

Permanent presence and combat involvement of US troops undermine Philippine sovereignty

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The Bagong Alyansang Makabayan has from the onset been opposed to the RP-US Visiting Forces Agreement because it violates the Philippines' sovereignty and justifies the prolonged presence of foreign troops on Philippine soil despite the absence of any basing treaty.

The VFA, as it is implemented today, practically reverses many of the victories in the struggle to remove foreign bases from the Philippines.

The VFA does not specify or limit the number of US troops allowed entry into the Philippines. The numbers can range from 10 to 1000 and beyond.

The VFA does not specify or limit the areas in the Philippines that the "visiting" troops can access. With the broadness of the agreement, US troops can access military camps, civilian facilities and even areas of actual armed conflict such as Sulu or Basilan.

The VFA does not specify or limit the duration of the stay of the "visiting" US forces. It is so broad and vague that it allows the continuing, even if rotational, presence of US troops in the Philippines.

The VFA does not specify or limit the activities being undertaken by the "visiting" US forces. The VFA does not explicitly prohibit activities that violate the constitution, such as direct combat involvement of US forces. Neither does the VFA set a limit on the number of activities, including joint exercises and other "approved" activities, that could take place within a year.

The VFA is simply too broad and too vague when it comes to the treatment of "visiting" US forces such that it can mean the US can deploy an unlimited number of troops, for an unspecified duration, anywhere in the Philippines, for a broad range of activities, that may not be limited to "exercises".

Since the "visiting" US troops are not required to present visas like any other visiting foreigner, there is really no way of telling how long they stay, when they leave and when they return.

Permanent presence

One case that the Philippine Senate can look into is that of the presence of the Joint Special Operations Task Force – Philippines based in Zamboanga. This unit of the US Special Forces under the Pacific Command had its origins as part of the Joint Task Force 510 of the US Special

Operations Command Pacific during the Balikatan 02-1. When the JTF 510's mission ended in July 2002, it transitioned to the JSOTF-Philippines. It currently maintains its headquarters inside Camp Navarro of the WESTMINCOM of the AFP in Zamboanga. This unit of the US Special Forces has remained in Mindanao since 2002.

It is our view that the JSOTF-Philippines based in Zamboanga fits the description of what the US military calls a Forward Operating Site. The JSOTF-P headquarters inside Camp Navarro acts as a Forward Operating Site that has a small permanent presence and can support sustained operations. This facility can host a rotational force and pre-positioned equipment. The FOS is often associated with bilateral and regional training exercises and activities.

The JSOTF-P occupies a facility that was described by a Mindanao-based human rights group as being "sealed by walls, concertina wire, and sandbags. The actual size of the area could not immediately be seen from the outside. Their communication facilities (satellite dishes, antenna, and other instruments) are visible."

That the JSOTF-P hosts a rotational force is confirmed by no less than Executive Secretary Eduardo Ermita who recently said that the US troops are NOT overstaying, and that they simply come and go, one batch leaves when another batch enters.

While the AFP and other government officials, and even the US embassy, will argue that the US forces are not setting up permanent bases in Zamboanga, we believe this is no longer the critical point. The US, based on its own defense posture review, does not intend to put up the traditional bases akin to Subic and Clark. The thrust is to have as many Cooperative Security Locations and Forward Operating Sites which are more flexible, cheaper to maintain, concealed and thereby less prone to controversy and protest.

While the Arroyo government can argue that the structures are "temporary", we can also argue that these structures have been "permanently occupied" since 2002. The presence of the US troops, even if on a rotational basis, has become permanent. The structures in Camp Navarro have been 'permanently occupied' by the US forces, 365 days a year for almost six years now.

There are several "exercises" and activities between US and RP forces throughout the year, all of which are said to be approved by the Mutual Defense Board. However, there have been many conflicting statements from the AFP and other government officials on whether or not the present batch of US forces in Mindanao are covered by any joint exercise.

Again, the VFA does not provide the Philippine government with a means to ascertain the length of stay of these troops and the activities they are associated with.

The JSOTF-P Headquarters in Zamboanga is also made possible by the RP-US Mutual Logistics Support Agreement, a pact that compliments the VFA by providing logistical support for the "visiting" US troops. The MLSA was signed as a 5-year executive agreement in 2002 and was recently renewed in November 2007. The reasons for the renewal, and the review process that should have preceded it, were not made public by the Department of National Defense, AFP or

Department of Foreign Affairs. It is not known if other branches of government were consulted in extending the MLSA.

The AFP should disclose the terms under which the JSOTF-P headquarters in Camp Navarro operates.

1. Is the JSOTF-P covered by the MLSA? What are the terms and conditions for the operations of these US-occupied facilities? Are there existing records and documents covering the past six years? How are Philippine laws even applicable to these US military facilities?
2. Who pays for the costs of hosting the foreign troops in Camp Navarro? What are the terms of payment? Up to what extent is the Philippine government obliged to support the stay of the US troops?
3. Does the AFP exercise authority over the JSOTF-P headquarters? In what way?
4. What is the area covered by the headquarters? Are the headquarters ever vacant? If so, are they ever dismantled?
5. Aside from living quarters, what other facilities are the US being allowed to set up inside the JSOTF-P headquarters? Does this include communication facilities, surveillance and spy facilities, and others of similar nature? Given the prolonged presence of US troops in Mindanao, does this not already go beyond what is contemplated into VFA and MLSA.

It is also relevant to ask why the MLSA was renewed without even informing the public, maybe even the Senate, as to the evaluation of its implementation from 2002-07. What were the circumstances and arguments used to justify the extension? Or was the extension a done deal motivated by the need to provide a legal framework for the 'permanently occupied' facilities by the overstaying US troops in Mindanao.

We ask these questions in the face of reports that the JSOTF headquarters have acquired a function that is already against the Constitution. The prolonged presence of the US troops and the structures that they have occupied show the flaws in the VFA and the MLSA. The US forces are taking advantage of the grey areas in these agreements to violate Philippine sovereignty.

Combat involvement

Bayan takes note of the high probability as well as existing accounts that the US forces are engaged in combat operations.

The United States Institute for Peace, a US government funded institution, describes the role of the US forces deployed in Mindanao in its February 2008 report. The deployment of US forces in Mindanao was not for humanitarian missions or civic actions, but for specific military objectives.

“In the aftermath of 9/11, the United States grew particularly concerned that Mindanao could become a training ground and sanctuary for international terrorists. This concern led to expanded U.S. military assistance to the Philippine government and the Armed Forces of the Philippines (AFP). U.S. military assets were deployed in the southern Philippines to assist efforts to pursue groups designated as international terrorists, including members of the Indonesian Jemaah Islamiyah (JI) and the local Abu Sayyaf Group (ASG).”

The description of the role of the US forces was not limited to merely “training” Filipino troops. The term used in the report was “assistance” which could also mean directly participating in tactical operations and missions in differing capacities.

The report further stated that “American targets also included so-called MILF lost commands, who were linked to terrorism. American Special Forces under the Joint Special Operations Task Force-Philippines (JSOTF-P) established expanded counterterrorism operations, providing the AFP with intelligence, training, and weaponry. The objective was to assist the AFP in its efforts to reform, modernize, and enhance its ability to fight terrorist groups.”

The USIP also noted that “U.S. policy instruments in Mindanao include diplomacy, conditionality of U.S. economic and military assistance programs, and more punitive measures on the counterterrorism front.”

What does the US mean by employing “punitive measures” against terrorists? Why are US forces allowed military “targets”? Are such actions even covered by the VFA, the Mutual Defense Treaty or even the newly-conceived Security Engagement Board which is said to also operate under the mandate of the VFA?

Because of the US forces’ proximity to the armed conflict, this makes them more likely to engage in actual combat than if they were in other parts of the country.

Balikatan 02-1 was the turning point in the transition from “exercises” to direct combat role for the US forces. The Balikatan at the time was held in Basilan, with the expressed military objective of assisting and training the AFP in the efforts against the Abu Sayyaf (Balikatan 02-1 TOR).

The Balikatan 02-1 Terms of Reference was drafted to assuage fears that the US would engage in actual combat in Mindanao. However, subsequent events showed the opposite.

In 2002, the International Solidarity Mission reported the shooting of Buyong-buyong Isnijal, a civilian suspected of being an ASG member, by US troops on combat patrol in Basilan. The US and Philippine authorities of course denied that US soldiers were part of the team that shot Isnijal inside his house.

In February 4, 2008, US forces were said to be embedded in an AFP unit that conducted a military operation in Maimbung, Sulu that resulted in the deaths of seven civilians. This included two children, two teenagers, a pregnant woman and an off-duty soldier.

It is not clear if the Balikatan 02-1 terms of reference were used in succeeding military exercises after 2002 or if there are any “terms of reference” being employed in the current activities of the US forces in Mindanao. As far as we know, the 2002 TOR was only for the duration of the 02-1 activity.

Intelligence gathering as a combat role

The AFP has admitted that the US troops are engaged in intelligence work, especially against military targets such as the Abu Sayyaf, so-called terrorist groups and the so-called “rogue” MILF units.

The National Union of Peoples Lawyers has described the “intelligence gathering” operations of the US forces as being part and essential to actual combat operations. “They (US troops) are part of the hostilities because they provide intelligence and support to the AFP against the MILF. Since US troops are involved in intelligence gathering, they are therefore part of the combat operations, and the claim that they are not involved in combat operations is not only misleading but is an outright lie,” says the NUPL.

It is noteworthy to ask what parameters are observed in allowing foreign troops to conduct actual surveillance and intelligence operations on the local populace. The power to spy on the people can easily be abused, especially since existing agreements are silent on this aspect of US military involvement. If we are against the notion that we’re being spied upon by the local authorities, then all the more should we oppose the notion that foreign troops are given a free pass to conduct intelligence operations against Filipinos.

The use of Unmanned Aerial Vehicles (UAV) by US forces has been well-documented in Mindanao. In February 2006, the Mindanao Examiner reported that a UAV crashed in Jolo. In March 2002, a Predator-type drone crashed in the sea off Zamboanga City. In November 2005, an unmanned spy plane reportedly crashed in Mount Tumatangis in Jolo.

The same news report said that “the US military has a fleet of various unmanned spy planes, from a palm-size remote-controlled aircraft, to bigger and sophisticated high-altitude; long-range remotely piloted vehicles designed for long-endurance photographic reconnaissance and electronic surveillance missions, and as attack aircraft.”

The AFP tried to explain the presence of the spy planes. “There is nothing to fear about the US drone. It is being used to survey areas where humanitarian activities will be jointly undertaken by US and Philippine troops,” Maj. Gamal Hayudini, a spokesman for the Southern Command, told the Zamboanga Journal. This is obviously a big lie and a cover up.

We thus ask the following questions: Who really controls the surveillance equipment? Who authorizes its use? Who are the targets? Does the use of UAV’s controlled by US forces violate our sovereignty, even if such actions are done with the complicity of the AFP?

We also raise the alarm on the use of these UAV’s because it is well known that these drones are not just limited to spying. They can also be used as offensive weapons, as in the case of US

forces in Pakistan, Iraq and Afghanistan. Who will then prevent the US forces from training their UAV's on local targets?

The US has heretofore established a stable presence in Mindanao. What other surveillance and intelligence equipment are being utilized by the US forces in Mindanao? Are there similar intel and surveillance facilities present in the JSOTF-P headquarters? Who authorizes their use? Under what terms? Is the US already operating "listening posts" in these facilities, with or without the knowledge of the AFP?

"Humanitarian missions"

The term "humanitarian mission" and "civic actions" have become the standard response of both the AFP and the US embassy every time US forces figure in incidents that are not covered by the VFA, such as operating spy planes, or being part of an AFP military convoy that was ambushed by rebels.

What really are these "humanitarian missions"? What is their role relative to the US forces presence in the country?

These civic activities are all part of the "communications strategy" being employed by the US to justify their continued presence in the country. This much is admitted by their own documents, such as ANNEX A, Strategic Communication, USPACOM Pacific Joint Training Strategy.

Such activities are undertaken "to educate elected officials, opinion leaders and the public on the importance of military training; build public trust and support of training activities; portray the cost of readiness and potential impact of not being ready...and highlight the military as good stewards of the environment."

The document further states that "Military participation in school activities (reading weeks, career fairs, etc) is a highly effective community relations tool at the "grass roots" level."

Humanitarian missions are not the main activities of US Special Forces in Mindanao. They are merely part of a "communications strategy" that is subsumed to strategic US military thrusts.

In the US Pacific Command Joint Training Strategy 2007, the umbrella plan for activities such as the Balikatan, it stated that "the overarching goal of the Pacific Joint Training Strategy is to ensure U.S. forces are ready to respond promptly and effectively to any and all contingencies that may confront our nation."

It would perhaps be naïve to think that the US Special Forces certainly came to the Philippines to play doctor and dentist. They have clear strategic military objectives along the lines of securing US political and military interests.

Observations

It has been 9 years since the VFA came into effect. During this period, especially from 2002 to the present, various questionable activities involving American troops have taken place. It has become difficult to call attention to these so-called “illegal” activities because the VFA itself is full of loop-holes and vague provisions.

There is also the observation that the AFP has taken on the role of interpreting foreign policy and the application of relevant treaties and agreements.

For the above reasons, we urge the Senate to terminate the RP-US VFA. In the short term, we ask the Legislative Oversight Committee on the VFA to direct the DND and AFP to cause the immediate pull-out of American troops in Mindanao and the dismantling of all their existing facilities. We urge the LOCVFA to compel the DND and AFP to make public all terms of reference on US military activities and facilities in Mindanao.