

Citizens' Constitution Making Research on the Aquatic Reform and Fisheries Development Agenda of the Small Fishers Sector

By Bas Umali

I. Introduction

The NEDA claimed that the under development of the country's economy is due to constitutional restrictions imposed by the charter and therefore must be removed to allow foreign investments.

Meanwhile, staunch advocates of federal republic like former UP President Jose V. Abueva and currently the head of Kalayaan and Chair of the Advisory Board of the CMFP (Citizens' Movement for a Federal Republic) said that presidential system failed to address countrywide development due to counter productivity of centralised authority. For them, presidential system promotes unequal development because the nation is being governed from Metro Manila and blamed unitary system for the underdevelopment.

The cha-cha initiative is successfully pushed in the center of debate during the past years and it seems that the general atmosphere to discuss it is laid down. On the part of the advocates which primarily from influential ranks of the society, it is a matter of timing and procuring technical and legal requirements. Public opinion wise, based on the SWS (Social Weather Stations) survey on the fourth quarter of 2005, charter change gained 54 percent public approval.

On the other hand, the venue for such to substantiate the issues within the sector of fisheries is very limited and the debate on it is not yet popularize among the fisherfolk communities and organisations. On this situation, the necessity to discuss cha-cha in the context of fisheries sector is apparent not only to educate and inform stakeholders but also to lay down initial ideas for possible engagement or disengagement.

This paper is not set to counter the arguments of the NEDA nor the opinion of the advocates of the federal republic. Its main concern is the consequences of cha-cha to the fisheries industry. The opposition to the statement of the pro-cha-cha is due to the under development of fisheries industry that to some certain extent is a reflection of the situation of our national economy.

Also, part of the objective is to find out whether the basis of cha-cha within the context of the fishing sector is concrete or not. This is the reason why this document devoted few pages substantiating issues of the industry.

II. Background of Philippine Fishing Industry

Importance of fisheries as an industry

The industry is very essential to our food security. It contributes at least 40 percent of animal protein. Species from capture fishery such as scads, anchovies and sardines and cultured tilapia and milkfish are primarily the source of cheap animal protein of many poor Filipino families in the major cities of the country.

Seaweed industry provides livelihood to thousands of small seaweeds farmers. Seaweed farming is generally a practice through out the archipelago; the islands of Sulu and Tawi-Tawi produced 60% of the country's seaweed; Bicol and Visayas contribute 35% while Palawan account for 15% (Tambuyog, 2007) Large volume of processed and semi-process seaweed products is for export market mainly for industrial purposes.

There are also few but giant stakeholders operate purse seine fleets in high seas and foreign fishing grounds through agreement to catch schools of small pelagic fishes for processing plants. Their major market is EU (European Union).

Hunting of large pelagic like yellow fin, sailfish and blue marlin is dominated by handline fishers from General Santos City, which the large portion of it is being exported, to Japan and the US (United States). The livelihood of 20,000 fishers is threatened due to BFAR's issuance of policy allowing Taiwanese vessels to unload and sell their products to the local market.

In culturing particularly of fin fishes aquaculture and mariculture are being operated in large-scale method to produce for domestic consumption as well as for export market. High value species like pompano, sea bass, grouper and formerly top export earner tiger prawns are intended for countries with high purchasing power like Japan, Hong Kong, EU and US. In general, 40 percent of the fisheries products are for export market.

BFAR's (Bureau of Fisheries Aquatic Resources) profile reported that the sector employed over 1 million people through direct and indirect fishing activities where municipal fishers are the largest comprising 675,677 while the commercial are 56,715 and 258,480 in aquaculture sector. But in 2005, the NSCB (National Statistics Coordination Board) reported that there is 1.7 million registered small fishers excluded their dependents.

Women's role in Fisheries

Women's participation is not immediately visible but if we properly adjust our lenses, we will realise how crucial their function in order to maintain many important sectors of the fishing industry. In the pre-capture stage for instance; female takes charge most of the household chores, they weave net and often

participate to actual capture activities. In seaweeds industry, their roles cut across from planting of seeds up to maintenance and drying.

In urban centers, women are in wet market and processing plants of canned fish products. They usually dominated small scale and household based traditional processing like drying, shrimp and fish paste making, deboning, bottling, and the likes. Gathering and post capture activities are also women and children dominated activities. These household level roles are usually economically unaccounted but provide concrete functions to sustain fishing communities.

Women are also involved in management and protection of fisheries resources through CBFM (Community-Based Forest Management), MSA (Marine Stewardship Agreement), FARMC (Fisheries Aquatic Management Council) and some women organisations even engaged in bantay-dagat.

The open-access situation

This situation is caused by the inability of responsible institutions to enforce regulatory and management systems. This resulted to virtually free for all access to the fishing ground undermining regulatory measures.

According to SEAFDEC (Southeast Asian Fisheries Development Center) this situation is one among the major causes of resource degradation in fisheries of Southeast Asian region (ASEAN-SEAFDEC, 2001)

The IUUs (Unregulated, Unreported and Illegal) fishing activities, which contribute to stock depletion, thrive in an open-access regime particularly in capture fisheries where different stakeholders compete to catch limited fish stocks.

Resource degradation

The UN-FAO (United Nations-Food and Agriculture) reported more than 80% of world's fishery resources are depleted.

The overexploitation of country's major fishing grounds marked our own contribution to the global trend of fishery resources destruction.

As early as 1960s, demersal and pelagic fishery already manifested the signs of overfishing except in the areas of Palawan, southern Sulu Sea and Central part of the Pacific Coast and some parts of Mindanao (Philippine Fisheries in Crisis, 2002).

Aside from IUU, intensive aquaculture also contributed to the decline of fish stock due to habitat loss (mangrove conversion); over stocking (fin fishes) and poisonous effluent flushed out to the river. Clean water is a major requirement of large-scale aquaculture operations and it massively utilized ground water that led to destruction of water reserve.

The natural capacity of our fishery resources to produce at the optimum level is also highly vulnerable to non-fishing activities such as mining, energy extraction and large-scale agricultural activities that highly dependent in chemical-based fertilizers.

Poverty

Despite of figures and data registered by BFAR¹ with regard to fisheries sector's contribution to the economy, poverty is most high in coastal areas, in fact 80% of fisherfolk household live below poverty line (Israel, 2004).

Study on five selected bays showed that the average income of a municipal fisherfolk household is only about P45, 110 (US\$ 851). Bad weather condition during lean season made them almost income less from August to December (FSP, 1992). This situation is further aggravated by the absence of social services in many fifth class municipalities where most of the fishing communities are situated.

Generally, the poverty is attributable to the low productivity of land-based resources or lack of access to land; low productivity of aquatic resources mainly due to habitat destruction and stock depletion; resource use conflict particularly in coastal waters; and lack of adequate basic services delivery (i.e., health, education, shelter, infrastructures, etc.).

Fisheries Industry Underdevelopment

The complex network of issues of the industry caused its underdevelopment. The word underdeveloped is related to:

- The absence of fisheries management² that supposed to consider all possible uses and stakeholders' interests which will ensure sustainable utilisation of fishery resources.
- Generally low level of productivity of fisheries sector. In 2004 volume of fish unloaded by municipal fishing boats reached 244,348 metric tons,

¹ Fisheries sector contributed to the national economy in 2001 with 2.3 percent in GDP (Gross Domestic Product) and 3.8 percent at constant and current prices with the value of P34.3 billion (BFAR Fisheries Profile 2001). It was the second largest share next to agricultural crops in terms of Gross Value Added (GVA) with 15 percent share.

² There is no single formula for a successful fisheries management undertaking. In many cases, developed nations confidently claimed successful effective management plan implementation such as Japan, Canada and countries in EU like New Zealand (OECD report).

The commonality of their experience involves commitment of government reflects on policy and substantial financial support. Broad participation of direct and indirect stakeholders and process that generally includes resource assessment and valuation; management options and utilization pattern.

higher by 10,297 metric tons from the 234,051 metric tons in the year 2003. Both marine and inland fisheries indicated positive growth rates of 4.80 percent and 2.25 percent, respectively. But this would not assure us consistent economic growth because most of the fishing ground in the country is poorly managed that cost us billions of pesos losses according to the World Bank³.

- The lack of capital and investment is recurring limitations that which the NEDA consistently used as argument for charter change.
- The lack or absence of social services that encourages low level of compliance amongst users.
- Virtually, the fishing industry is already liberalized despite of the restriction of the Fish Code.

Efforts to address open-access and over fishing

Republic Act 8550 or Fish Code is the main text that provides general direction to country's fisheries in terms of extraction, management, distribution of benefits of stream and authority scheme.

In broad stroke, the Fish Code is a response to address the trend of over fishing. It clearly defines the preferential rights of municipal fishers over municipal water that stretched from zero to 15 kilometers of a fishing ground and the jurisdiction of which is delegated to LGU.

Despite of various effort led by the government through programs in the likes of CVRMP (1 & 2), FSP (1 & 2), CRMP, FRMP and now FISH Project FISH project that costs billions of loans and grants barely addressed over fishing.

Though, the situation at the local level has different twist, the initiative of POs (People's Organisations) to implement the law through Bantay-Dagat and MFARMC (Municipal Fisheries & Aquatic Resource Management Council) scored significant gains. The combination of organized fishers and friendly LGUs resulted to protection of several fishing grounds and maintenance of sanctuaries and marine protected areas. However, violent reactions confronted local volunteer fish wardens that caused numerous killing of PO leaders.

³ The WB (World Bank) already warned the country through its Philippine Environment Monitor 2004 report about the worth P111 billion pesos economic opportunity losses brought by the continuing degradation of the environment. The report noted that economic losses from water pollution are estimated at P67 billion (\$1.3 billion), while the mismanagement of fisheries resources cost P23 billion (\$420 million). The increased health costs of exposure to air pollution (particulate matter) in four urban centers alone are estimated to be over P21 billion (\$400 million).

The implementation of CBCRM programs attracted POs that made many coastal communities deeply involve in management initiatives. The sharing of skills and information made POs and communities more assertive in their traditional claims over fishery resources.

But generally, the initiatives of government, POs and civil society remained limited in order to implement fisheries management plan that is binding to all players and stakeholders and ancillary industries.

III. Historical events related to Constitutional Reform and Fisheries Industry

This portion is intended to walk us through brief historical development of the highest law of the land and its influence to fisheries industries.

Being discussed the importance of fisheries; our constitution being the reflection of the common sentiments of the people should ensure appropriate laws and policies to properly manage fisheries resources.

The earliest version of our charter is the 1899 Malolos constitution. It had no explicit provision with regard to the use of natural resources and national patrimony except those in title IV article 32:

“ No Filipino shall establish laws on primogeniture, nor institutions restrictive of property rights, nor accept honors, decorations, honorific titles or nobility from foreign nations without the consent of the Government”.

More so, fishery specific policies were not yet apparent in the earliest charter of the country. But before the revolutionary government able to secure the political power the colonial Spain seceded the archipelago to the United States on the 10th of December 1898. Thus the Philippines became fully under control of United States that made Malolos constitution impossible to enforce (Consultative Commission, 2006).

From then on, the economic relationship of the two countries became inextricably linked. During this period, the Philippines enjoyed free trade with the US allowing the former to export agricultural products especially sugar, coconut, abaca, coconut oil and timber to the latter duty free. In 1929, the US stock market fell that led to serious economic recession⁴ while the Philippine economy gained significant growth.

⁴ The American farmers complained about the adverse effects due to exports from the Philippines. They lobbied for the independence of the archipelago to the American government as well as the termination of trade privilege of the country. Eventually, in 1935 the Commonwealth Government established and Manuel L. Quezon became the president. Huge fund from coconut

One of the earliest policies specific to fisheries industry was Fisheries Act 4003 of the Commonwealth Government. It had protectionist character stated in Article III Section 15 limiting the importation as well as the exportation of any fish, mollusks, crustaceans, or amphibian or other aquatic animal, adult, young, or fry or fish eggs. Except it allowed US citizens⁵ and corporations to access fishing grounds through permit⁶ to be issued by Secretary of Agriculture and Commerce. This was due to the parity rights between the Philippines and the US. In 1938, the government issued 238 licenses. During the 1940s, trawl was the dominant fishing gear of commercial operations suspected to be owned by the Japanese nationals.

In 1950s, the depletion of stock influenced the method of fishing of commercial operators and small fisherfolk; they both resorted to more efficient but destructive operation like blast fishing. It became a widespread practice but was effectively controlled during martial law.

The first attempt to revise the charter can be traced way back in 1969 by Ferdinand Marcos after he won his re-election. Amidst of protests and resistance, the 1971 constitutional convention formulated a new charter that ratified in 1973 through a plebiscite. Parliamentary system was adopted and the National Assembly elected a titular prime minister in the person of Cesar Virata and Marcos remained the most powerful man in the archipelago (Aquino, 2003).

The Fisheries Act 4003 of the Commonwealth Government was superceded upon the approval of Presidential Decree 704 (PD 704) by Marcos in 1975. The said law provides opportunity for foreign investment in fishery but maintaining 60 percent of the capital stock for the local investor. The PD 704 reserves the seven-kilometer zone for the municipal fishers.

The “Blue Revolution” was already geared toward improving global competitiveness by modernizing the industry through foreign investments thus it offered incentives such as forgone government revenue and profit repatriation (Vera, 2003).

Marcos was ousted in 1986. Cory Aquino revolutionary government appointed members of constitutional commission that drafted the 1987 charter. Fresh from dictatorial nightmare, multi party and local government systems were adopted to empower people. It should be noted that after Marcos ousted, the lives of the small fishers and the fishing communities in general did not change.

industry tax collections turned over by the US government to Quezon administration that used for infrastructure development.

⁵ At least sixty-one percent of the capital stock is owned by Filipino and US Citizen.

⁶ Permits were issued to fishing vessels more than three gross tons for commercial operations.

The fisherfolks' lives went the same under Fidel V. Ramos regime and also under his administration the first initiative to change the 1987 charter emerged; it was heralded by People's Initiative for Reform and Modernisation Action or PIRMA. In December 1996, one of the PIRMA's founding members Atty. Jesus Delfin filed a petition to amend the constitution with the COMELEC. The petition particularly sought to amend the term limits of elected official as stated in article VI sections 4 and 7. And article X, section 8 also related to term of office at the barangay level.

Despite of six million signatures gathered by PIRMA, the Supreme Court ruled out that process is illegal because the enabling law for the process of People's Initiative is yet enacted. The initiative temporarily halted but it became part of the national issues being watched by various sectors and stakeholders.

Ramos is truly one among the aggressive advocates of neo-liberal paradigm. In his administration the CEPT was approved and the country acceded to the WTO through the bill sponsored by a senator non other than the current president of the republic --- GMA. The Agriculture and Fisheries Modernization Act or AFMA was passed that supposed to provide protection to the least mobile sectors such as the municipal and small fishers. But very minimal budget was dispersed and did not introduce substantial improvement to the sectors. Part of AFMA was the expired Agricultural Competitive Enhancement Fund (ACEF) that designed to provide safety nets to small producers in order to increase their global competitiveness and therefore not accessible to small fishers and other least mobile sectors.

At the later part of Ramos' administration, Fisheries Code of 1998 enacted. Some CBCRM (Community-Based Coastal Resource Management) advocates complaint about watering down the fisherfolk agenda but generally; the Fish Code provided the advocates, POs (People's Organisations) and communities with legal weapon in terms of engaging the government over the fisheries issues. The 15-kilometer municipal water is reserved for municipal fishers and the jurisdiction is transferred to LGU. Unlike PD 704, various stakeholders including municipal fishers and women have representations through consultative mechanisms such as MFARMC, NFARMC, NAFC, and NAPC.

This leverage did not immediately translate into concrete gains. For instance, despite of delineations and demarcations of municipal fishers; the intrusion of small and medium scale commercial fishers within the municipal waters is a common practice. Poverty incident remained high and political marginalisation persists among coastal communities.

Under Estrada administration the initiative revived via Constitutional Correction for Development (CONCORD) through EO (Executive Order) no. 43. He believes that changing the charter will help him fulfill his pro-poor programs. Presidential Commission on Constitutional Reform (PCCR) later created through EO no. 70

explicitly stated that charter change intention is to introduce bold economic reforms that will let foreign business to invest in the country. The initiative expires as the Estrada regime collapsed.

During Erap's regime the DENR issued Department Administrative Order No. 17 (DAO 17) to implement delineation and demarcation mandate.

The third attempt to change the 1987 charter took place under Arroyo administration. House Speaker de Venecia tabled constitutional reform in congress proposing to shift from presidential to parliamentary system of government.

Despite the controversies emanates carrying cha-cha agenda; GMA daringly campaign for this and she even included this during her early part of the campaign in 2003 presidential election. On her 2005 State-of-the-Nation-Address (SONA), GMA emphasized that the system requires fundamental changes and she called for the great debate to start it as early as possible.

Under GMA administration DAO 17, revoked, CBFMA, cancelled and tariffication of fishery products fast tracked. Her performance in protecting interests of small fishers and producers is very poor which reflects in the content of RP-China, JPEPA, ASEAN-FTA and among others.

Under her general policies relating to the 2004 Investment Priorities Plan (IPP) approved by the Board of Investments in June 2004, foreign ownership of export-oriented enterprise will not be restricted. Foreigners can own as much as 100 percent of total equity except in the areas identified in the negative list.

As noted by many experts, the main substance over the cha-cha debate revolves in two issues: the economic provision and the system of government. Common to the 1935, 1973, and 1987 constitution is the protectionist provision, which requires 60 percent ownership of local share. This provision is the last protection of our capital that is our natural resources. While the unitary system is oppose primarily by the senate.

II. The Limits and Possibilities of the 1987 Constitution viz the sector's aquatic reform and fisheries development agenda

One of the pressing issues in the fisheries industry is poverty and as mentioned earlier this issue in one way or the other is related to economic health of the country. Poverty in the coastal communities which is attributable to the low productivity of land-based resources or lack of access to land; low productivity of aquatic resources mainly due to habitat destruction and stock depletion; resource use conflict particularly in coastal waters; and lack of adequate basic services delivery (i.e., health, education, shelter, infrastructures, etc.).

To be consistent with the objective; fisheries discussion on cha-cha must take off on the concrete issues outlined above. The preferential rights provision in the Fish Code can effectively contribute in addressing poverty issue. Though many LGUs are proven to be ineffective to implement this mandate; this provides legal protection to fishers' claim over the fishing ground that usually dominated by big investors.

Coastal communities are the most affected whatever disaster takes place within the coastal zones and based on experience they are the most effective resource managers and therefore, fragile but renewable fishery resources must remain under the control of the localities. The increasing number of victims of violence among the bantay-dagat volunteers can prove that they are the most devoted resource managers.

The Fish Code and LGC (Local Government Code) which both consistent with the current charter are for the time being sufficient to ensure decentralization but what is lacking is the tedious process to prepare the LGUs.

Fish Code being consistent to the 1987 constitution is not a perfect policy but as far as fisheries management, food security and small fishers and women's representation is concerned it contributed good numbers of provisions. This situation is definitely far from NEDA's analysis and facing inconsistency in the context of fisheries as it pronounced:

"The problem is systemic. Rooted in the protectionist policies in the constitution. These policies prevent the flow of foreign capital, technology and production skills in to our economy".

Fisheries industry is indeed lack of technology that affects its productivity and competitiveness, but this is not the heart of the issue, without appropriate effective management system in place, upgrading fishing technology may lead to further overexploitation and overfishing.

We really need investments to boost industries capacity and the charter protectionist provision does not prohibit this.

Government officials are keep on complaining about fiscal deficit that it even resorted to adoption of EVAT while it keep liberalizing tariffs and giving incentives⁷ especially to export firms and corporations thus the government losing millions of revenues.

⁷ The Business World reported that in 2000 the government provided forgone government revenue of P4.4 billion in 2000; P10.2 billion in 2001; P46.2 billion in 2002; P25.1 billion in 2003 and P7.6 billion in 2004.

The government's billions of pesos expenditures for resource management programs did not able to deliver meaningful changes in terms of poverty and resource degradation trend.

BusinessWorld recently reported that the Asian Development Bank (ADB) approved assistance package consists of \$33.8 million loan and another \$9 million grant from Global Environment Facility (GEF) to be administered also by the ADB. This funding assistance is intended for integrated coastal resource management projects (<http://www.bwroldonline.com/BW041007/>).

The Land Bank of the Philippines must also exert extra effort to raise necessary funds, because its part of its mandate anyway.

The government in short has plenty of opportunity in order to raise resources needed to implement fisheries management and industry plan but its low appreciation left the sector neglected and remained underdeveloped.

The need to have a development plan is consistent to the fish code which importantly pay attention to the fisheries management components like imposing limit to access through registration and licensing; fisherfolk settlement, provision of post-harvest facilities and livelihood and market support. The capacity and flexibility of the 1987 constitution economically and in terms of governance have not yet tried since most of its provisions were not put to practice.

The issues discussed above cannot be directly linked or related to the 1987 constitution's protectionist provisions.

The non-implementation of the important provisions explains those discussed above. That itself is the limitation.

III. The Possible Consequences of Cha-cha in Fisheries Sector

Having discussed the grim situation of the industry and its players especially the artisanal and municipal fishers; let us find out whether if it's fit to the proposals of Consultative Commission.

Based on the submission of the Consultative Commission to the President and to the Congress on the 16th of December 2005; the highlights of the proposal are: 1) form of government; 2) structure of the republic; 3) national patrimony and economic reform; 4) the judiciary; 5) preamble, national territory, declaration of principles & state policies, citizenship, bill of rights, bill of duties; 6) constitutional commission and general provisions; 7) civil service & accountability of public officials and 8) transitory provisions.

Mainly, the fisheries industry is most affected in the provisions on national patrimony and economic reforms and form of government. Investment

liberalization is the concrete expression of the former, which will allow 100 percent foreign ownership of equity in utilizing natural resources. Liberalization in the area of trade in goods on the other hand is already in full swing through CEPT⁸; EHP⁹ and MFN¹⁰, although EVSL¹¹ is ineffective in terms of tariff liberalization, this can be utilized to further eliminate tariffs.

The form of government to be adopted is federal; this system will reduce the country into federation of 11 states as proposed by ConCom. Each state is autonomous and will have its own constitution.

The devolution of power to the LGU implemented in the past years has its difficulties due to lack of preparatory process that will enable the local governments to function efficiently and effectively. The capacity to engage and developed nations, investors and corporations is one amongst the critical areas that need to be completely addressed.

According to the PLCPD¹² (Philippine Legislators' Committee on Population and Development Foundation Inc.) in its publication; through the federal system foreign investors and corporations will have greater opportunity to access the country's natural resources.

Based on the consultations and positions of many stakeholders in the fishery industry, liberalization is a concrete threat to the livelihood of many small producers that directly dependent on the natural productivity of the coastal resources.

The experience of tuna hand liners is a concrete manifestation of the threat. The government through BFAR's issuance of FAO 195 allows tuna products from the Taiwanese fishing vessels to be sold in the local market in Davao, tuna producers' cooperative cried foul due to the adverse effect.

The influx of imported frozen scads in wet markets in urban centers also affected the small and medium scale commercial fishers because imported frozen mackerel from Japan is relatively cheaper.

⁸ Common Effective Preferential Tariff is the tariff elimination scheme adopted by the members of the ASEAN.

⁹ Early Harvest Program is the commitment of the Philippines in tariff elimination within China-Asean framework.

¹⁰ Most Favored Nation is the tariff commitment of the country under World Trade Organisation Agreement

¹¹ Early Voluntary Sectoral Liberalisation is the country's commitment to the APEC's liberalization program.

¹² Based on Policy Analysis Report of PLCPD written by Carlos Aquino, the Mindanao-Sulu-Palawan (MinSuPala) region was scheduled to develop by the British, the plan halted by the separatist resistance. The region is said to be oil-rich particularly Mindanao is confirmed by Volvo Philippines, a US oil exploration firm.

In relation to RP-China Agreement, the DA signed MOA that will establish mariculture highway in South China Sea and in the eastern Pacific side that will cost 1.2 billion pesos intended to produce high valued species to be exported in Hong Kong and Japan. This investment from China for sure can increase our export earnings but the question is how the small fishers and the coastal communities will benefit on this project since this is not designed for small and fragmented method of production.

The absence of effective management and incapacity of the government to develop consistent national economic development plan and lack of negotiating skills will further increase our vulnerability.

The 1987 constitutional protectionist provisions are the remaining protection of our natural capital and local economy; removing these is tantamount to disarming the nation in the midst of trade war.

VI. Quick assessment on initiatives under GMA administration in the Context of Fishery Sector

Judging GMA from the policies she adopted, one will come to conclusion that she advocates neo-liberal paradigm. This explains why she pushes for changes in the charter. If she finds another reason to support cha-cha, it would be her desire to gain more political influence to protect and secure her current position. IPD's (Institute for Popular Democracy) quarterly journal "Political Brief" described cha-cha as GMA's smokescreen to distract public attention from corruption and election fraud charges to her.

On the 31st of May 2006, the KM¹³ (Kilusang Mangangisda) slammed GMA through a protest in front of buildings of DA and DENR denouncing cha-cha. The group instead told GMA to address the issue of poverty and other multiple of issues mentioned above.

Fisheries industry might be a tiny fragment of the entire economic picture of the nation but for the spirit of democracy, and the importance of fisheries in terms of food security and livelihood of the poor majority; the sector must be involved meaningfully to any process related to changing the charter. But the consultative commission already misrepresented many of the small producers because its composition is mainly from elite ranks of the society.

The process on how to go about this is another contentious issue and GMA's proposal she discussed in her 2005 SONA is to create a Constituent Assembly (ConAss) but prior to this JDV already conducted a political summit in 2002 where it declared Constitutional Convention (ConCon) as their preference but

¹³ A national confederation of small and municipal fishers consist of 14 national and regional fisherfolk federations established in 2003 in response to the threat of trade liberalization.

JDV preferred ConAss. In 2003, senate president Drilon filed a resolution for constitutional reform through ConCon. He gathered 14 votes enough to stop the lower house initiative through ConAss. Personalities like Cory Aquino and the late Cardinal Sin later joined by religious groups (El Shaddai and Iglesia ni Kristo) came out in public and condemned ConAss and made the initiative put to an end. In 2004, JDV announced his support for ConCon, but in 2005, through his ally Rep. Jaraula operated in the lower house to make constitutional reform process revitalized. GMA sensed the maneuvering and at the end of May 2005 she asked the legislature to convene ConCon to pass amendments. Due to tax bill (VAT) she announced that constitutional reform initiatives would only be reopened until 2006 (Political Brief, 2006).

Meanwhile, people's initiative is facing a legal impediment due to congress failure to legislate implementing rules.

The chronological events briefly described will prove that many major processes took place without the wisdom of various stakeholders of the fisheries industry. The interests and whims of elite and big players dominate the political dynamics over the cha-cha debate.

VI. Proposed Position of the Sector on Constitutional Reform

The NEDA again noted that:

“Charter change is imperative for economic development and it should be reassessed through constitutional convention that may include the following: a) a shift from presidential to a unicameral parliamentary form of government. b) a shift to federal and decentralised system from centralised unitary system. c) reforms in electoral and political party systems, d) “defining political dynasties and making the constitutional prohibition against political dynasties self-executory”.

The problem of fisheries industry is just a reflection of the greater problem at national economic level. Based on the consensus through series of discussions and forum of organisations engage in trade campaign like KM, Kababaihan sa Kilusang Mangingisda, PUMALU-MV, Stop the New Round (SNR), Fair Trade Alliance (FTA), Pambansang Katipunan ng Kababaihan sa Kanayunan (PKKK), NGOs For Fisheries Reform (NFR), Alyansa Agrikultura (AA), Alyansa ng Maliliit na Magbubukid at Mangingisda (AMMM) and others, the government has no clear and consistent economic development agenda that will boost local capacity to be able to compete at the international market.

The government will naturally oppose this and will likely to showcase various fragmented economic programs under MTPDP and IPP crafted by technocrats and bureaucrats but these plans are best described as liberalization programs

designed to attract foreign investments. This paper by the way is not against foreign investment per se; but in the absence of the national economic agenda, our economy is basically vulnerable to disaster that FDI might possibly bring.

The following are proposed points based on the discussions above:

- The issue of “relaxing the economy formula” under the framework of neo-liberal paradigm must once and for all be settled not through ideological constructed conceptions but based on experience and study.

It should be remembered that since the American occupation, the country already implemented parity agreement. We had parity since 1898 and we had free trade since 1909. On the 4th of July 1946, Philippine president Manuel Roxas amended the constitution eliminating the provision that limit the right to exploitation of natural resources to Filipino nationals. Under the Bell Trade Act, the Philippine government granted US citizens and its corporations the same rights as Filipinos in using natural resources included in these were rights to own lands and exploit mineral, fisheries and other resources.

Despite of this, very minimal of our industries and sectors had developed enough to be globally competitive. The economist and industrialist Salvador Araneta mentioned in his article that after 47 years under US colonisation the expected industrialization did not occur.

In addition to this, the liberalization of trade in goods under CEPT, EHP and MFN proved nothing yet in terms of economic benefit of small producers in fisheries.

- Develop a sound national economic plan that will integrate all sectors of our economy. This will provide strategic direction to the government's all kinds of engagement such as trade negotiations. The absence of which affected government's performance in trade negotiations. The government found it difficult to purge consensus among various economic players from small producers to big players because it has no concrete program that will ensure every sector and player of protection and security of their business and livelihood.

Generally, the position of the Philippine government in the WTO negotiations particularly in NAMA reflects its incapacity to capture various interests within the non-agricultural sectors. The JCC position is based not on the logical plan but based on bargaining between and among sectors that interested to avail flexibility offered by the WTO mechanisms.

If the economic plan requires changes in the constitution, then the basis of cha-cha is concretely established.

- Concrete mechanisms that will encourage meaningful participation of the small fishers, producers and marginalised sectors must be developed. Democratic process is expensive and the government must invest on this to be able to approximate the interests of all players involved.

In the context that ConCon and ConAss' integrity is both badly damaged; well-meaning advocates of charter change is facing a great challenge of how to make marginalised sectors meaningfully involved in the process.

- Preparatory process is essential to capacitate LGUs and communities. Specifically in the areas of skills in economic planning, negotiations, participatory governance and natural resources' sustainable utilization and capacity to be self-reliant.

This process must critically consider the following query: Would the parliamentary structure can really address the issue of political dynasty? Does shift to parliament would mean reconstituting its members? Article VII section 2 cited that parliament should composed as many members as provided by law. Given the dominance of patronage and personality-based and corruption in our culture of politics and governance what assurance do we have for a broader and meaningful participation of marginalised sectors?

Empowered POs and communities is very essential to a decentralise governance. According to the consensus of Kilusang Mangingisda, less than 10 percent of the fisherfolk population is organised and most of the LGUs have low appreciation and capacity to fisheries management.

We cannot go on without concretely addressing issues mentioned above because these issues and weaknesses combined with the aggressive behaviour of foreign corporations and developed nations; is enough to consist a complete formula for natural resources destruction, poverty exacerbation and further political marginalisation of communities and women.

The absence of an industry plan is a recurring issue to the consultations and informal meetings conducted by various sectors of the fisheries industry. A plan that will address issues on productivity; equity; sustainability and management; marketing and processing which will involve various sectors such as in capture: informal municipal fishers and commercial fishers; aquaculture; traders, women, and government institutions.

The CNFIDP¹⁴ (Comprehensive National Fisheries Industry Development Plan) is just developed recently but remained unofficial due to the opposition of BFAR to the overfished statement carried by the plan. In broad stroke, this plan relatively achieved meaningful participation of diverse stakeholders that able to approximate the requirements to develop the industry and generally identified its offensive and defensive interests in preparation for global competition.

Again, this is easier said than done, especially if the necessary resources are not available. For, instance large chunk of the AFMA budget was not delivered by the government to agricultural and fishery sector. Billion of pesos are needed to make CNFIDP work. Unfortunately, as far as allocation is concern, past and current administrations are notorious in non-prioritizing fisheries and agriculture sectors. Many administrations found it more valuable to pay debt service than to put public investment in fisheries and agriculture.

Government officials are keep on complaining about fiscal deficit that it even resorted to adoption of EVAT while it keep liberalizing tariffs and giving incentives¹⁵ especially to export firms and corporations thus the government loosing millions of revenues.

VII Conclusion

While it is true that there is no single approach to address under development and multiple issues emanates from it, our initiative to counter it would not start to zero.

In broad stroke, fisheries management plan involves various processes which includes research and development; identification of legitimate users and resource managers; installation of management systems; allocation of sufficient budget; developing capacities of LGUs; improving post-harvest and market facilities and installing mechanisms that will encourage meaningful participation of stakeholders are widely discussed by active players in the industry. Many localities are already implementing some of the elements of fisheries management plan.

These initiatives are consistent to Fish Code mandated by 1987 Charter. What is lacking in order deliver concrete support to develop fishing industry is the consistent implementation of the related policies.

¹⁴ The idea of this plan is co-management of the fisheries resources of the diverse stakeholders. A product of collaborative effort facilitated by BFAR and through technical assistance of Fisheries Improved for Sustainable Harvest or FISH project that will last for seven years (2003-2010) funded by USAID.

¹⁵ The Business World reported that in 2000 the government provided forgone government revenue of P4.4 billion in 2000; P10.2 billion in 2001; P46.2 billion in 2002; P25.1 billion in 2003 and P7.6 billion in 2004.

The charter change initiative based on the context discussed above have no concrete basis and if pursued will be disastrous to the fisheries sectors.

Opening up sectors and market to global competition without even gaining stable condition will not help the industry. Based on experience, it will only exacerbate the condition.

The form of government being proposed is also not consistent with fisheries management initiative. Laws for decentralization are already in place as mandated by the LGC and Fish Code, the problem is the absence of appropriate preparatory processes that will capacitate LGUs to manage their respective fisheries resources.

VII. Review of Literature

- The Law Governing the Constitutional Commission of 1986, proclaiming the promulgation of the law governing the constitutional commission of 1986. This text was promulgated by Cory Aquino that states the procedure and process on how to formulate the constitution.
- “What is CONCORD?” is the main text used with regard to Erap’s administration initiative to push cha-cha. Former President Estrada explicitly stated that its aim is to introduce changes on economic like in the foreign ownership of land and equity and made no mention on political system changes.
- The main text utilized here with regard to GMA administration’s initiative is the “ Proposed Revision of the 1987 Constitution” submitted by the Consultative Commission to the President and to the Congress on the 16th of December 2005.
- Many of the analytical inquiries are derived from the publication of PLCPD on Charter Change. The document laid down incisive views on political reforms and its strategic implications specifically to essential and valuable source of energy and minerals.
- Likewise, the quarterly publication of IPD (political brief vol.13 No.1) provided sharp observations on political dynamics and struggle of stakeholders especially those who advocated cha-cha.

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