

LIBRT, The 1987 Constitution be amended so as to allow the adoption of liberalized economic policies by Congress

As we stand on the brink of a tectonic change in our society, with the adoption of the ASEAN integration that will pave the way to a borderless country, Team University of San Carlos is of the firm belief that our Constitution must be open to change and must be responsive to the economic highs and lows that are bound to arise.

With this, we propose that the Belmonte Proposal or House Bill Number 1 of the 16th Congress be adopted. The proposal grants Congress the right to determine necessary changes to the Constitution by putting the phrase “as may be provided by law” in Sections 2, 10 and 11 of Article XII of the 1987 Constitution, thereby removing the need for extensive and expensive Constitutional amendments and/or revisions if in the future we deem it necessary to restrict or liberalize our economic provisions. Some of these provisions are 40% foreign ownership on natural resources, restrictions on private use of alienable lands to public domain, 40% foreign ownership in certain areas of investments as defined by Congress, ban of foreign ownership of media, and the limits on advertising.

We submit that there is a substantial distinction between economic provisions and the other provisions of the Constitution dealing with government structures and declaration of policies. The 1987 Constitution is a rigid one and to be able to change it, an exhaustive process is required. While such rigidity has a value in cases of those principles which make our Republic as it is, such as Republicanism, democracy, bicameralism and the like, the economic provisions, however, must be easily changed to adopt to the changing economic times. The market is a volatile, fluid field, and there is strong disconnect when the provisions dealing with this most volatile aspect of our nation’s life are placed in the Constitution, the most permanent, fundamental document of our land.

Economy, as we all know, is a result of a set of processes that involves culture, education, technological evolution, political structure and even the legal system. These factors give context, content, and set the conditions and parameters resulting to the rise and fall of the economy which will demand from any prudent country economic policies flexible and malleable enough to respond to these fluctuations and thereby allow the sustenance of its economic growth.

Germany, the driver, innovator, and beneficiary of an ever more globalized economy and is considered to be the largest economy in Europe has a constitution that does not fix economic policies but rather permits legislators to enact laws responding to the immediate necessities of its economy. Our neighboring Southeast Asian countries like Indonesia, which has the largest national economy in Southeast Asia, upholds in its Constitution the policy-making approach to respond to the changing needs of its economy. Thailand, the second-largest economy in Southeast Asia, fosters in its Constitution the promotion of free and equitable economy by repealing and refraining from enacting business control laws and regulations which do not correspond with the present economic necessities. In fact, other than to say that the goal of economy is “to promote a free and fair economy based upon market force and encourage sustainable economic development”, the Thai constitution, as with the Constitution of other countries cited, has refrained from inscribing in its permanent page specific economic policies.

We submit that the evil in the present set-up is not the 60-40 ratio on capital in our Constitution. The evil is in putting that percentage that determines the life of our volatile economy in the Constitution, the most rigid document in our legal institution.

What is glaringly obvious is this: the 1987 Constitution presupposes that the economic provisions are applicable at all times and under all circumstances. However, this is not the reality. In the financial crisis which ensnared Asia in 1997, the country was in desperate need of more foreign investors. At that time, the prerogatives of Congress to adopt certain economic policies which can cushion the blow of the crisis and attract more foreign investors was greatly stifled by the inherent limitations in the Constitution which, again, is unchanging and unadaptable.

We need to empower our present representatives to come up with policies that will sustain the very survival of the economic life of the country. We need to amend our Constitution so as to allow Congress to adopt measures to adopt liberalized policy if it deems fit, beneficial and necessary.#