

PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE
News and Information Bureau

INTERVIEW WITH PRESIDENTIAL SPOKESPERSON HARRY ROQUE
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NAVALLO: On to other news, Secretary Harry Roque is back in the Philippines after his visit to New York. We now have him on the program. Good morning, Secretary Roque. Thanks for joining us.

SEC. ROQUE: Good morning, Mike. Good morning, Philippines. It's great to be back.

NAVALLO: All right. Sec., what exactly did you do in New York in relation to your nomination to the International Law Commission?

SEC. ROQUE: I met with state parties basically about the International Law Commission and our credentials as an expert in the field of public international law.

NAVALLO: Is this a form of lobbying, Sec.? That seems to be the word going around.

SEC. ROQUE: Well, its standard operating procedure when you stand for a position in the UN, the state parties want to meet you.

NAVALLO: All right. Now, was that an official trip? Was that a personal one? Because tell us about the nature of this nomination to the International Law Commission.

SEC. ROQUE: Yes, thank you. It's a good opportunity to clarify this 'no. Now the International Law Commission is composed of individual experts who serve in their individual capacity. Now what makes the state's role relevant is, although it is an expert position, you have to be nominated by a state. In other words, without a state nomination, you will not be considered. But the selection process itself as well as the discharge of the functions is an individual activity. All members of the Commission serve in the individual capacity and not as state agents.

NAVALLO: All right. So your visit to New York, Secretary Roque, was that a personal trip or was that an official one, because you've been conducting briefings while in New York?

SEC. ROQUE: Yes. I did not stop discharging my functions as Spokesperson. I did not go on leave, but as I said I'm standing as an individual expert and therefore I met with state parties in my individual capacity.

NAVALLO: All right. Sec., now this is a question being posed on social media. That trip was funded by your personal funds or was that part of the official functions as Spokesperson?

SEC. ROQUE: Thus far, I charge all my expenses to my personal credit card.

NAVALLO: All right. Thanks for clarifying that. Now explain to us, Secretary Roque, the significance of the International Law Commission. I understand the body is responsible for initiating studies, making recommendations on developments in international law and qualification. But to an average Filipino, what will your membership mean?

SEC. ROQUE: Well, it was almost 75 years ago by the General Assembly and it's tasked with: Number one, the codification of customary international law; and number two, the progressive development of international law.

In the span of its existence, it has been responsible for state draft articles adopted by state parties and made into treaties including all the leading international treaties of international law such as the Vienna Convention on the Law of Treaties, the Vienna Convention Law of Diplomatic Relations, Vienna Convention on Consular Relations and what have you 'no. [Off mic] I am seeking to bring to the International Law Commission a perspective of a person who was not just an academic but who was a law practitioner, a lawmaker as well as a member of the Executive Branch of government.

NAVALLO: Now, Secretary Roque, let's talk about two aspects you would like to focus. First, equal COVID-19 vaccine access. Is there a need for a treaty on this or at least an international agreement?

SEC. ROQUE: Certainly! And that's what sets me apart as a candidate to the ILC 'no because I was the only one that stood for it 'no. Everyone else stood for topics that have been discussed for ages and no resolution 'no.

I think it's important that we... the international community, come to an agreement recognizing that all states have the obligation towards one another to promote vaccine equality pursuant to what the WHO has said that no one is safe unless everyone is safe. And that is why I am proposing a draft treaty patterned after existing treaties on oil spills – of all things oil spills, because in oil spills the immediate need is to contain the damage 'no regardless of liability.

So patterned after [unclear] and [unclear], the legal regimes applicable to oil spill, I am proposing that countries of the world contribute as a matter of legal obligation to a fund to be contributed on the basis of need and to be distributed of course—to buy vaccines and to be distributed on the basis of need 'no of different countries 'no.

NAVALLO: Sec., how is that different from the existing COVAX Facility?

SEC. ROQUE: Because COVAX is voluntary. It's more of philanthropic 'no. They wanna feel good that they monopolized 85% of the vaccines and they give us 20% but never enough to reach a population protection 'no.

So what I want is a legally binding treaty recognizing that no one is safe unless we are all safe 'no. It's not just a matter of feeling good about themselves, it's a matter of recognizing that we have an obligation to protect the entire planet Earth and not just our constituents 'no.

And the second platform I'm standing on has to do with rising sea levels. We know in the Philippines, with rising floods all over the Philippines that it is a reality. It's not an issue of if it will happen, it's an issue of when it will happen and I'm the first to propose a solution. There is a principle of international law known as *uti possidetis juris*, the law on the boundaries should be deemed conclusive originally application to former colonies of Spain as well as some countries in Africa 'no.

And I'm saying we should adopt this principle, make territorial boundaries conclusive prior to the rise of sea levels because as it is prior to sea levels, we already have unresolved maritime disputes with countries such as China – it would become worse unless we adopt this principle.

NAVALLO: Sec., how will this affect the United National Convention on the Law of the Sea because I understand some determinations will be made based on the rising sea levels—based on the level of the sea level? So, how will this affect UNCLOS?

SEC. ROQUE: That's precisely what I'm saying. If we allow land territory to vanish as a result of rising sea levels, it will give rise to new maritime levels because it is land territories that generate maritime territories and that will be of course not good for international stability. And that is why I'm saying whatever the boundaries are right now prior to rising sea level should be deemed as conclusive.

NAVALLO: Now, how will this affect your candidacy for senator, Secretary Roque? Are you officially running for the Senate?

SEC. ROQUE: I'm not yet running for the Senate. I'm exploring options, we have until October 18.

NAVALLO: All right. Now your nomination has been met—nomination to the ILC has been met with strong criticisms from different sectors. You have your fellow human rights lawyers, you have executive committees in your alma mater in high school, college and law school to even online citizens but you've brushed them off. Were you surprised at the staunch opposition?

SEC. ROQUE: No, because I know them. I know their nature; they don't wish anyone else to succeed so I just let them be. As far as UP is concerned, I think it's very clear – the mandate of the Executive Committee of both Diliman and UP-IS don't have anything to do with the nature of what they attempted to achieve 'no. Degrees are granted by the Board of Regents and it is therefore an issue of whether or not we comply academic requirements then it is the Board of Regents 'no. The Executive Committee has to do with management, it has nothing to do with assessing individual capacity to any post at all so I just... you know, let them be.

NAVALLO: Is this a personal thing, Secretary Roque, or—because I’m trying to understand why would they go to the extent of writing to every United Nations member-state to oppose your candidacy to the ILC. Why do you think this is the case?

SEC. ROQUE: It has its origins way back in '83 when I left the left ‘no and they haven’t, I guess, forgiven me for leaving the left but you know as far as I’m concerned I’ve moved on and everyone should move on from thinking that the government could be overthrown by encircling the countryside. Parang hindi na uso ‘yang Maoist thought na ‘yan eh nandoon pa rin sila.

NAVALLO: Uhum. What about the perception, Sec., and this is coming from people who worked with you, who studied under you that somehow when you joined the Duterte government, you somehow abandoned what you stood for. In particular human rights and some are saying this is an exchange for ambition. Do you think this is a fair criticism?

SEC. ROQUE: Certainly not! That’s their problem ‘no. When I in fact became a member of Congress and I asked for the certification of urgency from President Duterte, I was able to make policy out of my human rights advocacy. I authored Universal Healthcare, the right to life, right to health for everyone, free lunch for those who are malnourished, as far as our children are concerned, the rights of the child, free irrigation, free Wi-Fi. I have done so much more in promoting fundamental human rights compared to those who have opted to stay in the parliaments of the streets. That’s their right but I’ve moved on and I will keep on moving.

NAVALLO: How about as Presidential Spokesperson, Secretary Roque? Because when you accepted the nomina—before you accepted the post, the first time you were asked to become Presidential Spokesperson, many from the Human Rights Committee were urging you not to accept it.

SEC. ROQUE: No. Why should I listen to anyone else’s advice ‘no? To begin with, there is the right of freedom of information and I think by accepting the post of Presidential Spokesperson, I am again, according the people the right to freedom of information.

Now my decision to become spokesperson is largely because of a sense of gratefulness that this President certified as urgent all my priority bills. So whatever happens, they criticize the President for being inconsistent with human rights, well I have news for you – had he not certified Universal Healthcare, we wouldn’t have free vaccines today. And tell me, is that contrary to human rights? Certainly not!

NAVALLO: Sec., but what about the thousands of killings under the drug war? Certainly this has become a major issue under the Duterte administration and many are saying, in fact when the President was running, you were quoted and let me confirm this with you – you were quoted as calling him ‘mass murderer’. Is that something that you really said and what was the basis for you making that statement?

SEC. ROQUE: Well, you know, an organization that I started had filed criminal cases against killers. I have prosecuted individuals for extralegal killings, Maguindanao Massacre, Jennifer Laude and we have filed even writs of amparo for victims of extralegal killings to [unclear]. I think actions speak louder than words, I walk the talk. Ask them, where are their cases before domestic courts. Rather than giving them an immediate remedy under domestic law which is what human rights law provides as the rights of victims, they engage in political propaganda.

Sure there is now going to be a preliminary investigation to be conducted by the ICC. But number one, that process takes a lot longer. In our domestic prosecution service, they have 90 days to conclude with preliminary investigation. Look at the docket of the ICC, it takes them years to finish preliminary examination and equal number of years to finish preliminary investigation. The bottom line is, as a matter of sovereignty, as a matter of territorial integrity, those who value life should file cases before domestic institutions.

MIKE NAVALLO: Next, Sec. I am going to ask you about the ICC in a bit, but let me just go back to my earlier question. How would you explain, for example, your original position that the President, at the time he was running, you called him mass murderer. But now, you have joined his administration and to some extent, you are defending his drug-war policy and [he has been] blamed for the killings? So, how would you reconcile your position in both ends?

SEC. ROQUE: Because I became a member of Congress and he certified all my bills, which are now laws, as urgent. Without the certification of urgency, they will now have found the light of day. But because of his certification, we now have Universal Health Care, Free irrigation, free lands and what have you. So this is not a product of a person who is antithetical to human rights, it is a product of a person who values human rights. All my statements as a candidate came prior to my experience as a legislator. That is where the difference lies.

MIKE NAVALLO: All right. So that singular experience of him favoring your bills, certainly turned the tide?

SEC. ROQUE: Certifying them as urgent and all the bills upheld fundamental human rights, particularly the right to life.

MIKE NAVALLO: And that outweighs all the other allegations, Secretary Roque?

SEC. ROQUE: Certainly, because you know, I investigated the Davao Death Squads. And Mike, I concluded, that while the Davao Death Squad does exist, there was no evidence linking the President to that Davao Death Squad. And that's the matter on record.

MIKE NAVALLO: Let's talk about the Davao Death Squad, because that seems to be relevant now to the ICC probe that is going to happen. What do you make if the ICC pre-trial chambers decision to include even the killings under the Davao Death Squad on 2011 to 2016 in Davao City? What do you make of it?

SEC. ROQUE: Well, ask the ICC. Because that is up to them. But from my own investigation, while I confirm the existence of the Davao Death Squad, I found no evidence that then Mayor Rodrigo Roa Duterte was involved. And this was in fact, the point of contention between me and Leila De Lima, because as a then chairperson of CHR in the same forum where I confirmed the existence of Davao Death Squad but found no evidence against the then mayor, Leila De Lima went on stage and says, I will prove that Rodrigo Roa Duterte is behind the Davao Death Squad and until now, she has not done so.

MIKE NAVALLO: What about the testimonies of Lascañas and Matobato, Sec?

SEC. ROQUE: You know, I knew about them even before and we went to the site where they allegedly buried mass bodies, we conducted a dig with Peruvian Anthropologist Jose Pablo Baraybar and we only found a skeleton of a dog.

MIKE NAVALLO: Wasn't there any findings of a graveyard in Davao City that the CHR uncovered?

SEC. ROQUE: Not what Matobato pointed out as the site where they bury the bodies; we went to dig there, we found nothing.

MIKE NAVALLO: All right, so you are now saying Sec. that, are you saying that the statements of the President for example telling police officers, you can kill drug suspects, if they resist or plainly kill, kill, kill? You think that is not an indication of a state policy promoting killings of drug suspects?

SEC. ROQUE: No, Mike, because he has clarified the statement that he will back up the police only if what they do is legal. He said it over and over again and that is why you have to construe all his statements in their totality and you can come up with a conclusion that as a lawyer, as a former prosecutor, he has warned the policemen, he will back them up but only when their acts are legal.

MIKE NAVALLO: Certainly for lawyers, learned in the law, you will have that conclusion, Sec. But what about ordinary policemen, who just hear the statement to the President saying, kill, kill, kill! And it might have that effect. Don't you think there is a culture and environment that has been created, that's permissive to killings?

SEC. ROQUE: No, because he has clarified and I will repeat it again for the third time. That he has said, that he will only back them up if their actions are legal. These policemen have had training, they have gone either to the police academy. They have either finished college degrees and went training as policemen and they know when it is lawful to kill and when it is not. Only when there is in fact force and there is necessity and proportionality.

MIKE NAVALLO: So, Sec, who do you think should be held responsible for the killings under the drug war?

SEC. ROQUE: The individuals who will use excessive force. They should be held liable and that is what I am telling everyone, file the cases, because unless you file them and prosecute and proved their guilt beyond reasonable doubt, the impunity will continue.

MIKE NAVALLO: How about PNP Chief for example? Is he going to be responsible as well?

SEC. ROQUE: Well in the first place, we do have an IHL Law and I was one of those that drafted and lobbied for the adoption of the IHL Law. You have to prove a principle that we have first expounded on in the case of Yamashita – Command responsibility: You need to prove that there was knowledge of the crimes are crimes are being committed and he did not so anything to prevent, investigate and punish the perpetrators of the crime. That is how you can hold a police PNP Chief liable. So prove the elements of the crime. [Unclear], because that is a provision of the Philippine IHL Law.

MIKE NAVALLO: All right, but what about the citation to a PNP Memorandum that was issued in 2016, shortly after the President took office, signed by former PNP Chief Dela Rosa using a term neutralizing which insiders supposedly say refers to killings? Do you think that is enough evidence?

SEC. ROQUE: That is a conclusion that you make, that is not something that anyone would make and remember the standard for conviction is behind reasonable doubt. You can make any conclusion, but in the end, I think you and I as lawyers know what beyond reasonable doubt stands for. Something beyond conclusion, something beyond surmising.

MIKE NAVALLO: All right. Let me ask you about the position taken by Chief Presidential Legal Counsel Salvador Panelo about the lack of jurisdiction supposedly of the ICC on the Philippines. Because supposedly the treaty was not published here in the Philippines. What you make of that?

SEC. ROQUE: Well, you have to distinguish as you know between domestic law and international law. As a matter of domestic law, then you have to comply with Tañada versus Tuvera and I think there was really a lapse on the part of the Aquino administration. They should really have published the entirety of the Rome Statute in full. So, since, the Official Gazette is under PCOO, we have investigated the matter, it was not. It should really have, pursuant to Tañada versus Tuvera and therefore, as a matter of domestic law and the Supreme Court in recent decision of Pangilinan said, that the President can withdraw from a treaty if there is a patent violation of the Constitution, then I would say that, that argument first made by the President is in fact valid under Philippine Constitution.

MIKE NAVALLO: Sec, but that determination by the Supreme Court, some would say is in a way obiter [dictum] because that wasn't in the main ruling. The main ruling said it was dismissed in procedural grounds. Would you still rely on that?

SEC. ROQUE: I am not relying on that, I am relying on Tañada versus Tuvera, the case that you and I know very well.

MIKE NAVALLO: Yes, Sec, but isn't it also, one of the basic principles in international law that there is a distinction between international and domestic law especially when it comes, how certain instruments operates? So in this particular case, shouldn't treaties be subjective to a different kind of rules. In fact, some are pointing out EO 459, an executive order under former President Fidel Ramos does not require the publication of a treaty?

SEC. ROQUE: Well, I don't think any act of the executive can amend or in a way modify a decision of the Supreme Court and I am sure you will agree with me. Now, as far as the position of international law, it really depends on which tribunal will rule on it. If an international tribunal will rule on it, certainly they will apply international law. If a Philippine tribunal will order or come up a decision in it then certainly, they will apply Philippine law.

MIKE NAVALLO: All right. Now, Sec., what position will the President take with respect to the ICC probe, because I talked to you previously, you said, you will not do anything about it, because you will not participate. But some experts are saying, there is actually [garbled] for the Philippine government to actually push the probe or stall the probe or in fact appeal the ruling of the pre-trial chamber. Are you going to take that route or are you at least considering that?

SEC. ROQUE: I don't think, I can answer that, because only the President can decide on what he wants. I'm only a Spokesperson. But let him decide what he wants, because he is a lawyer and he is facing the proceeding right now. Now, let me clarify though, the preliminary investigation is on the Philippine Drug War. He has not pleaded as respondent. So let the ICC do as it wishes. But as far as we are concerned, because we had already left as of today, we have no duty to cooperate.

MIKE NAVALLO: All right. Now, Sec. What do you make of the Human Right Groups are celebrating this as a form of victory, you know, that the ICC is somehow the court of last resort for them, they are not getting justice certainly, not in the Philippines, because they could not prosecute President Duterte, therefore, they need to go to the ICC? You have previously lobbied for the passage of the Rome Statute, ratification of the Rome Statute, believing in this very principle. But now you are saying that, you know, that wouldn't apply this particular case, our domestic courts are working. How do you explain your, both positions on those, Sec?

SEC. ROQUE: Well, you know there is no incompatibility, because no country, even though those who joined the ICC ever surrendered their sovereignty and jurisdiction. They only said, they will allow the ICC to exercise jurisdiction if there is unwillingness or inability. So, the issue

now: Is there unwillingness or inability? Now this is the proper stage where the court itself has to address that issue. So as far as I am concerned, there is no incompatibility 'no. That was the basis of our consent to be bound by the treaty as the person in the forefront of ratifying that Rome Statute. I can vouch for that.

MIKE NAVALLO: Sec, but what about the allegations that you know, we could not sue President Duterte because of presidential immunity here in the Philippines. Therefore, there is no other way to hold them accountable supposedly for these drug killings? Wouldn't you agree with that?

SEC. ROQUE: It doesn't hold water. Because our immunity, it exists only until he sits as President. And as you know, two presidents immediately jailed after their term of office ended – President Estrada and President Arroyo proves that there is no unwillingness nor inability.

MIKE NAVALLO: All right, so what steps are you going to take moving forward, Sec? Are you just going to wait and see what will happen with the ICC case?

SEC. ROQUE: Nothing. I am enjoining everyone, if you feel that your rights are violated, please file the complaint, before the Philippine institutions.

MIKE NAVALLO: All right, thank you for sharing your insights with us this morning, Presidential Spokesperson Secretary Harry Roque.

SEC. ROQUE: I'm sorry, I stand corrected. The two Presidents who were jailed were Estrada and Gloria Macapagal-Arroyo. Okay? Thank you very much, Mike, for giving me the opportunity to correct the many misimpressions. Thank you and have a good day.

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