, which reportedly included former Chief Justice Reynato Puno and former Senate President Aquilino Pimentel Jr. The "con-com" was supposedly mandated to present its draft constitution/draft bill for consideration by Congress in its forthcoming session. No further information has come up thus far.