

EN BANC

[G.R. No. 138570, October 10, 2000]

BAYAN (BAGONG ALYANSANG MAKABAYAN), A JUNK VFA MOVEMENT, BISHOP TOMAS MILLAMENA (IGLESIA FILIPINA INDEPENDIENTE), BISHOP ELMER BOLOCAN (UNITED CHURCH OF CHRIST OF THE PHIL.), DR. REYNALDO LEGASCA, MD, KILUSANG MAMBUBUKID NG PILIPINAS, KILUSANG MAYO UNO, GABRIELA, PROLABOR, AND THE PUBLIC INTEREST LAW CENTER, PETITIONERS, VS. EXECUTIVE SECRETARY RONALDO ZAMORA, FOREIGN AFFAIRS SECRETARY DOMINGO SIAZON, DEFENSE SECRETARY ORLANDO MERCADO, BRIG. GEN. ALEXANDER AGUIRRE, SENATE PRESIDENT MARCELO FERNAN, SENATOR FRANKLIN DRILON, SENATOR BLAS OPLE, SENATOR RODOLFO BIAZON, AND SENATOR FRANCISCO TATAD, RESPONDENTS.

[G.R. No. 138572]

PHILIPPINE CONSTITUTION ASSOCIATION, INC.(PHILCONSA), EXEQUIEL B. GARCIA, AMADOGAT INCIONG, CAMILO L. SABIO, AND RAMON A. GONZALES, PETITIONERS, VS. HON. RONALDO B. ZAMORA, AS EXECUTIVE SECRETARY, HON. ORLANDO MERCADO, AS SECRETARY OF NATIONAL DEFENSE, AND HON. DOMINGO L. SIAZON, JR., AS SECRETARY OF FOREIGN AFFAIRS, RESPONDENTS.

[G.R. No. 138587]

TEOFISTO T. GUINGONA, JR., RAUL S. ROCO, AND SERGIO R. OSMEÑA III, PETITIONERS, VS. JOSEPH E. ESTRADA, RONALDO B. ZAMORA, DOMINGO L. SIAZON, JR., ORLANDO B. MERCADO, MARCELO B. FERNAN, FRANKLIN M. DRILON, BLAS F. OPLE AND RODOLFO G. BIAZON, RESPONDENTS.

[G.R. No. 138680]

INTEGRATED BAR OF THE PHILIPPINES, REPRESENTED BY ITS NATIONAL PRESIDENT, JOSE AGUILA GRAPILON, PETITIONERS, VS. JOSEPH EJERCITO ESTRADA, IN HIS CAPACITY AS PRESIDENT, REPUBLIC OF THE PHILIPPINES, AND HON. DOMINGO SIAZON, IN HIS CAPACITY AS SECRETARY OF FOREIGN AFFAIRS, RESPONDENTS.

[G.R. No. 138698]

JOVITO R. SALONGA, WIGBERTO TAÑADA, ZENAIDA QUEZON-

AVENCEÑA, ROLANDO SIMBULAN, PABLITO V. SANIDAD, MA. SOCORRO I. DIOKNO, AGAPITO A. AQUINO, JOKER P. ARROYO, FRANCISCO C. RIVERA JR., RENE A.V. SAGUISAG, KILOS BAYAN, MOVEMENT OF ATTORNEYS FOR BROTHERHOOD, INTEGRITY AND NATIONALISM, INC. (MABINI), PETITIONERS, VS. THE EXECUTIVE SECRETARY, THE SECRETARY OF FOREIGN AFFAIRS, THE SECRETARY OF NATIONAL DEFENSE, SENATE PRESIDENT MARCELO B. FERNAN, SENATOR BLAS F. OPLE, SENATOR RODOLFO G. BIAZON, AND ALL OTHER PERSONS ACTING THEIR CONTROL, SUPERVISION, DIRECTION, AND INSTRUCTION IN RELATION TO THE VISITING FORCES AGREEMENT (VFA), RESPONDENTS.

D E C I S I O N

BUENA, J.:

Confronting the Court for resolution in the instant consolidated petitions for certiorari and prohibition are issues relating to, and borne by, an agreement forged in the turn of the last century between the Republic of the Philippines and the United States of America - the Visiting Forces Agreement.

The antecedents unfold.

On March 14, 1947, the Philippines and the United States of America forged a Military Bases Agreement which formalized, among others, the use of installations in the Philippine territory by United States military personnel. To further strengthen their defense and security relationship, the Philippines and the United States entered into a Mutual Defense Treaty on August 30, 1951. Under the treaty, the parties agreed to respond to any external armed attack on their territory, armed forces, public vessels, and aircraft.^[1]

In view of the impending expiration of the RP-US Military Bases Agreement in 1991, the Philippines and the United States negotiated for a possible extension of the military bases agreement. On September 16, 1991, the Philippine Senate rejected the proposed RP-US Treaty of Friendship, Cooperation and Security which, in effect, would have extended the presence of US military bases in the Philippines.^[2] With the expiration of the RP-US Military Bases Agreement, the periodic military exercises conducted between the two countries were held in abeyance. Notwithstanding, the defense and security relationship between the Philippines and the United States of America continued pursuant to the Mutual Defense Treaty.

On July 18, 1997, the United States panel, headed by US Defense Deputy Assistant Secretary for Asia Pacific Kurt Campbell, met with the Philippine panel, headed by Foreign Affairs Undersecretary Rodolfo Severino Jr., to exchange notes on "the complementing strategic interests of the United States and the Philippines in the Asia-Pacific region." Both sides discussed, among other things, the possible elements of the Visiting Forces Agreement (VFA for brevity). Negotiations by both panels on the VFA led to a consolidated draft text, which in turn resulted to a final series of conferences and negotiations^[3] that culminated in Manila on January 12 and 13, 1998. Thereafter, then President Fidel V. Ramos approved the VFA, which was respectively signed by public respondent Secretary Siazon and United States

Ambassador Thomas Hubbard on February 10, 1998.

On October 5, 1998, President Joseph E. Estrada, through respondent Secretary of Foreign Affairs, ratified the VFA.^[4]

On October 6, 1998, the President, acting through respondent Executive Secretary Ronaldo Zamora, officially transmitted to the Senate of the Philippines,^[5] the Instrument of Ratification, the letter of the President^[6] and the VFA, for concurrence pursuant to Section 21, Article VII of the 1987 Constitution. The Senate, in turn, referred the VFA to its Committee on Foreign Relations, chaired by Senator Blas F. Ople, and its Committee on National Defense and Security, chaired by Senator Rodolfo G. Biazon, for their joint consideration and recommendation. Thereafter, joint public hearings were held by the two Committees.^[7]

On May 3, 1999, the Committees submitted Proposed Senate Resolution No. 443^[8] recommending the concurrence of the Senate to the VFA and the creation of a Legislative Oversight Committee to oversee its implementation. Debates then ensued.

On May 27, 1999, Proposed Senate Resolution No. 443 was approved by the Senate, by a two-thirds (2/3) vote^[9] of its members. Senate Resolution No. 443 was then re-numbered as Senate Resolution No. 18.^[10]

On June 1, 1999, the VFA officially entered into force after an Exchange of Notes between respondent Secretary Siazon and United States Ambassador Hubbard.

The VFA, which consists of a Preamble and nine (9) Articles, provides for the mechanism for regulating the circumstances and conditions under which US Armed Forces and defense personnel may be present in the Philippines, and is quoted in its full text, hereunder:

"Article I Definitions

"As used in this Agreement, 'United States personnel' means United States military and civilian personnel temporarily in the Philippines in connection with activities approved by the Philippine Government.

"Within this definition:

- "1. The term 'military personnel' refers to military members of the United States Army, Navy, Marine Corps, Air Force, and Coast Guard.
- "2. The term 'civilian personnel' refers to individuals who are neither nationals of, nor ordinary residents in the Philippines and who are employed by the United States armed forces or who are accompanying the United States armed forces, such as employees of the American Red Cross and the United Services Organization.

"Article II

Respect for Law

"It is the duty of the United States personnel to respect the laws of the Republic of the Philippines and to abstain from any activity inconsistent with the spirit of this agreement, and, in particular, from any political activity in the Philippines. The Government of the United States shall take all measures within its authority to ensure that this is done.

"Article III Entry and Departure

- "1. The Government of the Philippines shall facilitate the admission of United States personnel and their departure from the Philippines in connection with activities covered by this agreement.
- "2. United States military personnel shall be exempt from passport and visa regulations upon entering and departing the Philippines.
- "3. The following documents only, which shall be presented on demand, shall be required in respect of United States military personnel who enter the Philippines:
 - " personal identity card issued by the appropriate United States authority showing full name, date of birth, rank or grade and service number (if any), branch of service and photograph;
 - " individual or collective document issued by the appropriate United States authority, authorizing the travel or visit and identifying the individual or group as United States military personnel; and
 - " the commanding officer of a military aircraft or vessel shall (c) present a declaration of health, and when required by the cognizant representative of the Government of the Philippines, shall conduct a quarantine inspection and will certify that the aircraft or vessel is free from quarantinable diseases. Any quarantine inspection of United States aircraft or United States vessels or cargoes thereon shall be conducted by the United States commanding officer in accordance with the international health regulations as promulgated by the World Health Organization, and mutually agreed procedures.
- "4. United States civilian personnel shall be exempt from visa requirements but shall present, upon demand, valid passports upon entry and departure of the Philippines.
- "5. If the Government of the Philippines has requested the removal of any United States personnel from its territory, the United States authorities shall be responsible for receiving the person concerned within its own territory or otherwise disposing of said person outside of the Philippines.

"Article IV Driving and Vehicle Registration

- "1. Philippine authorities shall accept as valid, without test or fee,

a driving permit or license issued by the appropriate United States authority to United States personnel for the operation of military or official vehicles.

- "2. Vehicles owned by the Government of the United States need not be registered, but shall have appropriate markings.

"Article V
Criminal Jurisdiction

- "1. Subject to the provisions of this article:
- (a) Philippine authorities shall have jurisdiction over United States personnel with respect to offenses committed within the Philippines and punishable under the law of the Philippines.
 - (b) United States military authorities shall have the right to exercise within the Philippines all criminal and disciplinary jurisdiction conferred on them by the military law of the United States over United States personnel in the Philippines.
- "2. (a) Philippine authorities exercise exclusive jurisdiction over United States personnel with respect to offenses, including offenses relating to the security of the Philippines, punishable under the laws of the Philippines, but not under the laws of the United States.
- (b) United States authorities exercise exclusive jurisdiction over United States personnel with respect to offenses, including offenses relating to the security of the United States, punishable under the laws of the United States, but not under the laws of the Philippines.
 - (c) For the purposes of this paragraph and paragraph 3 of this article, an offense relating to security means:
 - (1) treason;
 - (2) sabotage, espionage or violation of any law relating to national defense.
- "3. In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply:
- (a) Philippine authorities shall have the primary right to exercise jurisdiction over all offenses committed by United States personnel, except in cases provided for in paragraphs 1(b), 2 (b), and 3 (b) of this Article.
 - (b) United States military authorities shall have the primary right to exercise jurisdiction over United States personnel subject to the military law of the United States in relation to:
 - (1) offenses solely against the property or security of the United States or offenses solely against the property or person of United States personnel; and
 - (2) offenses arising out of any act or omission done in performance of official duty.
 - (c) The authorities of either government may request the authorities of the other government to waive their primary right to exercise jurisdiction in a particular case.
 - (d) Recognizing the responsibility of the United States military authorities to maintain good order and discipline among