

BRIEFING NOTE

FROM:	Mr. Oscar Ryan ~ (Member of the Asiannian Constitutional Drafting Sub-Committee ('ACDSC'))
FOR:	Chairperson of ACDSC
SUBJECT:	Proposed Constitutional Amendment Process of the Republic of Asianna (ROA)

Key Objectives' Summary

1. This document's purpose is to inform the sub-committee Chair of:
 - **a)** the proposed archetype for Asianna's constitutional amendment process; and
 - **b)** how this process relates to our sovereign Asia-Pacific neighbours.

Executive Summary

2. The conclusion is the overwhelming necessity to implement a robust amendment provision in the final draft of our forthcoming national Constitution.
3. Such a provision must:
 - **a)** clearly articulate a process that actively engages the Asiannian people in a cooperative approach;
 - **b)** recognise the inherent strengths and weaknesses of our neighbours' amending processes; and
 - **(c)** learn from processes and adapt these lessons to crafting the most beneficial Asianna model.
4. Recommendations include a hybrid amendment provision.

Background

➤ *Asianna's history, present and desired future*

5. Within 3 months our nation will enter a new democratic age. After years of suppression during which the state was the citizens' master not their servant, we now have the unique opportunity to reverse these roles and ensure a fairer Asiannian future.
6. As noted in the ROA Constitutional Consultative Scheme, Asiannian people yearn for change.

Constitutional importance

7. The Constitution is the foremost legal and political foundation upon which power is based.

Why amend such a critical document at all?

8. As recently witnessed during King Marithawba's overthrow, society, as a living phenomena, is continuously in a state of flux.
9. An effective constitution reflects this dynamic reality. Voicing the aspirations of a people, it needs to strike the "**ideal balance**" between ensuring stability

through entrenchment of centralised powers yet also flexibly yield to accommodate amendments when needed.

10. Hence, an amendment provision is critical to securing constitutional relevance in changing times.

Analysis of Key Considerations

Different processes

11. A process is required whereby a parliamentary agreement must be attained (typically by two-thirds majority) and/or a referendum process is submitted to the people.

Malaysia

Amending process

12. Requires a 2/3rds majority of both Houses and Conference of Rulers.

Other constitutional considerations:

13. Unlike Malaysia's Constitution (Art. 160) Asiannian people cherish a freedom of choice to profess any religion with no religion constitutionally favoured nor subjugated.

Singapore

Amending process

14. Adopts one of two methods. Most constitutional articles require 2/3rds support of all parliamentary members during third reading of amending bill. Alternatively, provisions protecting sovereignty require a 2/3rds referendum majority.

Other constitutional considerations:

15. Does not conflate religious and ethnic identity.

Japan

Amending process

16. As per Art. 96, requires 2/3rds majority of both Houses plus 50%+ of the voting public in a referendum.

Options

~Malaysia

17. Citizens are apathetic towards active participation due to rampant corruption and influence of Conference of Rulers.
18. The Asiannian Drafting Committee (ROADC) determined Art. 152 also engenders social biases, discrimination and stifles motivation.

~Singapore

19. More participatory (and thus reflective) of citizens' requirements, despite ease of amendment.

~Japan

20. Notwithstanding the Chair's endorsement, it is an unhelpful comparative because of their non-litigious and largely homogenous (i.e. Yamato) social fabric.

Additionally:

~Timor-Leste

21. Several aspects are immune from constitutional amendment; flag, independence of courts, universal suffrage.

22. Asianna's constitution should adopt this 2002 ethos by formalising revered values from ROADC surveys.

~ ***Australia, Singapore and North Korea***

23. All three jurisdictions have recognised the desirability of compulsory voting. Asianna should implement compulsory voting from 15-years in elections and referenda.

~ ***Brunei Darussalam***

24. Brunei's constitution is vulnerable, being effectively hostage to the Sultan's unfettered discretionary power through his undefined "Emergency Powers". There is a place for such powers in Asianna but as a cautionary note, it is vital that these be strictly defined, facilitating urgent legal responses only in times of proclaimed 'National Disaster'.

~ ***Philippines***

25. As per Art 17(3), amending the 1987 Constitution can be initiated by 12% of those franchised, this contrasts with Japan's restrictive amendment provision (Art. 96(1)) requiring initiation from the Diet.

26. Asianna's amendment provision should also promote civic engagement.

~ ***Indonesia***

27. Our nation also wants to celebrate diversity through national unity. Like the *Pancasila*, pluralism can be constitutionally protected. Hence 5-yearly census cycles will proportionally award seats in ROA's Upper House according to demographics. Intermarriage and immigration is inevitable but don't have to lead to injustices and underrepresentation. Ideally, this also stifles the possibility of any separatist fervour.

Conclusion

28. The Asiannian constitutional amendment provision borrows selectively from our neighbours' frameworks. Following the dual stage model, the proposed amendment can be initiated by a people's petition (#25-26) and must pass both Houses; representing the geographic constituencies (Lower) and religious divergences (Upper). It is then put to referendum where a wider demographic of Asiannians are compulsorily required (#23) to voice their opinion.