

**2005 CONSULTATIVE COMMISSION  
TO PROPOSE THE REVISION OF THE 1987 CONSTITUTION  
Committee on Suffrage and Electoral Reforms and  
Political Party Reforms**

**MINUTES**

Tuesday, December 6, 2005

**CALL TO ORDER**

At 10:31 a.m., Committee Chairman Cecilio T. Seno called the meeting to order.

**ROLL CALL**

Upon suggestion of the Chair, the Body dispensed with the roll call.

The following members were present:

Abueva, Jose V.  
Adamat, Ronald L.  
Apostol, Sergio A. F.  
Calisin, Jesus B.  
Marohombsar, Emily M.  
Naval, David C.  
Peña, Fernando M.O.  
Romualdo, Pedro P.  
Sarmiento, Mel Senen S.  
Seno, Cecilio T.  
Tirol, David B.  
Tabanda, Betty Lourdes F.  
Villanueva, Jose D.

**CHAIRMAN'S REPORT**

Commission Chairman Abueva gave a brief report to the Committee regarding the results of the different consultations. Regarding the form of government, he noted the overwhelming approval to shift to a parliamentary system. In the regional workshops, 73.66% favored a shift to parliamentary, 18% favored retaining the presidential system, while 8% abstained. There

were only three regional consultations that favored the presidential form of government, namely Quezon City, Mimaropa and Zamboanga.

For the structure of the republic, Chairman Abueva pointed out that the results of consultation saw a similar margin of difference in favor of a federal system, 72%, while 19% voted for a unitary system. There were also three consultations that favored the unitary system: 1) the meeting in Dusit Hotel, Makati with PCCI and Federation of Chinese Chamber of Commerce (13 voting in favor and 8 against a unitary system); 2) in Mimaropa, 11 voted in favor and 4 against; and 3) in Camarines Sur, 18 voted in favor and 8 against.

Upon suggestion of Commissioner Villanueva, the Chairman agreed to review the results of the national consultations again during the plenary session.

In order to come up with percentage figures, Commissioner Villanueva inquired how many people attended the national consultations and how many voted. He pointed out that if 100 people attended, and 40 voted for parliamentary while 10 voted for presidential, only 50% of those who attended voted. He asked to consider the number of silent participants as compared to those who voted in order to properly guide the results.

Chairman Abueva said that this would be further discussed during the plenary session, and he just brought up the emerging trends in the voting results.

Commissioner Calisin observed that in the division of the workshops into three clusters of structure, form, and national patrimony and economic reforms, the participants in one cluster were not allowed to vote on the other issues. He said that from the start, the voting should have been done during the general assembly, and not in cluster groups so that the general vote could be seen. However, Chairman Abueva pointed out that the discussions and details were done during the workshop where not everybody was involved.

Commissioner Romualdo mentioned that the Body was trying to sell federalism against the unitary system. However, he observed that during their presentation, Commissioner Tabanda emphasized the present presidential system. He said that he had joined the structure of the republic cluster for people to understand federalism. He pointed out that they had chosen people who were already for federalism, so the discussions were somewhat one-sided.

Commissioner Villanueva said that it was a mistake to say a shift to parliamentary-federal, because this was not exclusive. He said it was always the present presidential system that was being opposed, one shift to parliamentary or federal and the other to a modified. He said that the modified shift was never explained.

Commissioner Calisin pointed out that in four provinces in Albay, Commissioner Acevedo presented the presidential, while the former presented the parliamentary form; when it came to voting, 40 voted in favor, while 30

against the parliamentary system. He said that this was a good presentation, where two speakers presented both pros and cons because they could see the direction of people in the voting as opposed to reporting on just one side of a structure or form of government

Commissioner Tabanda said that presenting all sides would have been possible if there were more Commissioners present during the consultation process, however, only four were present during that time.

Commissioner Apostol noted that out of all the Commissioners, only Chairman Abueva was the advocate for a modified presidential, while Commissioner Espina was for the retention of the presidential system.

Commissioner Tabanda said that the reason she had brought up the issue was that there were provisions under the suffrage committee, which would be dependent on the form and structure of government. She said that in order to move on, the Body really had to come up with a decision of whether to adopt the parliamentary system, or make two different versions of the proposals – one for presidential, and one for parliamentary, which would be time-consuming.

Commissioner Apostol said that this was the reason for having the Committee on Style. He said that if the Body decides to adopt the modified presidential system, or modified presidential and federal, then the Committee on Style would take care of the specifics.

Commissioner Calisin pointed out that no matter how they discussed the matter, it was already water under the bridge because they were already done with the consultations.

## **CONCERN OF COMMISSIONER TABANDA**

Commissioner Tabanda referred the Body to the use of the term “*actually*” regarding actual residence, in relation to possible disenfranchisement of overseas workers who as absentee voters vote only for the President and national officials. If the Body would be adopting a parliamentary–unitary system, she said that the provision would not disenfranchise anybody because there would be no more national officials to vote for. However, if the presidential system would be retained, she said she would vote against this particular provision because it would disenfranchise overseas workers.

Commissioner Apostol suggested deleting the word *actually* from the provision regarding residence. However, Commissioner Tabanda reiterated that this would disenfranchise overseas workers if the present system was retained. She pointed out the importance of having the “proper frame of mind” to contextualize this provision.

Commissioner Apostol asked if Commissioner Tabanda was suggesting that the Body suspend the consideration of this provision until they had taken care of the structure of government, to which Commissioner Tabanda replied that she was not. Commissioner Apostol said that the Body could have the proper frame of mind, but it would be up to Plenary to decide whether a federal or parliamentary system would be adopted.

Commissioner Tabanda referred the Body to a letter from Loida Nicolas advocating for the retention of absentee voting, which the Chairman had acknowledged.

Commissioner Apostol pointed out that the issue of debate was only one word – “*actually*” -- referring to people residing in the Philippines, which Commissioner Tabanda said had a large implication because it would disenfranchise the overseas workers. Chairman Abueva mentioned that the issue had already been discussed at length during the previous meetings.

Commissioner Romualdo said that Commissioner Tabanda was only concerned with overseas foreign workers, and not those living in the country. He pointed out that many voters in the country were registered as much as two to three times in different places (flying voters).

Citing the case in Camiguin, Commissioner Romualdo said that many voters were residents of Davao, Cagayan de Oro and Misamis Oriental who just went to Camiguin to register, thus the reality was that there was a discrepancy between voters who had actually resided there. From the total population of Camiguin or 74,232, there were almost 50,000 registered non-resident registered voters. He asked what should be done regarding this anomaly and whether the Body wanted to allow this to continue in the electoral process. He added that this matter also included candidates who resided and earned money elsewhere, and would go home to their provinces in order to run in the election. These people, he said were the ones corrupting the voters.

Commissioner Apostol clarified that the definition of residence in the election code was domicile, not actual residence.

Commissioner Peña said that he had mentioned in the Committee, that when the Constitution was ratified, the understanding was that overseas voters would also participate. He said it would be very difficult to disenfranchise them.

Commissioner Romualdo said that they should correct this erroneous jurisprudence mentioned by Commissioner Apostol.

Commissioner Tabanda said that she had no serious objection to using the word *actually* to apply to candidates, as it makes sense for the candidate to be an actual resident or have physical presence in a locality. However, she said that the word has a different and very large implication on overseas voters.

Commissioner Apostol restated the suggestion to remove the word *actually*. Going back to jurisprudence, he said that residence refers to domicile and not actual residence.

#### **ACKNOWLEDGMENT OF GUESTS**

At this juncture, Commissioner Adamat formally acknowledged the presence of guests from the Persons with Disabilities (PWD) who were present to witness deliberations, and were particularly concerned with the protection of their rights.

#### **COMMENT OF COMMISSIONER ADAMAT**

Regarding the discussion at hand on the word *actually*, Commissioner Adamat said he is an actual resident of Cotabato City and voter of that city. He agreed to the observation of Commissioner Tabanda that the word *actually* would be appropriate in referring to candidates but not to voters, as this would automatically disenfranchise the overseas contract workers.

Commissioner Apostol suggested giving overseas contract workers an exception, and Commissioner Villanueva further suggested exempting Filipinos with dual citizenship, to which

Commissioner Adamat was amenable. Commissioner Tabanda said that this could raise issues regarding class legislation. She stated that if a Filipino abroad would be allowed to vote, the people in Manila who would want to vote in the province should also be allowed to vote.

Commissioner Romualdo averred that there were different definitions of residence which Supreme Court had created, including domicile and *animus revertendi* (intention to return). He said that this began with the case of Emmanuel Pelaez who resided in Manila, but ran for Congressman and won in Misamis Oriental. There were moves to disqualify him but the Supreme Court invoked *animus revertende*, which began all sorts of definitions on residency, he said.

Commissioner Marohombsar asked if the provision would apply only to candidates and not voters, to which Commissioner Romualdo replied that it would apply to both. Commissioner Marohombsar cited her case as she had a house in Banasi, Lanao and returned there occasionally to vote, but she resided in Marawi City.

Commissioner Romualdo said that whether the Body liked it or not, this issue of residence had been abused and tolerated in the past. He said that voters often registered in a certain area because of monetary considerations.

Commissioner Apostol asked what was wrong with going back to one's roots and voting there, despite migrating to other cities or provinces. Commissioner Romualdo affirmed that this seemed to be the current reality.

Commissioner Apostol restated his objection to the use of the word *actually* in the provision, because, he said the

definition of residence as domicile was clear under jurisprudence.

Commissioner Romualdo replied that this was why they were changing it, as the Constitution only speaks of residence. He said that the Supreme Court had so much leeway in the definition of domicile, actual residence, and intention to return.

Commissioner Tirol agreed to the proposal of Commissioner Romualdo. He cited the situation in his case as a registered voter in Buenavista, Bohol which qualified him as a resident of the second legislative district of Bohol, where he had been elected Congressman and for other positions. He stated, however, that he had been actually living in Tagbilaran City.

Chairman Abueva asked whether these provisions had already been approved at the committee level. Commissioner Calisin agreed that the Body should not subject the matter to further deliberation because they had already approved this in previous meetings. He noted however, the exception for overseas contract workers.

Commissioner Apostol said that the Committee should leave this to plenary. He asked why they should amend this by addition. For the record, he stated his objection to the word *actually* because of the definition of residence as domicile in accordance with jurisprudence.

Commissioner Villanueva suggested changing the word to “relatively” instead.

Commissioner Romualdo said that the provision should reflect that the Supreme Court was not omnipotent, to which the other Commissioners agreed.

Commissioner Calisin stated that it would not be proper for a member of the Committee on Suffrage to object in the

plenary. He said they could not make any more objections because they had already approved the amendments. Objection is proper during deliberation and absence during deliberation could not be used as a basis to go against what had already been approved, he said.

#### **COMMENT OF COMMISSIONER CALISIN**

Commissioner Calisin suggested discussing Article X. He said there was a discrepancy in the transcripts. According to him, during the discussion, the Body approved extending three to five years and then removing *terminate*. But the handouts reflected the erroneous exclusion of the extension to five years and the retention the word *terminate*.

Commissioner Apostol asked if word *actually* was not discussed during the deliberations, and it seemed that the Body had not discussed many issues.

Commissioner Tabanda suggested that the Body adopt a more systematic process and proceed to the second page. Chairman Abueva suggested that they go by section instead.

Commissioner Adamat suggested being more flexible with rules and accommodating amendments in the committee rather than in plenary, as discussing during the plenary might invite more discussions and opinions.

Commissioner Villanueva explained that after the debates in plenary, the Committee would present its amendments and then the Commissioners would present their individual amendments.

Thus, the Chair suggested that the Committee already finish its work so that a final draft could be submitted to the

plenary, which would be meeting as a Committee of the Whole.

Commissioner Romualdo pointed out the error in the report regarding the three-year term, which they should correct because it was not reflective of what was approved.

Commissioner Seno noted that the nine-page report was culled from records of the meetings, and any errors made should be corrected in accordance with the records.

## **SECTION 2**

Upon suggestion of Commissioner Tabanda, the Body moved on to discuss page two and agreed to the removal from the Commission on Elections (COMELEC) the jurisdiction to decide on all cases on elections. She called the attention of the Body to the proposed amendments on paragraph 2, Section 2, page 2 which states that all contests relating to election returns and qualifications of all regional, provincial, city and municipal elected officials shall be under the original jurisdiction of the Regional Trial Courts (RTC). But in the original provision of the Constitution, COMELEC has original, exclusive jurisdiction only up to the municipality affiliates. She said it seemed that the original jurisdiction covered only regional, provincial and city cases, whereas municipal cases would fall under the Municipal Trial Courts (MTC) because in the original provisions, COMELEC only has appellate jurisdiction over MTC.

Commissioner Tabanda asked whether the same level of jurisdiction should be adopted in their proposed amendments and all cases up to the municipal level should go to RTC.

The Chair said that the Committee decision was to move official powers

and administrative functions to the COMELEC.

Commissioner Tabanda said she was not violating previous agreements, and was just asking whether the RTC or a higher court would have jurisdiction over municipal election cases.

Commissioner Naval pointed out that under the 1987 Constitution, election cases involving municipal officials are within jurisdiction of the RTC, while MTC has jurisdiction only over cases involving barangay officials.

Commissioner Tabanda noted that appellate jurisdiction of COMELEC over MTC was no longer present.

## **REPRESENTATIONS OF PERSONS WITH DISABILITIES**

Commissioner Adamat thanked fellow Commissioners for welcoming the representatives from the PWD sector. He mentioned that there was a suggestion coming from them that the privilege of absentee voting by mail be also extended to PWDS since it is quite difficult for them to cast their vote in the usual precincts. In this regard, Commissioner Adamat requested the suspension of the rules to give way for a direct manifestation of the PWD group.

Rommel del Rio, the National Anti-Poverty Commission representative of Region IV-A of the PWD sector, expressed PWD's difficulty in electoral exercise. He requested the Committee members to find ways and means how they can exercise their right of suffrage, freely and without barriers.

Mr. del Rio informed the Committee that there are about 10 million PWDs in the Philippines according to the UN figures which estimate that about 10% of any country's population is considered persons living with

disabilities. Of that number, about 40 to 50 percent can vote, which translates to about 3 to 5 million.

Commissioner Tabanda stressed the importance of the presence of the group in order to air the concerns of their sector and asked them if they have other concerns aside from accessibility during voting period.

Mr. del Rio also mentioned the concern on representation. He said that despite the party list being instituted for years now, the PWDs did not have the chance to avail of that provision which mentions that marginalized sector should have equal legislative representation.

Captain Oscar Taleon, the Chairman of the PWD representatives, mentioned that their group has taken part in three party list elections but did not win the elections. He underscored the proposal that their group should have 20% allotment in the party list representation in the parliament. He said that their group wanted an assurance that they would not be left out and the dominant parties would get all the representations.

In response to Mr. Taleon's manifestation, the Chair referred to page 8 of the Committee's final report, which states that there should be an amendment by substitution on paragraph 2, Section 5, Article VI of the present constitution. He highlighted the proposal of the Committee that 20% of the Members of Parliament should be representatives of the two dominant political parties, proportionate to the number of elected members. He noted that PWD is one of the sectors mentioned and hence, they would be properly represented in parliament.

Commissioner Naval asked if this provision is a similar concept to party list because minorities should be the

concern of their own political parties, which incorporate various sectors.

Mr. Taleon further expressed apprehension that there is always that feeling that those who will be appointed PWDs are looked at as second-class citizens.

Commissioner Adamat maintained that irrespective of whether an elected official is treated second-class or not, the important thing is that person can deliver and champion the rights of his/her constituents. He mentioned that Malaysia and Indonesia as pointed out by Commissioner Espina, have their own representation appointed by parliament and there is no reason why the Philippine government cannot adopt this.

Commissioner Romualdo questioned the practice of segregating or classifying sectors.

Commissioner Adamat maintained that the era of sectoral representation did not start with the Marcos era but is a matter by which the United Nations is trying to recognize to empower these sectors. He said that asserting the right to self-determination is a global issue and not a local or domestic issue. He added that the 9th and 10th Congresses passed relevant laws including that of Congressman Borjal and the law known as RA 83721. He asked the Committee not to sacrifice this representation just because of experience on the party list election in the last two Congresses.

Commissioner Apostol expressed his apprehension that the 20% representation might be used as a leverage to instigate control in the political mainstream.

Commissioner Adamat said he thought otherwise and appealed to Congressman Apostol to approve this.

Commissioner Tabanda mentioned that she made an original proposal on sectoral representation. She suggested that sectoral groups should organize themselves into political parties to be part of the political system. She said that these political parties may coalesce to form a dominant political party so that they will become part of the mainstream of political life. She added that in order to garner necessary votes, they should align themselves with a political party for additional force. She said, although there may be seats that will be reserved for sectoral representatives, it should be the political party which should determine who gets to seat as sectoral representatives. She said that 8 million PWD voters consist of a big number that can get more seats. She stated the implementing law for political parties should include these as part of the political party system.

#### **APPROVAL OF THE FINAL REPORT ON POLITICAL PARTIES**

The Chair pointed out that the minutes of the last meeting did not properly reflect the PWDS as one of the so named sectors and that party list system was no longer adopted but instead there would be two dominant political parties with the party list sectors merely represented.

Upon suggestion of the Chair, there being no objection, the Committee approved the provisions on political parties in the final report.

#### **REMARKS OF COMMISSIONER APOSTOL**

Commissioner Apostol stated that in addition to the representation of those sectors mentioned, the political parties will determine the two dominant political parties.

Abner Manlapaz, representative of the PWD group, emphasized that they know their issues better and they must be consulted on matters that concern them.

Tina Gregorio, the NAPC (National Anti-Poverty Commission) sectoral representative of the PWDs clarified that PWDs are “persons” with disabilities not “peoples” as contained in the provisions of the report. She reminded the Body that the law enshrines the rights of the basic sectors and that they can best represent themselves because many of them are intellectually able to do so and no one else can represent the PWDS. She said that only they know their issues and concerns. She cited an example where comfort rooms for PWDs do not have mirrors like ordinary comfort rooms. She said the Magna Carta for PWDs is not sufficient for them to exercise their rights.

Commissioner Adamat expressed the need to re-examine the Magna Carta for PWDs. He cited that in Japan, because they have very good tax systems, the law protects disabled persons. He said proper collection of taxes in the Philippines might take 10 to 20 years from now, and there is very little representation of PWDs in the government like Congressman Art Borjal. He stressed that the point is not for PWDs to feel special but to capacitate them for self-determination.

Commissioner Abueva stated that the Committee on Style should finalize the provisions that would be prepared by the Chair, Vice Chair, and Chairman Abueva, for submission to the plenary.

#### **ADJOURNMENT OF MEETING**

Upon suggestion of the Chair, the meeting was adjourned.

*It was 1:05 p.m.*

