

SC: Arroyo's last card to extend term

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Court watching this new year has never been as exciting as in previous years.

With seven justices retiring, President Arroyo will essentially have a free hand in reshaping the character of the High Court according to her own desire, which has alarmed observers and critics.

With this backdrop, the Supreme Court Appointment Watch and Bantay Korte Suprema, both composed of citizens' groups, have vowed to keenly watch the screening process of the Judicial and Bar Council, which may be the only body which could frustrate any attempt to make a rubber stamp out of the Tribunal.

Deemed as the last bulwark of democracy, the SC has shown its independence in a number of cases that impact on government, despite Arroyo's moves to undermine institutions.

Based on our survey on the voting pattern of SC justices, magistrates can be divided in three categories: those whose stand do not necessarily favor the administration; those whose stand favor the administration and the fence sitters.

But the stars seem to favor Arroyo, as three of those perceived to be independent are retiring next year, heightening fears that she may soon have her way, more specifically in prolonging her stay in power.

First to go will be Justice Adolf Azcuna who will hang his robe on Feb. 16. The JBC, which vets nominees to the judiciary, has already opened nominations to fill up his

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position. Justices and judges retire when they reach the age of 70.

Next to retire is Alicia Martinez, who will bow out on April 30, months earlier than scheduled. Martinez is retiring earlier due to health reasons.

An appointee of President Estrada, Justice Consuelo Ynares-Santiago is giving up her post on Oct. 5. She is one of the two remaining magistrates who are not appointees of Arroyo. The other is Justice Leonardo Quisumbing, who is also leaving the judiciary on Nov. 6.

While Azcuna and Martinez were named by Arroyo to

the SC, they have proven their independence by taking positions that do not please Malacañang. Ynares-Santiago, on the other hand, has been a rabid anti-Arroyo justice since she came into power in 2001.

Tinker with Constitution

On the other hand, the President has able allies in the persons of Justices Renato Corona, Minita Chico-Nazario, Presbitero Velasco, Antonio Nachura, Teresita de Castro and Arturo Brion. These magistrates' voting pattern tends to favor the government's side.

Thus, the retirement of Az-

cuna, Martinez and Ynares-Santiago will tilt the balance heavily in Malacañang's side. At most, she could have the loyalty of a majority of the justices before 2009 ends, which could come in handy in thorny and controversial issues concerning the Constitution.

Her allies in the House of Representatives are pushing for a constituent assembly and could take advantage of a vague provision in the Charter in the manner of voting when proposing revisions in the Constitution. The Constitution is not clear whether Congress, convened as a constituent assembly, should vote jointly or separately. The SC will be the final arbiter of this issue.

The opposition believes the

attempt to revise the Charter is but a smokescreen to enable Arroyo to perpetuate herself in power. Former House speaker and erstwhile Palace ally, Pangasinan Rep. Jose de Venecia, said the plan is to change the system of government to parliamentary, and allow the President to seek election as district representative. She will then be named as prime minister. The President's term ends in 2010.

Tight watch

The tight watch on how the SC will behave is by extension, also a tight watch on how the JBC will fulfill its mandate to select the "best and the brightest" for the SC. The President's appointing prerogative is limited by the names the JBC will

include in its shortlist.

Reform-minded members of the JBC, aware of the implications of next year's selection and appointments, have initiated changes in the JBC process to ensure transparency and accountability. The eight members of the JBC are Chief Justice Reynato Puno as ex-officio chairman, the justice secretary, two representatives from Congress, a member of academe, a retired justice, a representative of the Integrated Bar of the Philippines and a representative from the private sector.

Although supposed to be independent, the President could ensure that favored nominees are included in the shortlist through her allies in the JBC. She is technically represented there

by Justice Secretary Raul Gonzalez. Based on our interviews, she has at least three people in the JBC she could count on.

The open voting that the JBC recently approved could deter partisanship in the selection of nominees and if the first open voting held for the position of retiring Justice Ruben Reyes was an indication, it worked to a certain extent.

A Malacañang bet managed to get in the shortlist after reaping five votes. While this candidate was not in the preferred list of names that the SC submitted to the JBC, he could end up being the next justice in the highest court of the land.

Her actions in the next few months will tell if the judiciary and the JBC will hold their fort.