

# THE CONSTITUTIONAL CONVENTION: A MIDTERM ASSESSMENT

JOSE V. ABUEVA

*Editor's note.* The topic of the seventh meeting of Social Issues '72 was "The Constitutional Convention: A midterm assessment." The main speaker was Dr. Jose V. Abueva, political scientist and Secretary of the Convention. The Philippine Sociological Society appreciated his participation in the meeting but also recognized the practical impossibility of Dr. Abueva's finding time to prepare and submit a paper for publication. Hence PSR also records Dr. Abueva as excused.

## Reflections of an Outsider

VICENTE B. FOZ

March 21, 1972

Ordinarily it is expected that a body such as the Constitutional Convention should move with deliberate care; but these are unusual times. The people want reforms, and they want them quickly. Yet it seems that the convention delegates have chosen, with reason, to write a detailed document. Whatever their choice, they must now spend less time in committee rooms and more in plenary sessions, for in the latter the final decisions are made. A difficulty all must accept as real is the large size of the constitutional body, which necessarily impedes the speed and efficiency of the convention.

Convened on June 1 last year, the convention delegates set themselves a December 1972 deadline for finishing the draft of the new Constitution. Thus the convention will have a duration of 19 months. At midterm (March 21, 1972), the delegates are not half through with their work, for they have only recently begun working on substantive proposals in plenary session.

### *Special Circumstances of the Convention*

One cannot censure the delegates for talking at length in committees and on the session floor of the convention. Admittedly, it is in the nature of a deliberative body such as the constitutional convention that its members should speak their individual minds on the questions before them.

The convention is, so to speak, a market of ideas in which the best will prevail after discussion and deliberation.

But these are not ordinary times. The idea of calling a Constitutional Convention was born of the clamor rising from various segments of society, demanding sweeping reforms and changes. The public expectation has been that the convention will be an instrument of the people for change, to cure the ills of governmental bureaucracy and of society itself.

In this context, the delegate has no right to talk unnecessarily, uselessly, while the people wait and their patience wears thin. Under these conditions, it would be a crime for the delegate to be self-centered, to think merely of how

proud his grandchildren will be to read of his role in the making of the Constitution; to think of how it will further his ambition to run for Congress; to argue endlessly on the session floor without reason or rhyme; to be overly concerned with technicalities and other inconsequential matters; to talk at length on the floor without sufficient previous study; to clutter up the convention record with vainglorious statements of authorship of this or that resolution or proposal, and pointless points of order or inquiry.

#### *Arguments for a Lengthy Constitution*

I must emphasize at this point that most delegates are really hard-working and conscientious, concerned mainly to contribute to the making of a new charter. Even among these well-meaning delegates, however, some so lose themselves in what they are doing that they go into the smallest details of a proposal. They forget that they are drafting a constitution, a framework of government, not passing ordinary legislation.

Some delegates would argue, however, that the modern trend in constitution making is to draft charters that are long and detailed. Gone are the days when a constitution was only a framework, a broad outline of the allocation of governmental powers, with the details to be left to the legislature for implementation. This is the thinking of many delegates, and it looks as though we are going to have a long constitution.

Another argument advanced for wanting to write a constitution of detailed provisions is that the legislature cannot be depended upon to pass the enabling legislation needed to carry out constitutional mandates. If things were left to Congress, this argument goes, they would not act at all, just as they failed to implement, for instance, the constitutional provision authorizing Congress to limit by law the size of private agricultural holdings that may be acquired by private individuals.

#### *Committee Work Alone not Enough*

It is said that real substantive work is done in committees, and that deliberation in plenary sessions is only a formality. But without defini-

tive, final action in plenary sessions, any committee proposal is practically useless. What happened to the draft articles reported out by the committee on preamble, the committee on national territory, and the committee on civil service — so mangled that the drafts could no longer be recognized — is proof of the inconclusiveness and nonfinality of committee products.

As of today, a total of 36 organic committees out of 50 have submitted their respective complete reports. Eight committees have turned in partial reports, while six have yet to submit anything.

The committees were fully organized in August 1971, or seven months ago. At this time, two committees which should be the most concerned about the question of what governmental system to adopt for the country are still not through with their work. These are the committee on executive power, and the committee on legislative power. The last we heard, they were trying to harmonize their proposals on the adoption of the parliamentary form of government.

What apparently delayed the completion of their reports was the turnabout of the committee members on the issue of government. The committees had in fact earlier submitted reports recommending the retention of the presidential type of government, and the report on executive power had been taken up preliminarily in the plenary session. But the convention decided to recommit the report to the committee on the ground that it was incomplete, for while it provided for the retention of the presidential system, the main features of the system had not been included.

#### *A Time for Renewal*

In the beginning, everybody at the Convention was infused with dedication and idealism. The delegates appeared and sounded ready to buckle down to work for the salvation of our nation.

But in the process of organizing themselves, in the setting up of the machinery for fruitful deliberations, in the campaigning of delegates for coveted posts, somewhere along the way, the

atmosphere of urgency has disappeared, and the early missionary zeal seems to have cooled.

But why have the convention and the delegates failed to work as fast and as efficiently as the public expected of them? One factor is perhaps the very size of the convention. There are now 316 delegates; four have not been proclaimed. The bigness of the assembly tends to make for an inefficiency and unwieldiness that taxes the best executive talents and leaders of men. It is as if Congress, in providing for such a big number of delegates to draft a new Constitution, planted the seed of destruction in its own creation.

But the Convention is not without hope, even

at this date. As I said in a feature I wrote some time ago, *behave and work*. This may sound all too simple and common for a job as complicated as constitution making. But it is advice that delegates may well take to heart if they wish to succeed in their work.

#### *Note*

This is the revised version of a discussant's paper presented on March 16, 1972, in the public lecture series, "Social Issues '72," at the San Miguel Auditorium, Makati, Rizal, under the sponsorship of the Philippine Sociological Society, Inc. Mr. Foz at this writing was a reporter for the *Manila Times*.

## The Convention's Progress

TEOPISTO GUINGONA, JR.

April 21, 1972

Included among the delegates who compose the Constitutional Convention are both conservatives and radicals; the latter see a need for basic departures from the present constitution. Some such changes have already been approved in committee reports, but this is no guarantee that they will be passed in plenary session. Citizens have been quick to censure the convention body because of the gambling and other such activities of some delegates. But delegates are Filipinos, and many Filipinos like to gamble, so what do these citizens expect? What is needed to make the convention function more effectively is a greater show of public interest in its activities. To this the delegates will respond.

We in the constitutional convention are like artisans gathered together to build a new structure for the nation. We have in our assembly a blend of conservatives and radicals. The conservatives favor, not a total revamp, but amendments. They would like simply to repaint the existing structure, making a few changes here and there but preserving established ideas such as the present concept of property and the protection afforded those in public office.

The progressive radicals on the other hand consider the present constitution an old and unresponsive structure that must be torn down and replaced by a new one that will respond to the overriding challenges we all face. They claim that the present charter, copied in large part from the American constitution, is workable in an affluent society but not in a deeply divided

one like ours; that the strict legal justice enshrined in the American document does not answer the demand for social justice in our society; that therefore we should initiate a fundamental revision of the entire structure — political, social, and economic — if we hope to bring about a vital change in the Filipino.

#### *The Delegates' Record*

Can the convention respond to the challenge? Let us look first at the actual work done, and then at some charges often aired against the delegates. It is a fact that almost all the committees have handed in their reports, and that many of these reports contain fundamental reforms. The Committee on Social Justice, for example, proposes not only to limit but to

change the concept of property; in its desire to distribute economic opportunities more widely, it seeks to prohibit closed corporations and family enterprises from further controlling basic industries.

These proposals passed almost unanimously on committee levels. Is it safe then to assume that they will pass as easily in plenary sessions? It is not. The committees represent only the delegates who volunteered for membership in those committees. They do not represent a cross-section of the entire convention, nor is their thinking representative of all the delegates.

It seems pertinent therefore to assess the make-up of the delegates, and subsequently, the many pressures that they face.

The delegates first of all do not comprise a breed apart. It is ironic that many of the criticisms directed at delegates today – for example, for womanizing and gambling – come from those who had earlier put the delegates on pedestals. In the beginning, many people regarded the delegates with high hopes. Many thought that they would change the constitution that would change society in a matter of months. Then they read of allowances and other supposed abuses and became disenchanted: their erstwhile idols were no better than some congressmen, a disappointment compounded by the greatness of the expectations which had been shattered.

I do not wish to justify the activities of those delegates whose antics have exposed the entire convention to ridicule; nor do I wish, however, to accept the conclusion forming in the minds of some that the convention is hopeless.

The delegates are part of society, and their behavior is, in the main, a reflection of Philippine society. Take gambling, for instance. Is not gambling a propensity of the average Filipino? Are not the distinguished matrons of the land, many of them mothers of unblemished integrity, prone to gamble? Are not the officials of the land, from the highest to the humblest public servant, inclined to such pastimes every now and then? Is not the cockpit the favorite arena for the average Filipino? So that, if a few delegates gambled, is this not merely the expression of a societal trait? If it is, should we condemn the

whole assembly for it, and conclude that the convention is hopeless?

Most of the delegates are sincere and dedicated, but like the proverbial bad apples in the basket, the blemished few bring blame on the entire assembly.

The Commission on Elections has informally classified delegates as follows: one-third, Nacionalista party; another third, Liberal party; and the remaining third, independents. Since two-thirds of the delegates have traditional political ties, and since many of them have legitimate political ambitions, it stands to reason that many of them will be influenced by political considerations.

Moreover, economic pressure usually accompanies political influence. It was Abraham Lincoln who once said that "an empty sack cannot stand." And even now, charges of powerful lobbying have already been aired by some delegates themselves, and these accusations hang like dark clouds over the assembly's business.

#### *The Role of Public Pressure*

It is the delegate and his conscience which will decide how to react to these inordinate pressures. But the biggest countervailing force against them is enlightened public opinion – public pressure if you will. When the proposal to reduce the voting age to 18 years was being discussed on the convention floor, many delegates expressed dissent, but when a restive public began writing and informing their delegates that they were in favor of the lowered voting age, and when the people filled the galleries during the crucial day of the voting, the proposal passed overwhelmingly. Less than 20 voted against it.

The convention can quicken the pace of plenary sessions. It can take short cuts and suspend the rules, if necessary, to abbreviate proceedings. The delegates themselves recognize the need for reforms, but if public pressure becomes indifferent or hostile, if the constituents will not sit up and take notice, and goad their delegates to positive action on positive issues, then the ugly hand of partisan politics and outside intervention, political and economic, could conceivably distort the collective will of the convention.

Civic groups, for example, were very active in 1970, determined to ensure the victory of certain convention candidates. But since then their interest seems to have either weakened or died. Should they not rather continue their enlightened efforts by making known their stands on vital issues, telling the delegates that they remain as vigilant as ever?

To ensure a more responsive convention, therefore, I ask the people, particularly enlightened citizens like those attending this discussion, to participate more actively in the making of the constitution. Write us. See us. Speak to us. Tell us your views. Such a process

will make us more responsive, more alive to the challenges ahead, more immune to the demands of political and economic pressures.

Let us work together to build a new charter worthy of the Filipino.

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## The Maturation of the Con-Con

OSCAR L. LEVISTE

March 24, 1972

At midterm the Constitutional Convention has completed half of its tasks. In terms of the maturation process it has passed through infancy, childhood, and adolescence, and is now crossing the threshold to adulthood. The achievement of unity (taken as the mark of group maturity) has been a gradual process, assisted by the catalytic operation of several subgroups within the convention. The ultimate success of the convention, however, will be measured by the extent to which the Filipino people is involved in the making of the new constitution.

At this point in the history of the Constitutional Convention it is profitable for us to ask: How mature has the convention become? At what stage of development is it at the moment? The answers will be a form of midterm assessment.

### *The Maturation Process*

That the convention has come a long way is evidenced by its being half-way to its goal. This is indicated by its having almost completed the third of six steps which it must take to achieve its purpose; namely: (1) preliminary organization and leadership; (2) permanent organization and leadership; (3) committee work; (4) plenary approval of committee drafts; (5) styling and sponsorship work on the final draft; and (6) debate and approval of final draft.

But let us consider this maturation of the

convention in terms of *process*, rather than products. The maturity of a group, as I see it, is directly proportional to the degree to which it has attained that *level of unity* which enables it to know and to accomplish its real purpose, through the maximizing of all the resources of its individual members and their voluntary integration with the common cause of the group. Maturity implies a dynamic interaction which results in substantial consensus and a spirit of unity. The higher the level of unity, the more mature a group is. Another way of putting it is to say that the higher the degree of maturity, the more "groupness" is manifested in the activities of the group.

This maturing process, as in man, has its infancy, childhood, adolescence, and adulthood. These stages I shall trace in reference to the Constitutional Convention.

### *Infancy*

Let us start by considering the preconvention meetings. During this period of infancy, the delegates were attempting simultaneously to discover their common cause and to lay the groundwork for the organization of the convention. Many delegates gravitated toward this personality or that on grounds of fancied or real ideological or political persuasions. Groups were formed and there was mad speculation for posts, chairmanships, and memberships. The common cause was never a formal, conscious concern of the convention. References to it were vague, buried in words.

Predictably, distrust or lack of unity characterized the delegates at this stage, for they were of varied backgrounds and interests. It was during this period that the rules were discussed, debated, and approved, and of course they reflect this distrust or lack of unity. They are encrusted with controls and restrictions on the powers of leaders and councils, presumably to enhance the independence and responsibility of the individual delegates.

Notorious consequences arose from the fact that each delegate was assigned to from four to six committees, and given the right as well to attend any and all other committee meetings. With this dispersal of authority, responsibility became anemic. The charge was often made that delegates had very little time to study. "No quorum" plagued the committee meetings.

The heads of the three most important councils of the convention — the Steering Council, Sponsorship Council, and the Panel of Floorleaders — were elected even before their respective bodies were formed. However, before the various committees could begin their work, heated debates blossomed from seemingly conflicting rules. Jealous of their participation, delegates were frustrated by the many rulings of the Chair. Tantrums occurred. Finally the language-of-promulgation issue passed, but only after President Macapagal threatened to resign.

While the rules were admittedly imperfect, as was to be expected, they did give the group some form of self-knowledge. They drew the delegates somewhat closer, but they were not quite ready to trust one another, for there were

still many causes to keep them disunited. Politics and vested interests rank high in the list of these causes. The Ban-Marcos resolutions should have served to crystallize basic issues, but they seemed to have the opposite effect. Discussions of form of government, for instance, sharpened the division of delegates into pros and antis.

However, as the group worked together more and more, not only did they grow in knowledge of the work, but their communication improved. It was hampered still, however, by individual concern for credit, expressing itself in heightened interest in individual resolutions and proposals. Moreover, while some amendments to the rules were approved, a general reluctance to revamp structures and organization prevailed and still prevails. There was, and is, a fear of disturbing the setting.

### *Childhood and Adolescence*

Meanwhile the substantive work of drafting the constitutional provisions began at the committee level. The delegates had a growing willingness and opportunity now to look around and see what others were doing. This in turn helped them coordinate their work with that of their fellow delegates. Subcommittees and ad-hoc groups emerged. Aware of it or not, the delegates were now in the next phase, childhood.

It is good to recall at this juncture that we are talking primarily of the maturing of the convention as such, and not of the growth of individuals or groups within the convention. However, let us look for a moment at these smaller groups, to see the role that some of them have played.

There is no doubt that some such groups had more resources to share, in terms of background, training, experience, and leadership, than others did. These groups acted as catalysts, effectively moving the convention towards greater coordination and unity. Included among them were breakfast clubs and luncheon clubs, working silently and unobtrusively, undismayed by the confusion around them. In large part because of their influence, this phase saw a decline in interest in the limelight of the plenary session and its privileged speeches, and, instead, a growing

interest in committee work and in learning what the Filipino people thought and wanted.

### *Toward Adulthood*

More and more delegates responded to invitations for dialogues, teach-ins, speaking engagements. However, the formal onset of this "adolescent" phase occurred around November 10, 1971, five months after inauguration day, when the convention suspended plenary sessions to enable the delegates to concentrate on committee meetings. In March 1972, now that 85 percent of the committee reports have been completed, we may say that the convention is emerging from adolescence into adulthood.

This maturity is reflected in the plenary sessions of the convention and, outside the convention, in the nation-wide multiplication of forums (such as this lecture series) which take up the subject of the convention, and in the greater space and time devoted to it in the mass media, whose obligation it is to project the wants and desires of the people. Indeed we are

at the midterm, about to cross the threshold to maturity or adulthood. This is the most difficult turbulent period.

The convention is an evolving organism. Like the nation itself, it is moving towards maturity. The two processes are interrelated, however, because the convention should be a vehicle for the maturing of the nation. As such, the convention must see to it that the constitution it produces is the work of the entire Filipino people. For its implementation, when it is finished and ratified, will be directly proportional to the amount and degree of involvement and participation of the people in its production.

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#### **FORTHCOMING IN PSR: a CONVENTION issue (July-October 1973)**

The Philippine Sociological Society's 1973 National Convention will be held at Bacobo Hall, University of the Philippines at Diliman, January 20-21, 1973.

Papers and discussions resulting from the meetings will be featured in a special double issue of PSR.

**Philippine Sociological Review 21(3-4) – July-October 1973**