

## **Seeking Fairness and Justice: Toxic Wastes Left Behind**

### **At the former US Military Installations in Clark and Subic, Philippines**

#### **LITERATURE REVIEW**

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In 1902, at the end of the Philippine-American War, US immediately consolidated control over the political and economic life of its new colony, the Philippines. It immediately established a military stronghold and eventually built Clark Air Base and the Subic Naval Facility. For almost one hundred years, the United States enjoyed an unobstructed military presence in the country (Institute for Policy Studies, 199, page 39).

In 1991, Mt. Pinatubo unexpectedly erupted that shut down Clark Air Base and forced the evacuation of hundreds of thousands of nearby residents. In addition, the Philippine Senate refused to renew the military bases agreement between the Philippines and the US.

So on November 24, 1992, the last US military troops shipped out of Clark Air Base and Subic Naval Facility in the Philippines, the largest US military installations outside the US at that time. When the US troops left, they also left behind land and facilities tainted by nearly half a century of toxic and hazardous wastes (Pimentel and Lasola, 1992: page 173; Mercado, 2001: page ii; Mercado, 2001: page 17).

This literature review encompasses eight sections to provide a comprehensive overview and also bring fairness and justice to this issue including: 1) introduction and brief history; 2) health cost of US military presence in the Philippines and evidence of environmental hazards and toxic wastes left behind; 3) other social costs of the US military presence in the Philippines; 4) conflicting reports; 5) US denial of responsibility; 6) Philippine government response; 7) Alliance for Bases Clean Up (ABC) and community response; and 8) conclusion.

The United States have acknowledged that both Clark Air Base and the Subic Bay Naval Facility have significant environmental damage and if the US unilaterally decides to clean up these bases in accordance with US standards, the costs for environmental clean up and restoration could approach Superfund proportions (U.S. General Accounting Office Report January 1992: page 4; Institute for Policy Studies, 199, page 40).

Environmental officers at the Subic Bay Naval Facility estimated the costs approximately \$15 million (1992 estimates) to correct environmental hazards that pose serious health and safety threats including PCB removal, asbestos abatement and hazardous waste removal (U.S. General Accounting Office Report January 1992: page 6). Despite the US continued denial of responsibility, community groups including the Alliance for Bases Clean Up (ABC) continue to appeal for fairness and justice for toxic waste victims. ABC will partner with the Bayanihan Foundation on a public education and outreach on this almost forgotten issue.

### *1. Introduction & Brief History*

From 1898, the US was eager to establish a foothold in the Philippines as a source of raw materials, as a new market for its manufactured goods and as a stronghold of its new military presence (Mercado, 2001: page 1). The Philippines was strategically located at the crossroads of Asia and the Pacific and it quickly became a staging area for the US military (Institute for Policy Studies, 199, page 39). In 1904, the US established the Subic Bay Naval Facility taking advantage of the deep natural harbors and natural coasts of the area. The bay is approximately the size of the San Francisco Bay area covering 16,452 acres (Institute for Policy Studies, 199, page 39). Subic became the center of the US Seventh Fleet due to its geographic location between the Indian and Pacific Oceans and having the advantage for rapid projection of naval power and quick logistical support anywhere in the world (Mercado, 2001: page 11).

In 1945, the US also established Clark Air Base, located 65 miles north of Manila, the capital of the Philippines. The air base is situated in the center of Luzon Island on an agricultural plain with Mt. Pinatubo located just 8 miles west of the base. Angeles City, an urban community of 220,000 residents and Mabalacat, a rural village of 61,000 people share the rest of Clark Air Base's boundaries (Allen, page 7; Mercado, 2001: page 10). Clark Air Base encompasses 9,155 acres and quickly became the second largest base in the US Air Force (Allen, page 7; Mercado, 2001: page 10).

In 1947, the United States and the newly formed Republic of the Philippines jointly signed the US-Philippine military bases agreement that gave the US a 99-year rent-free contract to establish a continued American military presence in the Philippines (Institute

for Policy Studies, 1999, page 39; Mercado, 2001: page 2). The Philippines had no choice but to enter into an unfair economic and military agreement with the US, after being greatly devastated after World War II. The military bases agreement ensured not only a continuing US presence in the Philippines but also intertwined the destinies of these two countries (Mercado, 2001: page 1).

From the 1950s, with the growing scope of the Cold War against the Soviet Union, the US found a greater sense of urgency to extend its military presence in Asia and in the Philippines as the US tries to contain the spread of communism in the Asia Pacific sphere and around the world (Carroll, 1996: page 17; Mercado, 2001: page 12). So the US depended heavily on both bases, Clark and Subic, for all its international military operations from the Korean War in the 1950s, to the Vietnam War in the 1960s and early 1970s, to the Persian Gulf War in the 1990s. “Nowhere in the US are we able to use our military bases with less restrictions that we do in the Philippines,” a US commanding officer said (Institute for Policy Studies, 1999, page 39; Mercado, 2001: page 9-10). Clark and Subic were considered the most valuable US military bases in the world and it gave the US an unfair military advantage (Mercado, 2001: page 9).

However, this state of affairs was not to last and mother nature interrupted. On June 12, 1991, nearby Mt. Pinatubo erupted and the subsequent volcanic activity forced the immediate evacuation of Clark Air Force Base as well as the surrounding areas (Allen, 1991; page 7). That same year, the Philippine Senate refused to extend the life of the 1947 US-Philippine military bases agreement thereby ending an almost century-long and

at times unjust presence of the US in Philippine soil (Institute for Policy Studies, 199, page 39; Mercado, 2001: page 2).

After the departure of the US military, the Philippine government set its sights on redeveloping the areas into “special economic zones” as an answer to the ailing Philippine economy (Institute for Policy Studies, 199, page 40; Mercado, 2001: page 2; Mercado, 2001: page 18). Developments were put in place including an international airport, modern industrial parks and tourist attractions. However, anecdotal evidence began to surface of local residents suffering from toxic contamination left behind by the former US military bases, seeking fairness and justice on their neglected health needs. There was no comprehensive investigation of the extent of toxic contamination at either Clark or Subic (Mercado, 2001: page 18). With its unfair advantage, the US failed to undertake any cleanup despite knowledge of environmental contamination in Clark and Subic prior to the formal turnover to the Philippine government (Mercado, 2001: pages 3 and 18).

## *2. Health cost of US military presence in the Philippines: evidence of environmental hazards and toxic wastes left behind*

Since 1988, each of the 84 US military bases around the world slated for closure have environmental problems; Clark Air Base and the Subic Naval Facility were no exceptions (Bloom, et al, page 2; Mercado, 2001: page 19; Isip, Manila Chronicle, page 1).

In 1993, the World Health Organization (WHO) confirmed the initial findings of the US General Accounting Office (GAO) and reported that certain areas in Subic Bay were affected with considerable pollution such as those which used or stored toxic chemical, fuels, pesticides, polychlorinated biphenyl (PCB), chlorinated solvents, unexploded ordnance (UXO) and hazardous wastes (Mercado, 2001: page 23).

In 1994, environmental experts reviewed the closing or drawdown reports of Clark and Subic issued by the US Dept of Defense. They identified 14 known contaminated sites in Clark and more than a dozen potentially contaminated sites in Subic Bay and that there is significant potential risks of these contaminants to human health (Bloom, et al, page 1; Mercado, 2001: page 23 -24). The contamination was partly due to the new technologies that turned US modern military forces into vast industrial enterprises that generated materials of life-threatening toxicity (Carroll, 1996: page 18). Some of the toxic wastes identified are as follows:

- Seepage from underground storage tanks Both Clark Air Base and the Subic Bay Navy Facility have common environmental problems with underground storage tanks and fire-fighting training facilities that do not comply with US standards; they do not have leak detection equipment nor drainage systems. Instead, the fuels and chemicals seep directly into the soil and the water table, and at the Navy facility, the overflow goes directly into the Subic Bay and unfairly polluting the water (U.S. General Accounting Office Report January 1992: page 5).
- Lack of sanitary sewer system The Subic Bay Navy Facility does not have a complete sanitary sewer system and treatment facility and all sewage and process

wastewaters from the naval base and air station industrial complexes are discharged directly into Subic Bay (U.S. General Accounting Office Report January 1992: page 5).

- Lead and other heavy metals from the ship repair facility's sandblasting site drain directly into the bay or are buried in a landfill. Neither procedure complied with the US standards which requires lead and heavy metals be handled and disposed of as hazardous wastes which left the Philippines the unfair advantage to clean up (U.S. General Accounting Office Report January 1992:page 5; Bloom, et al, page 1).
- Polychlorinated biphenyl (PCB) The Subic Bay Navy Facility's power plant contains unknown amounts of polychlorinated biphenyl (PCB) but no official testing has been performed (U.S. General Accounting Office Report January 1992: page 5; Pimentel and Lasola, 1992: page 173; Bloom, et al, page 1; Greenpeace Toxic Alert website).
- Aviation fuel Thousands of gallons of highly corrosive aviation fuel were left behind in a decrepit 42-mile underground pipeline connecting Subic and Clark and unfairly polluting the ground water (Pimentel and Lasola, 1992: page 173).
- Unexploded ordnance Unexploded ordnance or UXO were left behind in firing ranges in Subic and Clark and scarred hundreds of innocent victims (Pimentel and Lasola, 1992: page 174; Woodward, page 1).
- Runoff and migration Many contaminants are not stationary but migrate beyond the initial area of contamination source. Toxic materials may also be absorbed on soil particles and bio-concentrated by animal or plant life and move up the food chain (Bloom, et al, page 2-3; Institute for Policy Studies, 199, page 45). Alliance for Bases Clean Up (ABC), a nongovernmental organization (NGO) sought to bring these

to the attention of both US and Philippine government officials and appeal for fairness and justice on this issue.

#### Filipino workers and residents affected

Filipino workers at both Clark Air Base and Subic Bay Naval Facility were unfairly exposed to hazardous materials that had already been banned in the US, such as asbestos and PCB. Ed Pugay, 33, a former worker at the ship repair facility, said that the base officials never told him of the dangers of asbestos and other heavy metal wastes that he inhaled while repairing or cleaning Navy ships. "If you wanted to, you could cover your mouth and nose with a handkerchief," Mr. Pugay said (Pimentel and Lasola, 1992: page 177).

Former Subic worker, Edgar Magalang says workers soaked their gloved hands in PCB contaminated fuel and they did not use respirators (Pimentel and Lasola, 1992: page 177).

Another former worker, Salvador de Ocampo thought he was doing another harmless job as he expected to rake in hours of overtime pay. He was assigned to take in samples from electric transformers. Salvador said that his American boss gave him a pair of rubber gloves and a mask for protection but he was never told that he would be handling PCBs. However, right afterwards, he was suffering from headaches and nausea (Pimentel and Lasola, 1992: page 177). These victims of toxic wastes are now seeking fairness and justice as they want policy makers to hear their stories.



Fernando Velonza's 13-year old son, Anding, was severely burned in the face and body when a UXO exploded. Anding survived but his eight-year old brother, Dante, was not that fortunate. He died in a separate UXO explosion incident. "The wound was so deep, I couldn't get to the metal. That was it. In less than a minute, he was dead. The shrapnel was so huge. I couldn't do anything. Maybe that's the kind of luck our son had. I surely couldn't hit back. So I just had to think if of it as an accident. That's all I could think of," Fernando Velonza, Dante's father, said appealing for justice (Pimentel and Lasola, 1992: page 175).

After the eruption of Mt. Pinatubo, many displaced residents were temporary resettled in the CABCOM military area of Clark Air Base. Resettled residents complained of the contaminated drinking water from the polluted area. Many pregnant women suffered miscarriages and spontaneous abortions. Nine children were born with disabilities with their central nervous systems severely affected. One of these children, Abraham Taruc, could not walk, talk or eat solid foods (Institute for Policy Studies, 1999, page 43; Orejas, Philippine Inquirer, page 16: Dizon, The Philippine Star, page 1). Taruc and many toxic victims are seeking fairness and justice and for US legislators to hear their pleas.

In addition, in 1997, a participatory health survey revealed that a high proportion of growth retardation and respiratory problems was present among children in the communities surrounding Clark and that many women unfairly suffer from reproductive

system problems (Bertell, 1997: page 1; Mercado, 2001: page 28; Jimenez & Orejas, Philippine Inquirer: page 14).

### *3. Other Social Costs of the US military presence in the Philippines*

The military installations at Clark and Subic also became breeding grounds of “sin cities” where prostitution, extortion and drug trafficking flourished (Mercado, 2001: page 12-13). The US military service personnel fathered thousands of Amerasian children whose mothers are Filipinos; only less than 25% are acknowledged by their American fathers (Mercado, 2001: page 13). Amerasian children, especially those with African-American fathers, unfairly suffer severe prejudice and discrimination in education, employment and in all aspects of their lives due to their physical appearance and their mother’s low social status perceived as prostitutes (Mercado, 2001: page 13-14). The US government has not taken responsibility and justice for the dire situation of America’s forgotten children. They also do not have legal standing in the US, as their births would not have been registered in the US (Mercado, 2001: page 14).

### *4. Conflicting Reports*

Despite overwhelming anecdotal evidence and earlier conclusive reports, the Subic Bay Metropolitan Authority (SBMA) and the Clark Development Corporation (CDC) conducted environmental baseline studies of their own. In 1997, with a loan from the World Bank, the SBMA conducted an environmental baseline survey of Subic Bay; their report did not find widespread contamination of soils, groundwater or sediments as a result of former US Navy activities nor detected contamination of sites as a risk to

human health and the environment if the land use of these areas remain the same (Woodward Clyde, page 1; Institute for Policy Studies, 199, page 42; Clark, page 1).

The reliability of the Woodward-Clyde Report was put to the test as the research firm, Clearwater Revival Company (CRC), reversed its conclusions, “the environmental base survey (EBS) does not accurately characterize contamination at the Subic Bay.”

(Mercado, 2001: page 26). They questioned the results of the Woodward-Clyde Report and their research indicated that existing environmental conditions presented an imminent and substantial endangerment to human health and the environment.”

(Clearwater Revival, page 1; Mercado, 2001: page 26).

In addition, the Woodward-Clyde Report unfairly left out areas that were previously determined as contaminated and the outer areas of Subic Bay where the threat of PCBs, pesticides, lead, unexploded ordnance and oil have been identified (Clearwater Revival, page 1; Institute for Policy Studies, 199, page 40). The Woodward-Clyde report also did not include 1,000 former base workers have been diagnosed with asbestosis, a form of lung cancer contracted from exposure to asbestos and were unfairly burdened by toxic wastes (Institute for Policy Studies, 199, page 42).

The Clark Development Corporation (CDC) conducted another report and hired Weston International to undertake another soil and water baseline study (Weston, 1997: ES 1-16). CDC officials confirmed the presence of 22 contaminated sites at Clark but maintained that the contamination was localized, identified and secure (Mercado, 2001:

page 26-27; Calica, Philippine Star: page 12; Malig, Philippine Star: page 4; Pano, Philippine Star: page 1; Orejas & Manabat, Philippine Daily Inquirer: page 14). Despite these conflicting reports, the overwhelming research and anecdotal evidence point towards the continued presence of toxic wastes in the former military sites of Clark and Subic as the victims of toxic wastes seek fairness and justice over this neglected issue.

### *5. US Denial of Responsibility*

In the midst of all the scientific reports, the US continues to unfairly deny its responsibility of toxic wastes in the former US military installations in Clark and Subic. US government officials do not deny the existence of toxic wastes (Mercado, 2001: page 90). It denies responsibility based on that the military bases agreement did not impose any well-defined environmental responsibility upon the US to clean up after the withdrawal (U.S. General Accounting Office Report January 1992: page 6; Mercado, 2001: page 91). The U.S. alleges that both governments, US and the Philippines, have agreements that included “hold-harmless” clauses that hold the US harmless (U.S. General Accounting Office (GAO) Report January 1992: page 6; Carroll, page 19; Aguinaldo and Lee-Brago, page 1). The GAO Report also implied that the Philippine refusal of renewing the treaty agreement rendered moot the issue of US’ potential liability (Mercado, 2001: page 23).

The US also claims that the Philippines waived its right to a clean-up when the Philippine Senate Joint Committee refused to renew the bases treaty and declared that “nothing in the agreement and amendments thereto authorized the U.S. to unduly pollute the

territorial waters with contaminants, destroy the environment by dumping toxic wastes within the bases, and endanger lives of residents in the vicinity” (Philippine Senate Committee Report, page 46; Institute for Policy Studies, 1999, page 46).

Moreover, both the US and the Philippine governments signed the Manglapus-Schultz Memorandum of Agreements stating: “There shall be no obligation on the part of the United States or the Philippines to rebuild or repair any destruction or damage inflicted from any cause whatsoever on any of the non-removable buildings or structures used by the US in the bases.” (Mercado, 2001: page 92-93).

The US Embassy in Manila at times have denied the reports of toxic wastes (Pimentel and Lasola, 1992: page 174). In 1996, US Secretary of State Warren Christopher stated the US was ready to assist the Philippines in the cleanup of former American military facilities provided that no legal action be taken against the US government; this statement was later denied by the US State Department (Mercado, 2001: page 30).

Beyond the legal standpoint and international laws, toxic waste victims want to appeal to fairness and justice of US policymakers and that the US should consider to honor its responsibility to clean up the toxic wastes they left behind.

#### *6. Philippine Government Response*

The Philippine government argued for fairness and justice that the 1947 military bases agreement did not grant any license or authority to the US to commit acts by

indiscriminately disposing of toxic and hazardous wastes as it pleases, destroy the environment and endanger the lives of Filipino citizens (Philippine Senate Committee Report, 2000, page 46). In the Philippine Congress, at least 30 resolutions were passed to inquire about the environmental, health and other aspects of the issue (Institute for Policy Studies, 199, page 47; Lee-Brago, page 1). The Philippine government recommended negotiating through diplomatic channels and even filing suit against the US before the International Court of Justice under the universal legal maxim of *sic utere jure tuo ut alienum non laedas* (use of property as not to injure your neighbor's) (Philippine Senate Committee Report, 2000, page 45 - 46; Mercado, 2001: page 33, 103). This international law upholds that the US would fairly ensure its activities are within its jurisdiction and that it does not cause significant environmental harm to other states (Mercado, 2001: page 103).

However, in the end, the weak Philippine government did not effectively follow through nor responded due to a lack of political will and the Philippine government's "do not rock the boat" diplomatic policy stance, with the fear of losing much needed US foreign loans and military aid (Institute for Policy Studies, 199, page 45).

As a consolation, in 2000, both US and Philippine governments issued a joint statement that they would cooperate to increase the sharing of information and to enhance Philippine institutional and technical capacity to address environmental and public health problems throughout the Philippines through on-going capacity building programs among government and non-government experts. Limited capacity building

and technical assistance is as far as the US government can commit for now which does not seem to be just and fair in the light of the effect of the toxic wastes left behind (Mercado, 2001: page 31 - 32).

### *7. Alliance for Bases Clean Up and Community Response*

In 1994, the People's Task Force for Bases Clean-up (PTFBC) started a public outreach and advocacy campaign at the local and national levels seeking for the US responsibility of toxic wastes in their former military installations. In 2000, PTFBC evolved to become the Alliance for Bases Clean Up (ABC), a broader campaign that included national and international networks and alliances. Since then, ABC has been in the forefront fighting to bring fairness and justice and to bring this issue alive in front of policymakers both in the Philippines and in the US.

In 1991, thousands of families were displaced due to the volcanic eruption of Mt. Pinatubo and were temporarily resettled at the CABCOM military area of Clark Air Base. Unfortunately, many families were affected by the contaminated groundwater and toxic wastes left behind (Institute for Policy Studies, 199, page 43). In 2000, Crizel Jane Valencia, six years old, quickly became the symbol and rallying cry of many supporters seeking for fairness and justice. She was stricken and died of leukemia tied to the mercury and nitrate contaminants from the groundwater at the CABCOM military facility (Orejas, Miles Apart, page 1; Orejas, When Crizel's Room, page 1).

In 2002, ABC also advocated for Princess Caroline of Monaco to visit the Philippines and she spoke on behalf of the toxic victims left behind and talked about justice for the children affected by toxic wastes ( Orejas, page 14). Also in 2002, ABC, in partnership with Arc Ecology and Filipino American Coalition for Environmental Solidarity (FACES), sued the US Navy and Air Force for failing to characterize environmental contamination and unexploded ordnance pollution that led to 170 related deaths. However, the lawsuit was eventually dismissed (Arc Ecology website). In 2003, ABC put together a special concert at the Cultural Center of the Philippines, the premier cultural venue of the country with veteran tenor Ramon Acoymo honoring the children and victims of toxic wastes (De Jesus, page 1; Red, page 1). In 2005, ABC and its partners presented to the United Nations Commission on Human Rights seeking fairness and justice on this issue (Economic, Social and Cultural Rights, page 1). In 2008, members of the US-based Christian Peacemaker Teams visited the contaminated sites in Clark and Subic and they have expressed outrage over the failed clean up of the contaminated areas (Orejas, Toxic Wastes, page 1).

In 2011, ABC partner with the Bayanihan Foundation to reveal 21 victims of unexploded ordnance in Clark and Subic. These personal stories of tragedy hopefully will bring to the forefront the need for fairness and justice despite the US' continued rejection of responsibility. From 2011, the Bayanihan Foundation plans to do community education and outreach in the US and will appeal for justice on behalf of toxic waste victims left behind.



## *8. Conclusion*

In 2011, the Philippine case is still far from being resolved after 20 years of the closure of the bases including the US' continued denial of responsibility (Institute for Policy Studies, 199, page 48). The US-Philippines Military Bases agreement lacked any provisions on environmental protection. However, this cannot be readily interpreted to mean that the US is justly absolved from its obligation of preventing environmental harm. The absence of any well-defined provision on environmental responsibility does not lead to the conclusion that the US may disregard its obligation under customary international law (Mercado, 2001: page 95). The US has to be duly diligent in carrying out its obligation by formulating and implementing policies designed to prevent injury to the environment of the host state (the Philippines) or minimize the risk of significant environmental harm (Mercado, 2001: page 99). The US' continued denial of its responsibility to clean up the toxic wastes left behind is turning a blind eye and undermines the country's core values of fairness and justice.

So the Bayanihan Foundation, in partnership with the Alliance for Bases Clean Up (ABC) and other partners, will conduct a US education and public awareness campaign and will appeal to Filipino Americans and to all for fairness and justice on this important almost forgotten issue.

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