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Philippines-US Alliance Under Duterte: Unravelling?

By Aaron Jed Rabena

SYNOPSIS

Since the election of Philippine President Rodrigo Duterte, various uncertainties have confronted Philippines-US relations. These are mainly due to human rights issues and the challenge posed by China in the South China Sea.

COMMENTARY

IN JANUARY 2020, Philippine President Rodrigo Duterte ordered the termination process of the longstanding Visiting Forces Agreement (VFA) with its lone security ally, the United States. The move rekindled anti-US sentiments and stoked widespread disapproval from the general public, including pro-US quarters in the country.

According to the Duterte government, the reason for the VFA abrogation is the lack of respect for Philippine sovereignty or the “accumulation of a series of disrespectful acts” committed by some American senators against the Philippine government and its officials.

US Action on Human Rights

Apparently, this latest outburst from Duterte was triggered by calls by a number of US Senators to release the detained staunch Duterte critic Senator Leila de Lima and the revocation of the US visa of one of Duterte’s strongest political allies, Senator Ronald “Bato” dela Rosa, who was the former head of the Philippine National Police (PNP) and chief implementor of Duterte’s controversial war on drugs.

The cancellation of dela Rosa’s visa comes on the heels of President Donald Trump’s approval of the 2020 appropriations bill which included a rider provision, endorsed by

certain US senators (Senate Resolution 142) invoking the Global Magnitsky Human Rights Accountability Act.

The Act authorises the imposition of sanctions on government and security officials — through travel restrictions and bank account freezes — who have committed human rights abuses or extra-judicial killings.

Foundation of the Alliance

Philippines-US alliance is anchored on three major documents: the 1951 Mutual Defence Treaty (MDT), the 1998 VFA, and the 2014 Enhanced Defence Cooperation Agreement (EDCA). The MDT is the mother agreement that outlines the legal foundation, framework and general purpose of the alliance. Like the MDT, the VFA is a treaty that was ratified by the Philippine Senate which sets out the terms and conditions on the entry and visit of US military personnel in the Philippines.

The VFA was initiated following three significant developments: China's incursions into Philippine maritime waters in 1994 known as the Mischief Reef Incident; the expiration of the 1947 Military Bases Agreement (MBA) in 1991; and the refusal of the Philippine Senate to extend basing agreements by virtue of the RP-US Treaty of Friendship, Cooperation and Peace.

The VFA was to re-accommodate American military presence without violating the prohibition on military bases stated in the 1987 Philippine Constitution.

Additionally, the VFA provides a platform for annual joint military exercises (e.g., Balikatan, PHIBLEX) designed for improving combined planning and combat interoperability, and bilateral defence activities geared toward national security operations other than war such as humanitarian assistance and disaster relief (HADR), as demonstrated during Typhoon Haiyan (Yolanda) in 2013.

Article IX of the VFA provides that termination process may be commenced after a notice of termination has been served by one party to the other. In fact, the same procedure holds true with respect to the MDT. However, terminating the VFA might have accompanying legal consequences for EDCA because the Philippine Supreme Court held in 2016 that EDCA is an implementing agreement of the VFA.

Impact on the Alliance

The EDCA is an Executive Agreement like the 1947 Mutual Assistance Agreement and 2002 Mutual Logistics Support Agreement (MLSA) that need not have Senate concurrence. It enables the increased rotational access of US troops and military assets to Philippine military bases and deepens the mechanisms and modes of cooperation (long-term capacity-building/modernisation, trainings, military assistance) between the Philippines and the US.

The US is also allowed to build or upgrade structures, preposition weapons, defence equipment and materiel on mutually agreed locations (e.g., Cesar Basa Air Base in Pampanga, Benito Ebuen Air Base in Cebu and Antonio Bautista Air Base in Palawan), for a period of 10 years.

US presence was evidently valuable in providing intelligence, surveillance, reconnaissance (ISR) support during the 2017 Marawi Siege or armed conflict with Islamist militant fighters in Southern Philippines.

In view of these, should the VFA cease to operate, the scale, scope and regularity of American military presence and operations in the Philippines may likely be diminished or suspended as in the case of the Bilateral Air Contingent Exercise-Philippines.

Capacity-building, just as with the US' security partners such as India, Singapore, Taiwan and Vietnam, may still push through via the Foreign Military Financing (FMF)/Foreign Military Sales (FMS) and professional exchanges. These professional exchanges consist of International Military Education and Training (IMET) and bilateral visits.

Philippine Perceptions of Alliance

The termination of the VFA will not spell the end of the Philippines-US alliance which is legally contingent upon the umbrella bilateral defence pact, the MDT. Still, the termination of the VFA would have fallouts for Philippine national security and Philippines-US bilateral relations, with possible implications for the wider security of the Southeast Asian region.

While the VFA and EDCA have been useful in meeting Philippine security requirements, particularly conventional warfare preparations and non-traditional security contingencies, they, however, have not been substantially effective in deterring China's 'gray zone tactics' such as the 2012 Scarborough Shoal Standoff and island reclamation operations in the South China Sea.

Against this backdrop, the call by the Duterte government last year to review the MDT or the broader Philippines-US security relationship has basis. Moreover, the cancellation of dela Rosa's visa coincides with the US' invitation for Duterte to attend the Special US-ASEAN Summit in March.

This could mean two things: First, Washington is striking a balance between the need to maintain a robust Philippines-US alliance by having a workable relationship with Duterte; and the need to act on US domestic imperatives by exercising diplomatic sanctions. Seemingly, the alleged "sanction" on dela Rosa cannot be said to be a sanction on the Duterte government because dela Rosa is already a senator who belongs to a separate branch of government.

Can the Alliance be Foregone?

In any case, it is important to note that when the Philippines refused to extend the period for US military bases in 1991 and withdrew from the Coalition of the Willing in the Second Gulf War in 2004, there was a marked decline in military education and training under IMET as well as foreign aid from the US.

On the part of the US, a downscaled alliance with the Philippines could impact its regional leadership, strategic force posture and access locations for logistical support under the Indo-Pacific strategy.

In this context, it is worth pointing out Vietnam's experience. While in the process of cultivating security ties with US and other strategic partners, Vietnam has thus far been able to safeguard its core interests vis-a-vis China without an alliance.

Overall, the issue of terminating the VFA highlights two key points about the Philippines-US alliance: first, the advantages and disadvantages of the VFA and EDCA and their need for improvement; and second, Philippine security dependence on the US.

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