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## The Case of the Captive Country

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## Review Article

### The Case of the Captive Country

NARCISO G. REYES

A QUESTION OF SOVEREIGNTY. THE MILITARY BASES IN THE PHILIPPINES, 1944-1979. By Eduardo Z. Romualdez. Manila, 1980 (exclusively distributed by Bookmark). xii, 675 pages.

If the political scenario is enacted as programmed, the next three years will be years of decision for the Philippines. In 1986, local elections are scheduled to be held. The results should show if the opposition can muster enough strength to make the restoration of the two-party system a realistic prospect. In 1987, the presidency itself will be at stake. It will be a year of reckoning for a regime that will have lasted for twenty-one years under a peculiar mix of democratic and authoritarian mandates. 1988 will be the year of decision on whether or not to terminate the Military Bases Agreement between the Philippines and the United States on 16 September 1991, the date stipulated in the termination clause of the Agreement. The required one year's prior notice need not be given until 16 September 1990, but the decision on the issue will probably have to be made in 1988, during the final periodic review of the Agreement prior to its terminal date of 16 September 1991.

On that occasion, barring a drastic and unexpected change in U.S. policy, the Americans may be expected to press for the indefinite continuation of the Agreement, or at least for its extension for another term, say of five years, with an option for further extensions subject to mutual agreement. In the meantime, the internal debate on the military bases issue, which is now building up, may have come to a head. The Government will thus be under heavy pressure to make a decision one way or the other.

It is in this context that Eduardo Z. Romualdez's six-year old book, *A Question of Sovereignty*, acquires a surprising timeliness. Written in 1979, towards the end of his long term as Philippine Ambassador to the United States, the book is a history of the American military bases in the Philippines and the central role which they have played in Philippine-American relations.

It recounts the colonialist origin of the Military Bases Agreement and chronicles the persistent Philippine attempts, in successive reviews, to make its provisions more equitable and more consistent with Philippine sovereignty.

The book is built around a detailed account of the formal negotiations of 1976, during which Ambassador Romualdez served as leader of the Philippine negotiation team, and of the informal talks held intermittently from 1976 to 1978. These talks resulted in the compromise agreements of 1979 which formally recognized Philippine sovereignty over the bases, placed them under the Philippine flag and under the nominal command of a Filipino Base Commander while conceding "effective control" and "unhampered operations" to the United States, and provided for the review of the Agreement every five years.

*A Question of Sovereignty* made no waves when it first appeared in print in 1980. It had an author's preface, but no foreword and no introduction. To the best of my knowledge, there was no book launching. Despite the author's prestige, his family connection, his position as Ambassador to Washington and his authority as leader of the Philippine negotiating team in the 1976 negotiations over the Military Bases Agreement, his book enjoyed no government endorsement. In fact it was not released for general circulation; only photo copies were available, as reference material, during the review of the Agreement held in 1983. Official approbation was conspicuous by its absence.

With these antecedents, the belated release of *A Question of Sovereignty* early this year should have been a non-event. The book should have elicited nothing more than casual, passing notice in transit to the musty shelves of unread memoirs. Instead, it has acquired an unexpected relevance. The developing public debate over the military bases issue has enhanced its usefulness as an authoritative source of reference material, including the texts of the original Military Bases Agreement and all its amendments up to 1979, as well as of the related "Mutual Defense Treaty of 1951 and the Military Assistance Agreement of 1953." Perhaps more important, from the point of view of timeliness and relevance, is the book's catalogue of more than a score of unresolved issues arising from the curtailment of Philippine sovereignty over the military bases. These issues, twenty-five altogether, include disagreements over such fundamental questions as the application of Philippine laws on labor and criminal jurisdiction, control over natural resources within the base areas, the ownership of the base installations, the offensive and defensive use of the bases, and the overriding issue of nuclear weapons. They constitute a formidable agenda of unfinished business which will inevitably influence the decision on whether or not to terminate the Military Bases Agreement.

Ambassador Romualdez reduces the twenty-five unresolved issues to one essential, all-embracing question: the dispute about national sovereignty.

"As one goes over these 25 unresolved issues," he says,

one is struck by the fact that they all directly or indirectly stem from one basic issue: Philippine sovereignty over the territory of the bases. The United States has recognized that sovereignty in theory. What is really at issue is the extent to which the United States is willing to translate that theoretical acknowledgement into practical terms.

Some of the issues above-mentioned are obviously negotiable. And to the extent that they are, the Philippines is willing to negotiate. But it takes two to negotiate. No negotiation is possible where the other party takes the attitude that *none* of its demands are negotiable.

When the negotiations started in Washington in April 1976, Secretary of State Henry Kissinger presented to the negotiators the U.S. Draft-Proposal with the remark that it was being offered as a basis for negotiation, not on a 'take-it-or leave it' basis. But the impression given at the talks in Baguio and Manila was precisely that: the provisions of the U.S. Draft could not be altered. In effect we were to take it or leave it.

The cool official reception to *A Question of Sovereignty* may be explained in part by the author's frankness in recording the stark inequality of postwar Philippine-American relations. In courteous language, befitting his genteel breeding and his training as a diplomat, Ambassador Romualdez pinpoints our flawed independence as the original fault in that relationship.

"The Military Bases Agreement, like the other pacts of the period," he declares,

had been concluded in a context in which the Philippines did not have full freedom of action and had been compelled by circumstances to accept provisions which in later years seemed intolerable . . .

The Trade Agreement was not negotiated. Its provisions were dictated by one party, accepted with great reluctance by the other. To be precise, the provisions of the Agreement were determined by the United States Congress in the Philippine Trade Act (Public Law 371, 79th Congress) which had been approved on 30 April 1946, less than ten weeks before the Philippines was to be declared independent . . .

The message was clear. No just compensation for war damage would be made until the Philippine Congress and the Filipino people had accepted the Trade Agreement, including the constitutional amendment concerning 'parity' rights. President Roxas put the matter neatly if somewhat less delicately: 'No parity, no money.'

Ambassador Romualdez has a similar verdict on the Military Bases Agreement. "Beyond the expressions of mutuality in the preamble," he says, "there is very little in the text itself that would indicate mutuality of interests. It is a one-way street."

It was indeed the most unequal of all the treaties or agreements on military bases signed by the United States. *A Question of Sovereignty* cites chapter and verse showing that Spain, Greece and Turkey got better terms than the Philippines in exchange for less extensive base facilities made available to American forces. A comparison of the provision on respect for national sovereignty, control of force levels, operations and wartime use, compensation and the ownership of permanent installations showed with humiliating clarity what a poor bargain the Philippines had got from its erstwhile mother country. The book notes that in some ways even Japan, a former enemy country, has been treated by the United States with more respect than the Philippines.

Chafing under the heavy yoke of the Military Bases Agreement, successive administrations have tried to rectify its most inequitable provisions, to reduce the number of the bases, the areas they occupy, and the term of their use by American forces. It has been an uphill struggle all the way. When it was signed on 14 March 1947, the term of the Military Bases Agreement was "for a period of ninety-nine years subject to extension thereafter as agreed by the two Governments." Twelve years later, on 12 October 1959, then Secretary of Foreign Affairs, Felixberto M. Serrano and U.S. Ambassador Charles E. Bohlen signed a Memorandum of Agreement which provided that the term of the Military Bases Agreement would be reduced from ninety-nine to twenty-five years. This provision, however, was not effective immediately. It was stipulated that "the period of 25 years will commence from the date of signature of the formal documents giving effect to the agreement reached." Seven years elapsed before the agreement was formalized in an exchange of notes between U.S. Secretary of State Dean Rusk and then Secretary of Foreign Affairs Narciso Ramos which contained the following provision amending the corresponding article of the Military Bases Agreement:

Unless terminated earlier by mutual agreement of the two governments, this Agreement and agreed revisions thereof shall remain in force for a period of 25 years from September 16, 1966 after which, unless extended for a longer period by mutual agreement, it shall become subject to termination upon one year's notice by either government.

Originally, the military bases were occupied and used by the Americans rent-free. It was not until 1979, thirty-two years after the Military Bases Agreement came into force, that the American Government agreed to provide a compensation package to the Philippines under a "best effort" formula contained in then President Jimmy Carter's letter to President Ferdinand Marcos.

Philippine sovereignty over the military bases has been formally recognized in principle. But basic disagreements over some of its most important and

sensitive aspects have yet to be resolved to the satisfaction of the Philippines.

*A Question of Sovereignty* makes the current hullabaloo about reviewing and abrogating the Military Bases Agreement sound old hat. Exasperated by past failures to improve the terms of the Agreement, the Philippine Government prior to the formal 1976 negotiations decided to try to have it replaced by an entirely new agreement.

"There was a radical difference between the negotiations of 1976 and those that preceded them," Ambassador Romualdez recalls. "The previous negotiations were all aimed at *amending* the Military Bases Agreement of 1947. On the other hand, the 1976 negotiations were aimed at abolishing the MBA altogether and replacing it with a new contract."

The reason for this drastic decision throws light on the crux of the Philippine problem:

The decision to seek an entirely new arrangement ('starting from scratch,' as the saying goes) was arrived at when it became clear to the Philippine Government that there was something radically wrong with the existing arrangements. There had always been discontent with the individual provisions of the MBA: those dealing with criminal jurisdiction, with taxation, with natural resources, and so on. But it became finally clear that no amount of scissors-and-paste amendments could really set the matter right. There was something basically wrong with the entire set-up. The Military Bases Agreement had been constructed with a wrong orientation and erected upon a false premise. That false (although unexpressed) premise was that the military bases were under Philippine sovereignty only in name; in reality they were American territory and were treated by the United States as such. The extraterritorial privileges which the bases and their personnel enjoyed placed them outside the pale of Philippine law.

Coupled with that was the further realization that the Mutual Defense Treaty of 1951 was perhaps not what it had been thought to be: a guarantee of American assistance in time of conflict. Despite assurances to the contrary, Filipinos had come to realize more and more that they could expect little help from the United States when that help should be needed.

Hence the decision to review all existing agreements with the United States and to renegotiate an entirely new contract regarding the use by the United States of Philippine Military Bases.

The history of the 1976 negotiations, recorded in minute detail in *A Question of Sovereignty*, should be "must" reading for the Batasang Pambansa, which has set up a special committee to review the Military Bases Agreement and other aspects of Philippine-American relations. It could provide a useful preview of the nature and dimensions of the formidable task which the Batasan has decided to undertake.

President Marcos gave the Philippine delegation to the 1976 negotiations a broad mandate based on three bold options. These options extend beyond Defense Minister Juan Ponce Enrile's recent proposal for the "abrogation and re-negotiation" of the Military Bases Agreement. The President's instructions are summed up in the book in the following strikingly relevant passage:

... The first (option) was to 'discard' entirely all existing treaties and agreements with the United States concerning military affairs. The Philippine Government should, theoretically, start from the position that there are no military treaties between the United States and the Philippines.

The second option was to propose the outright abrogation of the Military Bases Agreement (MBA) and the Military Assistance Agreement (MAA). The Philippines, however, would be amenable to the retention of the Mutual Defense Treaty (MDT)...

The third option was to propose a new treaty on the use of the Philippine military bases and facilities by the United States, embodying the concept of United States assistance in the development of the Armed Forces of the Philippines with a view to achieving the objective of military self-reliance.

Of these three options, the second (abrogation) was to be preferred, and President Marcos instructed the Philippine delegation to 'take a very strong stand' as "far as possible" in its favor. If, however, they were obliged to give up Option 2 and settle for Option 3 (a new treaty), then several guidelines had to be followed (such as the clear recognition of Philippine sovereignty over the base areas and facilities, and the removal of all vestiges of extraterritoriality).

Armed with such a strong mandate, the Philippine delegates, led by Ambassador Romualdez, entered the substantive negotiations with confidence and a sincere determination to obtain a new and more equitable Military Bases Treaty. They were soon stymied, however, by the skillful stone-walling of the American negotiators led by Ambassador William Sullivan; by the onerous but deeply entrenched practices established under the existing Agreement; and by the sheer disparity in strength between the superpower actually in possession of the bases and the poor, developing nation struggling to regain control over them by invoking a sovereignty which it lacked the power to impose. In effect, the negotiating roles were reversed, with the host country becoming the supplicant and the guest, by turns patronizing and domineering, graciously or grudgingly granting concessions.

The concessions failed to meet all the Philippine demands. After more than four weeks of frustrating talks, Ambassador Romualdez admitted that a stalemate had been reached, submitted a memorandum to the President on the twenty-five unresolved issues, and adjourned the negotiations.

Ambassador Romualdez has frankly admitted the failure of his mission. In his footnote to the follow-up talks which produced the compromise agree-

ments of 7 January 1979, he makes the following considered judgment on the negotiations:

These then are the terms of the agreements of 7 January 1979, amending the Military Bases Agreement of 1947. As is obvious, the terms were far short of what the Philippine negotiators had hoped for at the beginning of negotiations in 1976. We had hoped to abrogate completely the MBA of 1947 and enter into entirely new arrangements with the United States, under terms less onerous to us and what we believe would be more in keeping with our dignity as a sovereign nation. We failed in that endeavor and have had to settle for specific amendments to the existing agreements.

On the other hand, there have been some gains. The Philippine flag now flies over the bases – something that could not be done in the past 32 years. The bases are now, nominally at least, under the command of Philippine commanders. There has been a substantial reduction in the amount of lands reserved exclusively for the use of the United States forces.

Will the new arrangements do away with the irritants that have marred Philippine-American relations in the past three decades? Probably not. The root-causes of such irritants are still present. The arrangements regarding criminal jurisdiction are still the same. They exempt thousands of American servicemen and their dependents from Philippine law or the jurisdiction of Philippine courts. Within a few months after the agreement of 7 January 1979 was signed, instances arose of American servicemen being taken out of the country before criminal or civil proceedings could be instituted against them.

What is really at stake in these matters is the *bona fides* of the United States.

There are furthermore some important issues not covered in the 1979 agreements. Among these are the storage or use of nuclear and similar weapons, and the wartime use of the bases. There is also the issue of just compensation to the Philippines for the extended use of so much of its territory – far surpassing that which the United States is allowed to use in Spain or other countries.

Will these issues ever be resolved to the satisfaction of the Philippines in accordance with the demands of justice and fairness? Only time will tell.

On this disturbing note, Ambassador Romualdez concludes his report in *A Question of Sovereignty*. His parting question is ominous. His own account of the history of the Military Bases Agreement and of the major effort to rectify its onerous and unjust provisions in negotiations lasting from 1976 to 1978 constitutes an inadvertent exposé of the anatomy of dependence. The image of the Philippines that emerges from *A Question of Sovereignty* is that of a country that has become a captive of a superior power, a nation shackled to an unequal relationship from which it has struggled in vain to escape.



There were two preconditions to Philippine independence, Parity and the Military Bases Agreement, that severely curtailed Philippine sovereignty in two of its most vital aspects: control of natural resources and control of national security. These preconditions, as Ambassador Romualdez notes in his book, were imposed by the United States at a time when the Philippines was powerless to resist them. At the end of the war, during which it had lost over a million people fighting as an ally of the United States, the Philippines was devastated, its treasury empty, its people impoverished. It was at that juncture that the Philippines was told to accept Parity and the Military Bases Agreement or suffer the consequences. "No Parity, no money," as President Roxas succinctly put it.

This country, which takes pride in the distinction of having been the only colony that had remained loyal to its mother country during the war, was treated no better than the defeated enemy. It was treated not as a partner in rebuilding the peace, nor as an ally deserving of the largesse of a Marshall Plan, but as one of the vanquished, from whom reparations should be extracted. "No parity, no money." Parity was indeed a form of reparations with this difference: it was imposed not on an enemy but on a friend and ally.

Parity has been abolished, but the Military Bases Agreement remains in force. *A Question of Sovereignty* reminds us that it will not be easy to abrogate it, or to replace it with a new and more equitable treaty. President Marcos himself, in his foreign policy report to the Batasang Pambansa in 1979, admitted that the Philippines was not in a position to abrogate the Military Bases Agreement unilaterally. If we tried to do so, he warned, the United States under international law could insist on the integrity of the Agreement and enforce its right to remain in the bases as it did in the case of its military base in Guantanamo, against the wishes of the host country, Cuba.

Since 1979, the importance of the military bases in the Philippines has been greatly enhanced. Clark Air Field and Subic Naval Base have become major cogs in what the United States describes as its inter-locking system of defense and deterrence, not only in the Asia-Pacific region but also in the Middle East; in fact, world-wide. American interests dictate that they tighten their grip on these bases, and this is precisely what they are doing. Already entrenched in force in Clark and Subic, and by their presence exercising a powerful constraint on Philippine independence in foreign affairs, they are now reaching out for control of Philippine domestic affairs by means of the conditionalities that they have begun to impose on the utilization of the compensation package which they are paying for the use of the bases. The Philippines is slipping into a situation similar to that of the East European satellites, or of Vietnam, vis-a-vis the Soviet Union. It is getting locked into a position of permanent dependency on the United States.

There is a disquieting parallel between present conditions and the situation immediately after the war, when dire economic necessity forced the Philip-

pines to accept Parity and the Military Bases Agreement. Today the Philippines is again in the throes of an economic crisis, aggravated this time by its addition to American economic and military aid, which is another form of captivity.

The acid test for the Philippines will come in 1988, when the Agreement is subjected to a final review before the termination date of 16 September 1991. Maximum pressure, domestic and external, for its indefinite continuation or its extension for a fixed period will then be encountered. The moment of truth will come on 16 September 1990. By giving or failing to give, the United States the one year's prior notice stipulated in the termination clause of the Military Bases Agreement, the Philippines will have answered the concluding query in *A Question of Sovereignty*.