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I. Is Congress ready for public transparency?

“Everyone has the right to obtain from public authorities, including information relating to national security. No restriction on this right may be imposed on the ground of national security...”

After more than 10 years of not being acted upon, the proposed Freedom of Information (FOI) Act was snarled again this time in the second regular session of the 15th Congress which adjourned last June 6. In the Senate, the committee on public information was slated to submit the bill for plenary debate but lack of material time yielded no positive results. It was tougher at the House of Representatives: It stood still at the committee level.

With a few exceptions, Congress is not ready for the FOI bill while Malacanang has shown little political support to what it once promised as a priority. In fact, what is happening is that bills that undermine the intent of the FOI are gliding through in both houses faster than the freedom bill itself. Filed by Marinduque Rep. Lord Allan Rey Velasco, HB 5835 seeks to increase the fine for each count of libel. On the other hand, SB 2965 or the Data Privacy Act aims to create a National Privacy Commission and prohibit media from publishing “personal information” in any form in the name of privacy and national security. Having consolidated three House and Senate bills, SB 2965 will likely be passed when Congress resumes session in July.

Both bills and similar measures were filed in Congress in the light of several exposes linking public officials and some legislators to graft and corruption cases and other scandals. In opposition, media groups and public information advocates have pressed for the decriminalization of libel while at the same time pushing for

the passage of the much-delayed FOI bill. The fight for the FOI has sparked greater interest in the light of the impeachment of the now-removed chief justice of the Supreme Court (SC) Renato Corona and the public clamor that it unleashed for the disclosure of bank deposits by all government officials and employees.

For the renewed call for transparency and accountability in government to gain any headway, the passage of the FOI bill is important. Unfortunately, the biggest obstacle to its enactment is Congress. And the presidential office is moving no mountains to remove this obstructionism. Fact is, in a similar case, the President has endorsed the use of the Smartmatic voting machines for the 2013 elections. The FOI would have given him the lens to find, among others, that the system's deficiencies confirmed in 2010 – and still uncorrected today – will affect the accuracy and credibility of the next election.

FOI seeks to implement Sec. 7 (Article III, Bill of Rights) of the Constitution which recognizes the people's right of access to public information. Most bills that have been filed in pursuit of this constitutional principle make it mandatory for all public offices to respect this provision but at the same time invoke “national security” and “public interest” to justify restrictions. Even the latest Senate version which includes proposals from Malacanang inserts the same conditions.

Citing “national security” or “public interest” as a

ground for limiting access to public information is an open-ended clause, is prone to abuse, and is prejudicial to the freedom that the FOI seeks to uphold. In the past, such conditions have been used to hide from public scrutiny secret agreements forged with other countries particularly the U.S. that in the final analysis proved to be inimical to the country's sovereign and territorial rights. National security has also been cited to cover up politically-motivated killings and abductions which even the high court cannot stop.

The bill submitted last week by the Senate committee on public information before the plenary session tries to remedy the situation with some safeguards. The safeguards are however toothless for being vague and imprecise.

On this point, it will enlighten both its authors and pro-FOI advocates to apply the Johannesburg Principles

on National Security, Freedom of Expression, and Access to Information. Adopted in 1995, the Johannesburg Principles asserts that any restriction on expression or information must be prescribed by law that is "accessible, unambiguous, drawn narrowly, and with precision" and must show the effect of protecting "a legitimate national security interest."

Principle 11 (General Rule on Access to Information) says: "Everyone has the right to obtain from public authorities, including information relating to national security. No restriction on this right may be imposed on the ground of national security unless the government can demonstrate that the restriction is prescribed by law and is necessary in a democratic society to protect a legitimate national security interest." Moreover, Principle 15 says national security cannot prevail if "the public interest in knowing the information outweighs the harm from disclosure."

II. Arms shopping: Aquino bows to U.S. juggernaut

Aquino is beating the drums of war against a giant neighbor which is clearly costly, unsustainable, and smacks of puppetry to a former colonial master.

The previous 14th Congress had proposals calling for a review of the Philippine-U.S. Visiting Forces Agreement (VFA), the termination of the cold war-vintage 1951 Mutual Defense Treaty (MDT), and re-orienting foreign policy to make it independent. Those calls, which were also articulated by cause-oriented groups, deserve another look today. Legislative investigations are in order.

If the Aquino administration is given its own way without a check-and-balance by Congress, the Philippines would find itself in a costly war footing against China in the next couple of years. And the main beneficiary to all these is the U.S. particularly its war industry.

Alarmed by incidents of Chinese intrusions in territories claimed by the Philippines notably the Spratlys and Scarborough shoal (Panatag Shoal) in the South China Sea (or West Philippine Sea), the Aquino government has embarked on a military shopping spree since last year. Aquino's military acquisitions fit very closely into the U.S. Obama government's belligerent policy against China, intensifying America's military presence in Asia Pacific, and boosting arms sales in the region including Southeast Asia. In no uncertain terms,

President Benigno S. Aquino III and his defense officials support the U.S. strategy. In a symbolic gesture last week, Aquino III went to see President Barack Obama in Washington, DC following simultaneous tours by U.S. Defense Secretary Leon Panetta and State Secretary Hilary Clinton in Asia Pacific. The chairman of the U.S. Joint Chiefs of Staff Gen. Martin Dempsey also came to Manila to follow up security talks.

Under Obama, Asia Pacific is the key to U.S. global security strategy now seeking to "rebalance" its military strength coupled with rotational deployments so that by 2020 60 percent of its global forces are relocated here. The new "pivot" strategy is being pursued by strengthening its treaty alliances with the Philippines, Japan, South Korea, Thailand, and Australia; defense partnerships with India, Singapore, Indonesia, and other countries; and increased arms sales with an eye toward extending and institutionalizing America's weapons industry in the region.

Belligerent policy

As it advances its security goals, the U.S. has revived a

belligerent policy using the “China threat” as a scapegoat. Hawkish elements in the U.S. government are pushing for an encirclement and containment strategy on China. Even if Pentagon officials deny that China is a military target their own actions show otherwise: The establishment of a new U.S. military base in Darwin, northern Australia; talks of U.S. naval presence in Singapore and Vietnam; a plan to set up a spy satellite in an island near Indonesia and the Philippines; and the re-opening of its former air force and naval facilities at Clark and Subic in the Philippines for inter-operability and rotational deployments.

Outside of the Gulf region and North Africa where U.S. forces are locked in armed conflicts alongside NATO, there is no clear and present danger to U.S. interests in Asia Pacific except possibly its declining economic power here relative to China and India. For more than six decades, U.S. military projection has remained unchallenged with major bases today still operating in Japan, South Korea, Australia, and other countries.

How explain then the new U.S. military aggressiveness in the region?

The economic recession and overspending in the wars in Afghanistan and Iraq – where the U.S. continues to suffer military and political debacles – have led to budget constraints. The “China card”, brewing territorial disputes that threaten America's power supremacy and trade routes, and access to energy resources provide justification for avoiding U.S. defense cuts. Rising Chinese hegemony was singled out by Obama in early 2011 when he unveiled America's new security thrust in Asia Pacific while in no ambivalent terms called for increased arms sales in the region including Southeast Asia. In November, he declared “The United States is a Pacific power and we are here to stay...Reduction in U.S. spending will not...come at the expenses of the Asia Pacific.”

Thus the Obama strategy is opening a fertile ground for U.S. war manufacturers to secure military contracts required for re-balancing its forces and deepening military intervention in Asia Pacific. New defense commitments, war exercises, and other operations will require new arms purchases by America's allies and security partners in the region – certainly a boon to the powerful U.S. arms industry. (Financial constraints have led to the downgrading of Europe as a weapons market.)

Arms trade

Indeed, this strategy has paid off: Arms exports to Southeast Asia jumped by 185% in 2007-2011 as tensions mounted over territorial claims in the South China Sea, wrote *The Economist* citing a report by the Stockholm International Peace Research Institute (SIPRI). The ongoing integration of alliances and partnerships in the region under the security goals defined by the U.S. will provide a huge market for arms manufacturers and will help sustain Pentagon's defense contractors at a time when many corporations in the U.S. are shutting down. War has always been good business.

In less than a year, the Aquino administration bought two ships – actually museum pieces – from the U.S. Navy for deployment in the South China Sea. Acquired at \$10 million apiece, the two Hamilton Class Cutter ships had been retired by the U.S. coast guard after being used for almost 50 years. (The first, renamed *Del Pilar*, was stripped of its weaponry before purchase while the second, known as *Dallas*, experienced defects during its last patrol with the U.S. coast guard.) The AFP's current shopping list includes long-range patrol and search-and-rescue ships, missile-firing gunboats, combat aircraft, coast watch radar system, tanks, anti-submarine ships, and other equipment. Aside from the U.S., the AFP has sent teams to the UK (which Aquino also visited last week), Japan, France, Spain, Australia, and South Korea. How the arms procurement program which requires public bidding is followed by Aquino's weapons shoppers should be a subject of inquiry, however.

Aquino has also pledged to implement the AFP's decades-old modernization program under which the latest “Defense Assessment and Acquisition Systems” program with 138 military projects costing \$162 million will be implemented in July 2012. The Aquino administration is tapping the U.S.' Foreign Military Sales (FMS) program for excess defense equipment and is lobbying for the lifting of the \$3 million cap on U.S. military aid which was set four years ago over the Philippine government's poor human rights record. Incidentally, the Philippine Defense Reform modernization program is a joint policy undertaking of the Philippines and U.S.

In return for increased U.S. military assistance, arms deliveries, training, and support to the AFP's “minimum credible defense posture,” the Aquino administration will allow the use of Clark and Subic – two former American air

and naval bases – for U.S. forces. A proposal is also underway in Congress for a “military base sharing” that will allow U.S. troops to be stationed within Philippine military bases. Aquino has openly supported U.S. power in Asia Pacific as a “stabilizing force” and repeatedly invoked the 1951 MDT for U.S. intervention against China's territorial incursions in the SCS.

The quantum leap in U.S.-Philippine military alliance under Aquino effectively places the country under the American juggernaut: A full-spectrum aggressive strategy against China. This is regardless of the two governments' assurances that increased defense cooperation between them is not aimed at China. The Philippine foreign affairs department's repeated calls for rules-based maritime activities and respect for international law are baseless when U.S. nuclear-powered warships are now allowed to enter the country's Subic and other ports. The nuclear-

powered U.S. warships are also in direct violation of the Southeast Asian Nuclear-Weapon-Free Zone Treaty (SEANWFZ) signed by the Philippines with other ASEAN countries in 1995.

By allowing Philippine collaboration with the U.S. in promoting a belligerent and combative stance against China, Aquino is beating the drums of war against a giant neighbor which is clearly costly, unsustainable, and smacks of puppetry to a former colonial master. It will virtually militarize the country's foreign policy with China and may put to waste whatever productive trade and investment agreements had been forged with Beijing.

This is not only a matter of what's right or wrong. It's also a matter of whether to allow Malacanang to have its own way without a whimper of dissent from Congress or elsewhere. And this is more dangerous.

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