

PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
News and Information Bureau

INTERVIEW WITH PRESIDENTIAL SPOKESPERSON HARRY ROQUE
BY KAREN DAVILA – ANC
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DAVILA: Secretary Roque, would you know what led to President Duterte changing his mind in terminating the Visiting Forces Agreement?

SEC. ROQUE: No.

DAVILA: No, okay.

SEC. ROQUE: And actually, I will defer to the Secretary of Foreign Affairs. Although having said that, I will be meeting with the President tomorrow and that is one of the issues that I will bring up with him.

DAVILA: Okay. Clearly, the President did not discuss this with you, only directly with the DFA Secretary. But he never even discussed this in the Cabinet meeting, it was never brought up in the past?

SEC. ROQUE: It was not publicly brought up. I learned about it two weeks ago, but it did not come from the mouth of the President himself. So, I need to talk to him about it.

DAVILA: Okay. The diplomatic note also cites political and other developments in the region as the Philippines' reason for calling off the VFA termination. Was it ever discussed, Secretary Roque, what these political and other developments in the region specifically are?

SEC. ROQUE: No, but according to Secretary Locsin himself, the wordings of the communiqué sent to the US State Department are—the wording are self explanatory and he is the only one who will expound on it.

DAVILA: Okay, all right. So, will you be speaking with the President or Secretary Locsin within the day?

SEC. ROQUE: Not within the day, I'll be speaking with the President tomorrow.

DAVILA: Okay, moving now to the Anti-Terror Bill. It's moving much closer to becoming a law. People question the timing of the bill. It's essentially been discussed for so long but why now?

SEC. ROQUE: Well, that is actually the discretion of Congress because this particular bill has been pending even in the 17th Congress, and it was authored principally by Senator Ping

Lacson. It did not see the light of day in the 17th Congress; it was re-filed in the 18th Congress. So when you say that ‘why now,’ it’s because it’s been pending for at least three years in the Senate, now probably four years; and they finally had the consensus to pass it both in the Senate and in the House of Representatives.

DAVILA: But, Secretary, the President certified it as urgent.

SEC. ROQUE: Yes, but he only did, if I am not mistaken, it was Monday or Tuesday—Yes, it was Monday, Monday afternoon. In fact, when I was asked in my morning briefing, it had not yet been certified; it was only certified in the afternoon of Monday. So, it’s been pending for about four years and the certification only happened last Monday.

DAVILA: Okay. Would you know why the President suddenly certified it as urgent, considering you yourself said it’s been pending for so long? In other words, what made the President decide that it was urgent now? What events?

SEC. ROQUE: Look what happened, I guess, to Marawi. Marawi happened and we have had about two convictions under the Human Security Act and yet the threat remains. We saw that there was an attack again in Sulu perpetrated by the Abu Sayyaf and that it is a never end cycle ‘no.

So clearly, what this has shown has been that with only two convictions under the Human Security Act and no complaints filed so far from the enforcement of the Human Security Act. We need to strengthen the anti-terrorism legislation. And in fairness, as an academic ‘no, we have had the opportunity to compare our own Human Security Act with the different anti-terror legislation in countries such as the UK, Australia and even the US; and ours clearly lacks the teeth that is required given the current face of international terrorism.

DAVILA: Okay. But would you know, Secretary, of a specific event that would make the President decide that it’s urgent now considering the country is fighting COVID, the country is reopening the economy? I think many questions the timing.

SEC. ROQUE: Well, I don’t think the timing is off because Marawi is still being rebuilt. So, the aftershocks of modern-day terrorism are still being felt in Marawi; and of course, the Sulu attack happened and you saw how gruesome the murder of our soldiers were ‘no. So, I don’t think it is something that just cropped out. It’s a problem that we have perennially faced. And in fairness in all the literatures that have written about anti-terror legislation, the Philippines has been identified as one of the weakest links against terrorism. It’s not only the legal framework, but also the issue of enforcement. But is it true that compared to countries like Australia and we have had a formal research project on this—ours—well, our existing Human Security Act look tamed.

DAVILA: Okay, as a lawyer, you were once known also as a human rights advocate. Many lawyers question this anti-terror bill, this specific version, as prone to human rights

violations. And one of the issues they brought up is the act of terrorism under this bill can now be decided upon by or determined by the police.

SEC. ROQUE: No longer. No, that's not accurate. In fact, I argued the case of David versus Arroyo were we partially were successful in declaring an act of then President Gloria Macapagal-Arroyo as being unconstitutional because there was no definition of terrorism. The definition of terrorism was left to the enforcers of the law. But since then, the entire world actually has moved from a lack of definition of terrorism to at least a consensus on what is the effect of the terrorism that states can curtail and this is to instill fear or terror in the minds of the general public through any acts which can then be described by a legislation 'no.

So, from a zero definition, we now know what should be prevented, which is the sowing fear and terror in the minds of the general public through overt acts taken by terrorists or terrorist groups.

So, it is not accurate anymore that it is the police that will define, there are sufficient definition now given in the statute, as well as in the UN community itself because that has been an issue that the UN system craft on bill for many, many years and there is now at least a compromise 'no that if you can't define it with precision, then we know the effects that the states has a right to curtail.

DAVILA: Okay, Secretary, so you are saying in effect that some lawyers misunderstand the bill. Because Senator Lacson himself said read the bill first. This is part of the concerns of many lawyers, what I just read to you.

SEC. ROQUE: Well, I'm the guy who had an Executive Order of GMA declared as unconstitutional for the lack of definition. But since then, it's not just the Philippines, but the entire world, the UN system that has agreed that we may not come up with a perfect definition of terrorism but we know the effects of terrorism which we can curtail. So that's where the definition lies now.

DAVILA: Okay. All right, another issue that's been brought up in this particular bill is suspected terrorist can be wiretapped for 60 to 90 days; arrested without a warrant; detained up to 24 days from the current three days; 12 years to life imprisonment; and what may lawyers point out is not eligible for 500,000 reparations in damages per day if they were detained wrongfully.

So, you don't see that as essentially an affront to the right of an innocent person whose been detained, accused wrongfully and has been removed from getting reparations of P500,000?

SEC. ROQUE: Because there are still judicial remedies in case the law is misused. In case the law is misused then we can resort to a writ amparo which we did not have before. If a

person is arrested with absolutely no basis—of course, you can't use habeas corpus if there is criminal proceedings ongoing; but in case they failed to file the necessary information beyond the period stipulated by the law or even the period stipulated in the law, but you challenge the legal basis or factual basis for it, you can still go to court. So, I guess the difference is when EHTA (*expanded Human Security Act*) was first passed, we did not have institutional safeguards initiated by the Supreme Court yet to protect the right and life which we do have now.

DAVILA: Okay. Now, it's also clear in the bill that posting or re-sharing of terrorist content online, it would seem quite obvious when you read the phrase is part of the definition of terrorism. However, some worry that posting anti-government content online may be viewed as act of terrorism.

Secretary, if an ordinary citizen posts an anti-government material or disagrees with government on policy, would that person be arrested or with that person be considered as a terrorist based on this bill?

SEC. ROQUE: Let me say that there is a hierarchy of laws in our jurisdiction 'no. There is still the Constitution which is supreme and laws enacted by Congress. When act of Congress infringes on the Constitution, then it will be declared by the court as unconstitutional.

We have established jurisprudence on freedom of expression and the only way that government can curtail freedom of expression is if there is a clear and present danger that the state has a right to prevent. Where you have that exception then the courts will not intervene and will now uphold freedom of expression. But unless the state can establish that - and I think in the case of terrorists the state can easily do so - then freedom of expression will not be suppressed or infringed upon because according to a decision of the Supreme Court it enjoys a very high position in the hierarchy of rights even superior that property right.

SEC. ROQUE: What I am saying is, despite the law, the Constitution remains as the fundamental guarantee of freedom of expression and the entire jurisprudence that has grown from the Constitutional provision on freedom of expression.

DAVILA: Okay, all right. Another question here is, under the new definition of terrorism, which is important – you can clarify this, I'm reading a statement right now – is under the definition of terrorism and its related crimes: "Organizers and participants of a transport strike for example can be charged with terrorism for extensively interfering with the public transportation system, intimidating the government to give into their demands and creating a serious risk to public safety." There has been a wider latitude in the bill on who can be accused of terrorism or acting as a terrorist.

And these that I've mentioned are parts of the bill – intimidating the government, serious risk to public safety, extensively interfering. So, can you talk about that? So, this is a

statement issued, let me read it for you, Secretary. So they mentioned an example a transport strike. Are they over-interpreting this bill?

SEC. ROQUE: Yes, they are. Because the right to strike is again, protected by the Constitution and remember that the operative definition is to instill fear or terror in the minds of the general public. So, unless they can show that the strike actually instills that kind of fear or terror which amounts already to clear present and danger, it cannot be suppressed. You know, when we talk about possibilities, it's unlimited. But that's precisely why we have the bill of rights. The bill of rights limits the extent that Congress can provide for conduct and if it infringes the minimum standards set by the Bill of Rights, it will certainly be declared unconstitutional by the courts.

DAVILA: Okay, another concern before we move on to COVID concerns, Secretary, is the issue of red tagging, the concern of red-tagging with the anti-terror bill. This statement talks about how we have witnessed the National Task Force to End Local Communist Armed Conflict or the NTF-ELCAC has linked almost all groups and institutions critical of the administration to a communist terrorist movement.

Also persons and group who provide water, food and shelter, office space or financial support to the participants of the above activities, even children and spouses, can be charged with providing materials support and implicate them as accessories.

So, the statement does make an argument of possible abuse by police officers in tagging an individual or groups as, 'you are supporting a terror group', when let's say, you are just supporting a civil organization?

SEC. ROQUE: Well, again that's a mistake, that's a wrong conclusion, because even under the existing Human Security Act, you need to go to court. And that is why despite the fact that government wants to red-tag the CPP-NPA, there is still a procedure that they have to undergo 'no. There's still has to be a judicial declaration that you are a terror group.

So red-tagging by just referring you as a communist group will not have any legal effect unless a court had declared you to be a terrorist organization. And the problem in fact with the law, even if the same provision is retained, is that how do you serve summons on the CPP-NPA? So, although theoretically courts can declare them as terrorist organizations, there's some kind of impossibility because you don't know where to serve them summons 'no. And I don't know if summons by publication will be sufficient.

So, I guess, it's an unfounded fear, because lawyers, at least those who know how the rules of court operate, know that even if we want to give the courts the power to declare a terrorist organization, there will be some difficulty, particularly in acquiring jurisdiction over the persons of that alleged terrorist organization. Unfounded fear...

DAVILA: Does this bill, Atty. Chel Diokno wrote, that it gives law enforcers a blanket license to make warrantless arrest even if the grounds aren't present, because this particular bill does allow warrantless arrest on mere suspicion.

SEC. ROQUE: No, I don't think the law can amend the Rules of Court which is the exclusive jurisdiction of the courts, that's in the Constitution as well. I think we need to study the basics of Constitutional Law before we conclude. And we need to distinguish between, you know, statements that politicians will make against administration from the actual facts.

In any case, if they are questions about the constitutionality of the law, the courts will be open and they can challenge them. Look at the track records of these people challenging acts done by the Duterte administration – zero 'no. When I was at my prime, my peak 'no in challenging acts of other administrations, at least I went to court and got the judgment that I wanted.

So, we should focus on actually revisiting how to actually go about constitutional litigation if we feel that there are really unconstitutional provisions in the law.

DAVILA: Okay, moving on now to COVID, Secretary Roque. You have also many Senators, even netizens already calling out the DOTr, in its policy, frankly the lack of resolving the issue of public transportation. In the press conference the other day, it made it appear like people that were going out ay namamasyal and that was repeated over and over. When some have said, the current set up is actually bias for those who own private vehicles and it was traffic this morning coming here to ABS-CBN private vehicles on the road, ordinary citizens complaining that they need to get to work. But there is not enough public transportation to get to work. Yesterday only 90 buses were on the road and that was only to augment the MRT.

Your reaction, Secretary, and what actions will be taken to address these complaints?

SEC. ROQUE: I think the response of Sec. Tugade in my yesterday's briefing was an appeal for employers. Although we have opened the economy and the workforce can comeback a hundred percent it does not mean that we should let them into the work premises a hundred percent because we simply don't have the capacity yet to provide public transportation if all of our workers are to be compelled to work in situs.

So, the appeal is, resort to what government is doing. Government is back a hundred percent but still on a 50/50 work arrangement where fifty percent of the workforce actually works from home and there's a schedule where business shifting of government personnel reporting to the office.

Unfortunately, public transportation really will have to be reduced if there's going to be social distancing and you know, it's really part of science that the only way to contain a

disease now is observe social distancing and we will never get to the point that we can provide a hundred percent transportation to what we used to have in a workplace.

So, the appeal is for employers, like government in the same way that government has already instituted a 50/50 work arrangement, to resort also to a 50/50 work arrangement.

Having said that, DOTr did act expeditiously, they authorized the deployment of commercial buses in two lanes but we have to make sure actually that the health concerns will take precedents over everything else.

DAVILA: Okay. So, I'm curious, Secretary, now that NCR is on GCQ, when is the IATF considering to deploy jeepneys? I mean, clearly, we have cities that have already deployed tricycles with let's say, one passenger and a plastic barrier, as jeepneys, is it already in—I mean, are you discussing this?

SEC. ROQUE: It's not in the immediate horizon because it's almost a physical impossibility to have social distancing when passengers face each other in a jeepney. However, there are now modern jeepneys being deployed where the seating arrangement is similar to buses and I understand these kinds of modern jeepneys might be deployed sooner than later; the traditional face to face jeepney, out of the question for now.

DAVILA: Oo, but then we have hundreds of thousands of jeepney drivers also operating their own jeepney. What is the government's plan for them, Secretary, if it's nowhere in the near future that they actually do their livelihood in driving jeepneys?

SEC. ROQUE: Well, actually considering alternative livelihood for them, there's a suggestion that they be employed as contact tracers, because we do need about a hundred twenty thousand of them and there's only about thirty thousand employed so far. And we're also considering the complete reconfiguration of the jeepney to comply with minimum health standards.

DAVILA: Okay. So, jeepney drivers as contact tracers that's been discussed. Okay, moving forward—

SEC. ROQUE: That's being discussed.

DAVILA: Oo, meeting with religious groups on religious gatherings, has there been agreement on this, Secretary? Where are you with that?

SEC. ROQUE: None. In fact, there was a formal decision not to allow religious gatherings yet. You know [signal lost]

DAVILA: All right. Okay, just hold that. Sec. Roque—

SEC. ROQUE: —it's ... We have concerns—

DAVILA: Okay, go ahead. Continue, sir.

SEC. ROQUE: Yeah. Unfortunately, health considerations take precedence and it was finally agreed that it's not yet time given that we're still only on GCQ. Unless we actually tamed the doubling rate of the disease, we should not take the risk of allowing public gatherings. Although it is for religious purposes, the reality is it is still a public gathering that we're not prepared for at this point.

So, we ask for everyone's patience—and meanwhile, I practice my faith, I have a Bible study once a week, I go to an online service once a week and I don't feel that I'm lacking by way of my spiritual life because of it. So, I think just patience and after all our relationship with the Creator is personal, so we can continue with that personal relationship.

DAVILA: Okay. Now, Sec. Roque, another thing. People asking on social media is under the GCQ, individuals under 21 years old cannot enter a mall, that's correct, right?

SEC. ROQUE: Unless it's indispensable like if you're the only person who can have access to a supermarket in the mall. Of course, we're always flexible as far as that's concerned, or if you're going to a clinic in a mall. But as a rule, young people as well as seniors are not allowed but the exception always is if it's indispensable, if it's in relation to work.

DAVILA: People have asked actually the definition of 'young' because you do already have, Secretary, people that are 18 or 19 years old that are already working. So, why would there be a ban that if you're below 21, people have asked and I read this, wouldn't it have been wiser if let's say, you're below 16, you cannot enter. But 21... I mean, that's an adult?

SEC. ROQUE: It is, but as I've said, if they have to work in the mall then that is an exception but we're doing this on science and it has been shown that in addition to the threat on young people, it's the fact that they are the spreaders, that's the more important consideration.

Young people, according to studies and this is now accepted, are actually the spreaders in any pandemic that's why we're trying to limit the movement of young people as well.

DAVILA: Okay. Sen. Panfilo Lacson along with other senators have called out the government calling it's serious neglect that families of the 32 health workers who died of COVID-19 have yet to receive the P1 million compensation that's been promised to them and stated in the Bayanihan Act. What is the latest on this, Secretary, and what's causing the delay?

SEC. ROQUE: We agree with the senators, that's why in my talk I will ask the President, what is now your mandate? Because the last time we talked about stranded OFWs, he simply said I'll give this people a deadline.

So, tomorrow when I meet with the President I expect him to give the responsible parties again a deadline when to give the benefits to those who have gotten sick which under the Bayanihan Law is a hundred thousand and to the heirs of those who have died which is one million.

So, I expect that in my conversation with the President he will give a new deadline for those responsible in implementing the death benefits and other benefits due our frontliners.

DAVILA: Okay. Now you also have lawmakers asking for the breakdown of the P353 billion that's been set aside for the COVID-19 response. I'd like to ask you first, I'll follow-up on the Social Amelioration. We talked about this, Secretary, I think in our last interview last week—

SEC. ROQUE: Yes.

DAVILA: So, the first 100 billion has been released for families and the next 100 billion that was allotted for May, has it been released already, Secretary?

SEC. ROQUE: No, because the DSWD is now making the transfer electronically. I know there's a bit of a delay in doing this but if they actually implement it electronically, it will just take a matter of minutes to distribute the next 100 billion.

And what we're trying to avoid now is not just the fact where people during the first tranche had to come out en masse, in long queues and mix and some instances social distancing was not observed, but we're also plugging the holes for corruption because when there's no more intervention by local government units then we'll reduce the possibility of corruption.

So, please, we ask for people's patience, it will happen mostly electronically and when it does, it will be finished in a matter of seconds.

DAVILA: All right. Anything you'd like to add, Secretary, before we go?

SEC. ROQUE: Well, again, I appeal to the people whether be it GCQ, MGCQ, we still have a "Q", we still have a quarantine. The threat is there, it is real. The only way we can weaken the spread of the disease is by observing social distancing; staying at home unless it's absolutely necessary; observing minimum hygiene. Keep safe.

DAVILA: Okay. Pero Secretary, will there be such a big difference between GCQ and MGCQ because I know that come June 7 barber shops will be open, salons will be open, and that's still GCQ. So, what's the dramatic shift if it becomes Modified General Community Quarantine?

SEC. ROQUE: Well, almost all businesses will now be allowed to open although with limited capacity. Tourism will be allowed to open. It's a transi—

DAVILA: Restaurants?

SEC. ROQUE: Yeah! It's a transition between quarantine and the new normal. So, there's going to be a big difference, there's going to be a dine-in although 50% capacity. But you know, we need to be apprised of the doubling rate of the disease, we need to be apprised of our capacity to provide critical care.

What we are doing is balancing the need to actually restart the economy so we can have livelihood and the need still to protect the health of the people. So, let's be careful, let's follow minimum health standards and let's be conscious that there is still no vaccine or treatment for this disease.

DAVILA: On that note, Sec. Harry Roque, thank you so much always for informing us and your time this morning. Stay safe, sir. Thank you!

SEC. ROQUE: Thank you very much and good morning.

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