

# OPINION & FEATURES



## What's after 2010?

**T**HE talk about the administration pursuing Charter change (Cha-cha) has been going on for quite some time that it hard to confirm which facts are true.

This is why presidential son and Pampanga Representative Juan Miguel "Mikey" Arroyo has called on the administration's allies in

Congress to stop pushing for Cha-cha and the continued talk that it is meant to extend his mother's term. He instead said to just have the issue of Cha-cha opened after 2010, as the country is busy for next year's election.

However, some people think that the election will just be filled with

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cheating, and will result to its failure.

Still, the main concern on whether to push for Charter change or not is how informed the Filipinos are about

it. In reality, majority of the people may not be even aware why there is a need to amend the Constitution and its significance to their and the country's future. As much as politicians claim that they are serving the people, the political consciousness of the common Filipino lacks enough education and information.

So the talk about whether pursuing Cha-cha or not, before or after 2010, remains in the air. But we believe that the most important thing in all of these scramble for Cha-cha, Constituent Assembly and whatever future political scheme is up in the air, is the future of the nation and its people. (AJPress)

## Deconstructing 'Nicole'

**T**HE second affidavit signed by "Nicole," the Filipina whose allegation of rape led to the conviction of American sailor Daniel Smith, is a sensational about-face. It has dismayed many among her support groups, and emboldened others (many Filipinos among them) who had always doubted her motives or were prepared to give the American the benefit of the doubt.

Strictly speaking, the new affidavit isn't a recantation. To fit the economy of headlines, it can be summarized as just that, because Nicole offered a statement that undermines her cross-examined testimony in open court. Moreover, it is a statement that can be understood to clear Smith—by adding support to his defense that the sex that took place was merely consensual.

But what the new affidavit does, in fact, is to raise reasonable doubt. It does this by locating the doubt squarely in Nicole's head. "I can't help but entertain doubts on whether the sequence of events in Subic in November of 2005 really occurred the way the

court found them to have happened." There is also a trail of "mays" and "woulds" that wind through the March 12 statement like a way out of the legal forest—all expressing Nicole's "lingering" doubt (paragraph 4) that, maybe, just maybe, "he was led to believe that I was amenable to having sex or that we simply just got carried away" (paragraph 13).

What is the purpose of this second affidavit? That is one thing we should all help determine. It is not inappropriate to consider the legalistic language of this second statement ("I had no opportunity to deny in court...") and then to ask which lawyer helped prepare the statement. If it wasn't Nicole's lawyer on record, then who did? The answer may help us understand the legal purpose of this legal document—for that's what it is, principally. It is a lawyerly tactic, with lawyerly uses. It is possible to argue, for instance, that the statement was meant to be introduced during the appeals stage, perhaps to convince the appellate court to remand the trial back to the original court.

Or could it have simply been a quid pro quo—something demanded in exchange for Smith's release of the P100,000 in damages ordered by the Regional Trial Court of Makati City? If so, then the lawyer who prepared the second affidavit has much to answer for—for the P100,000 was part of the original judgment. Smith, contrary to the self-serving information included in the receipt, had no choice but to pay.

Of course, choice is precisely the issue in the now-raging controversy over Nicole's motives or designs, her sincerity or calculating duplicity, her courage or cowardice. (Take your pick.) Various people had chosen to invest all sorts of symbolic meaning in her, as rape victim; now we all find ourselves coming to terms with her as she really is.

She was the victim of government neglect. Almost from the start, the national government proved indifferent to a woman whose legal actions threatened to upset Philippine-American relations. Her mother, speaking after the new affidavit came out, added more details to this image, claiming that the family had asked Malacañang for support to get Nicole an Italian visa, and got exactly nothing.

She was the flirt who couldn't handle her drink,

and got what she deserved. A closely related view: She was in it for the money, or the visa. From the start, many people looked askance at her allegation of rape, because she acted like a "party girl" who was "asking for it." The second affidavit, with its unusual reiteration of the many drinks she took, buttresses this view, even as it also reinforces the main finding of the trial court—that Nicole was too drunk to give her consent.

She was the Filipina who wanted to live the American dream. She was comfortable around American soldiers, "as [she] practically grew up interacting with American servicemen in Zamboanga City" (paragraph 12). Many were aghast when they heard the news that, despite everything, Nicole had gone "for good" to the States, to be together with her (new) American boyfriend. How could she even think of living in the United States? This is the question that continues to unsettle many of us. The answer must be: Because she did not consider herself raped, or taken advantage of, by the United States—only by a single American.

The second statement may tell us more about her than we are ready for. (Inquirer.net)

## Confused about 'Nicole'

**I**T is difficult, from this remove, to PUT into words one's exact feelings upon learning that "Nicole" had "recanted" her story (or her version of events) about her rape by US Marine Daniel Smith.

Reading her statement, I felt just as confused as she said she was when drunk and disoriented.



**AT LARGE**  
Rina Jimenez-David

"Nicole" agreed to board a van with Smith and his companions. What "Nicole" says in the statement is not a complete denial of what happened, but a re-thinking of her motivations and those of Smith. It also sounds very much like the position taken by Smith's defense counsel.

But even then, one can't help but feel a stab of regret as well as of outrage at the way events have transpired. I tend to agree with Sen. Rodolfo Biazon that the timing of "Nicole's" recantation, coming just days after a surprise call from US President Barack Obama to President Macapagal-Arroyo, is suspicious. But I also agree with Sen. Pia Cayetano that we shouldn't pin the blame, or vent our anger on "Nicole." She was, and remains, a victim, victimized twice over, once

by Smith and his cohorts, and yet another time by her own government.

In her statement, "Nicole's" lawyer Evalyn Ursua said her client's mother told her that the family was "tired of the case" and that Nicole had decided to leave the country and live in the United States for good, because "there is no justice" in the Philippines.

We who live in this country and know that justice here is tempered, if not determined by influence and power, cannot but agree with the family's position. But how we wish that their resolve had proven stronger. And that the government had shown more "balls" with regard to this case, instead of lawyering for Smith when it was completely unnecessary to do so, and then facilitating the insult to our sovereignty when the US government refused to give up custody over him.

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But, as Ursua pointed out in her statement, rape is a public crime, "and the personal decision of the complainant regarding the case should be immaterial in its prosecution when all the evidence needed to convict had already been presented."

There is a reason women's groups fought so vigorously for the re-classification of rape from a private crime—a crime against chastity—to a public crime, a crime against a person, and therefore invested with public

welfare. "Nicole's" case is an apt illustration. When she reported her case and the government filed charges of rape against Smith, essentially the case was no longer hers alone but that of the "People of the Philippines." And so, even with her so-called recantation, it is the welfare, the safety, the dignity and the sovereignty of the Filipino nation that is at stake here. Today, more than ever, we are all Nicole.

We will never know what pressures were made to bear on "Nicole" and her family. But with the Supreme Court decision regarding Smith's custody, and the loud noises made about renegotiating the Visiting Forces Agreement, it makes sense to suppose that a compromise was in the works. Despite the heaviness in my heart, I wish "Nicole" the best, and pray that in her exile, far away from the intrigues and pressures, she will truly find a new life. She was and still is a woman of courage, but her struggle for justice will now have to be carried on by other women.

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The latest news about Pope Benedict XVI is that, while on a visit to Africa, he courted the ire of the people of Cameroon, his first stop in a visit to the continent, by denouncing the use of condoms. Condoms are certainly an important issue in a country where more than five percent of the adult population has tested positive for HIV/

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## Teodoro says he is his own man

**D**EFENSE Secretary Gilberto Teodoro Jr. won't be making any new point in Philippine history if he, by his fortune and destiny, wins the May 2010 presidential elections. This is because he has two distinguished predecessors who, while being Secretary of the Department of National Defense, ran and won to become the country's President.

Of course, as we all know, these two former Defense chiefs later elected into the presidency were the late President Ramon Magsaysay and former President Fidel V. Ramos, or FVR as we fondly call him. Incidentally, the family of the late President Magsaysay remembered his 52nd death anniversary on March 17. He died in a plane crash before he could finish his term.

On the other hand, Ramos celebrated quietly his 81st birthday on March 18. During his 80th birthday party held at the Manila Hotel last year, Ramos shared his so-called secret in life in keeping fit and healthy. "I have found a formula for longevity to reach 100 (years old). It's very simple. Just be sure you reach 99," Ramos wisecracked. With his usual wink to cap his dry wit, he explained why: "Because it's not too hard to hurdle one year." That is 99 plus one equals 100, get it Einstein.

As the incumbent Defense Secretary, the 44-year old Teodoro speaks fondly of Magsaysay and Ramos as his role models in performing his Cabinet post. Teodoro described Ramos as a "unique defense secretary" with his trademark style in office like his much required "CSW," or short for complete staff work, before any paper comes to his desk. Teodoro noted Ramos carried on this work style when the latter moved on to the Office of the President.

He describes Magsaysay as "one of a kind" for his great contributions to the military establishment and to the country as a whole. "But he is Magsaysay. I don't want to be him. I don't even want to be like my father. I just want to be me," he frankly told us. He referred to his father, the late Social Security System (SSS) administrator Gilberto Teodoro Sr." As a young business reporter, I used to cover the

### COMMONSENSE

Marichu A. Villanueva

elder Teodoro at the SSS during the term of the deposed late President Ferdinand Marcos.

The successful forays to the presidency of the two former Defense chiefs have apparently inspired Teodoro. He talked about his two distinguished predecessors with obvious respect and admiration. While he recently announced his own bid to get a crack at the presidency, Teodoro hastily clarified he intends to make his own mark. "I am my own man," Teodoro said.

Called Gibo by some of his close friends and allies, Teodoro is not one to cast his hat in the 2010 presidential race via campaign gimmick of "change" and youthful leadership that newly elected US President Barack Obama rode on in his campaign to the White House. Although he is regarded also as a young presidential aspirant, Teodoro distinguishes himself as "having the privilege of running one of the most sensitive departments of the government."

This he tried to impress upon us during our free-wheeling talk with him during his visit to our editorial office last Wednesday. Actually, he came from a son of a mini-reunion with some of his former Xavier School classmates led by The STAR president and chief executive officer Miguel G. Belmonte. He told us they've been friends all the way when they first started together in Prep School at Xavier.

President Arroyo appointed Teodoro to become her Defense Secretary in August 2007. After his three terms in Congress, it was his pretty wife, Nikki Prieto, who ran and won in his congressional seat in Tarlac in the May 2007 elections. They have a 10-year old son. While his wife is on vacation abroad, Teodoro candidly admitted he is taking the opportunity of "bonding time" with his son who is on school vacation now.

Teodoro belongs to the pro-administration bloc of the Nationalist People's Coalition (NPC). The political circles have been abuzz with talks about either NPC Senators Francisco "Chiz" Escudero or Loren Legarda to be the NPC's presidential

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