

The Struggle for Sovereignty Continues

Dear friends,

I am grateful to the Civil Liberties Union for this award. I have always considered it one of my more special privileges to be a member of this Organization. I was among its earliest members, and it, in turn, was one of the earliest organizations that I joined. I have been its member for more than 50 years now -- an indication of how close or intimate our relationship has become.

The Civil Liberties Union has always been a nationalist organization. The defense of civil liberties has somehow been inextricably tied up with nationalist issues because, as everyone knows, the struggle for full Philippine sovereignty did not end with formal recognition of our independence in 1946, but had to be carried on to the present, a campaign which has often meant testing the limits of the citizens' political and civil rights.

There is thus a touch of prematurity in the award you have given us, especially in my case when my efforts towards the elimination of U.S. bases in the Philippines are cited. As the events of last month have made clear, that particular campaign has by no means ended, although, to be sure, a great headway has been gained. The forces holding us back, forces even within the ranks of our own fellow countrymen, are powerful still.

The 1987 Constitution has clearly set the termination of the 1947 Military Bases Agreement for September 15th, 1991. By virtue of Section 25, Article XVIII of the Constitution, the Military Bases Agreement (MBA) cannot be automatically renewed. An agreement must first be reached to renew it -- then that agreement must be ratified by at least two-thirds (2/3) of all members of the Senate. Then, even if ratified, if Congress so decides, it may still be submitted to the people in a plebiscite. Finally, even if duly ratified by the Senate and the ratification is approved in a plebiscite, the new Military Bases Agreement must be recognized as a treaty by the other contracting State.

Nor can any attempt to amend the Agreement before its expiry in 1991 escape the requirement of Senate ratification. Another provision of the Constitution -- Article VII, Sec. 21, declares that "No treaty or international agreement shall be valid or effective unless it is concurred in by at least two-thirds (2/3) of all members of the Senate". Nobody can seriously doubt that the amendments that have been newly signed in Washington are an international agreement. Since they involve the Philippines and the United States -- two nations -- they are international, and since their intent is to bind both parties, they are an agreement. Hence, an International Agreement. It is argued that the amendments will mean a lot more money for our country and it would be foolish to reject these additional amounts. But for one thing, the new Military Bases Agreement has left entirely unresolved issues that are more important than the additional money -- like the claims of the Filipino workers in the bases, the question of Philippine jurisdiction over crimes committed by U.S. personnel who under the present arrangement, somehow manage to escape from justice with the sanction, if not the protection, of the American authorities, and the all-important objection against the right to "un-hampered" military operations by U.S. base authorities which the former dictator gave to the U.S. in return for their continued support of his regime.

These issues may not be quantifiable in terms of money, but they remain all-important issues that our negotiators appear to have preferred to sweep under the rug rather than confront, thresh out fully,

and resolve as responsible leaders should. These issues are so important one cannot even place a price tag on them.

On the use of "unhampered military operations", for example, one report has it that the Philippine panel wanted our prior consent to such operations, but the Americans would give us only the right to prior consultation. The point is obviously critically important for us because a "military operation" could lead to war, and inevitably, our involvement in it, and our extinction as a consequence. Since the bases are within our territory supposedly for the mutual security interests of the two countries, why should not our country insist on our consent to any "military operations" first being had? If it is our interest, not only America's, that is supposed to be defended by these bases, why can't we have equal say on any action that may be taken from these bases?

If, in a specific case, our larger interests are genuinely at stake and will be served by the contemplated "military operations", the United States can safely assume, and should assume, that it will be given. By refusing to concede to us the right to prior consent, it is obvious that either the U.S. does not trust us, in which case, we should ask ourselves whether we care to have such a country as an ally, or the U.S. expects situations to arise where the operations will serve their interest, but work to our prejudice and they want to be able to go ahead without our consent.

Just as important as these omissions are the two sections of Article VI of the recent Military Bases Agreement dealing on nuclear or non-conventional weapons. Section 1 provides that "storage or installation of nuclear or non-conventional weapons or their components in Philippine territory shall be subject to the agreement of the government of the Philippines". This provision ignores the fact that under Section 8, Article II of the 1987 Constitution, our country, consistent with the national interest has adopted and is at present pursuing a policy of freedom from nuclear weapons in its territory. Hence, the Government of the Philippines is in no position whatever to agree to any kind of storage or installation of nuclear weapons in our territory. This section therefore violates the Constitution.

Section 2 of the same article on the other hand purports to interpret storage or installation as not including "transits, overflights or visits of U.S. aircrafts or ships in Philippine territory". This, in effect, would amend the constitutional provision I have just cited. The nuclear-free policy adopted by virtue of the Constitution does not make any distinction between "storage" or "installation" or "transits", or "overflights" or "visits". It simply prohibited the presence of any nuclear weapons in our territory. All nuclear weapons are prohibited and at all times.

The phrase "in its territory" in Article II, Sec. 8 of the Constitution is significant. It describes the scope of the prohibition. It is not confined to military bases, whether foreign or Filipino, but the entire territory of the Philippines. It covers all nuclear weapons, whether the same be in military bases -- Filipino or foreign, or out of them, whether intended for our own defense or for regional defense, or any other party's defense, and whether they are here permanently, e.g., in storage, or merely in transit or overflights, or on a visit. The provision, in other words, calls for total freedom from nuclear weapons at all times. This is clear not only because when the law does not make a distinction, we should make none, but also because the obvious intent of the policy is to safeguard the national interest by withdrawing the whole of our territory from the threat of nuclear attack completely. That necessarily includes prohibiting weapons in "transit", "overflights", or "visits" from entering Philippine space, since even the latter cases invite nuclear attack in case of a superpower war, which, most experts believe, will only last a few days or months at the most. Article VI of the new Military Bases Agreement is hence patently void, illegal, and unconstitutional.

What we have now then is a modified Military Bases Agreement with unresolved issues and with an Article VI which is clearly unconstitutional. What shall we do with it? Shall we continue with it in spite of its inadequacy on the one hand, and its unconstitutionality on the other?

At its last meeting, the Civil Liberties Union decided to take the issue of unconstitutionality of at least Article VI of the Military Bases Agreement to the Supreme Court where the matter would finally be resolved. For it involves the basic question of how sincerely we, and especially our highest officials, adhere to the rule of law. For if the Filipinos themselves who are charged with the sworn duty of enforcing the laws do not comply with them, in fact with our very Constitution, who else can be expected to uphold and respect the laws?

(Speech delivered by Lorenzo Tanada upon acceptance of the Civil Liberties Union award, 30 November 1988.)

Document

Principles Underlying PARCODE

The agrarian problem lies at the root of the Philippine economic and social crisis. A key solution to this crisis is a genuine and comprehensive agrarian reform program.

The core principle in agrarian reform is the primacy of the right of all members of the agricultural labor force who do not own land, near-landless farmers, farmworkers, small fisherfolk and other direct producers to own and control the land, have full access to other natural resources and gain full disposition over the produce.

Agrarian reform addresses six major issues, namely:

1. social justice and inequality
2. low productivity
3. lack of control by the rural masses over their lives and destiny
4. under-industrialization
5. environmental breakdown
6. foreign domination

Therefore, the People's Agrarian Reform Code (PARCODE) will aim, first of all, to transfer landed wealth and power over the land and its produce to the actual tillers. Unjust concepts of private land ownership have led to the concentration of land in the hands of a few. Second, it aims to free and develop the productive powers of agrarian workers, farmers, and fisherfolk from the forces that deprive them of resources and initiative. Thirdly, the PARCODE intends to develop the mechanisms for people's empowerment by creating autonomous decision-making bodies of the rural masses. Fourthly, it is designed to promote nationalist industrialization by widening the national market, rechanneling the agricultural surplus into industrial investments and labor for industrial development, and the establishment of self-sufficient local industries controlled by the rural masses. Next, it intends to conserve the natural environment so that it may serve the short and long-term needs of the Filipino people. Lastly, the PARCODE will do away with foreign control over natural resources.

The general principles that follow outline the basic concepts underlying the major components of the People's Agrarian Reform Code:

I. Coverage

Agrarian reform as a redistribution program must cover the following:

1. All agricultural lands regardless of crop planted, existing tenurial forms, or farm size;
2. All arable public lands including logging mining, pasture areas, and newly-opened and reclaimed areas subject to prior rights of indigenous communities and ecological concerns;
3. All lands that are idle and abandoned, foreclosed, sequestered, church-owned, plantation, haciendas;
4. All water resources including inland, coastal and offshore fishing areas.

In terms of beneficiaries, the program should include all members of the agricultural labor force who do not own lands, are near landless, small fisherfolk, and other direct producers who are deprived of access to and control over other natural resources.