

News Release
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Bayan to Arroyo: Get Smith, sack Romulo and Puno

In a press conference of petitioners against the Visiting Forces Agreement, the umbrella group Bagong Alyansang Makabayan called on the Philippine government to immediately regain custody of convicted rapist Daniel Smith and to sack its foreign affairs secretary Alberto Romulo and interior secretary Ronaldo Puno.

Yesterday, the SC ruled that the Romulo-Kenny Agreements in relation to Smith were not in accordance with the Visiting Forces Agreement. The court said that the Philippine government should begin negotiations to have Smith transferred to a Philippine detention facility. Smith has been kept in detention in the US embassy in Manila while awaiting the appeal on his rape case. The current detention was made possible under the Romulo-Kenney accord.

However the Supreme Court upheld the constitutionality of the VFA saying that it is simply an implementation of the Mutual Defense Treaty and is also recognized as a treaty by the US government.

"We are vindicated by the decision of the high court declaring Smith's current detention as illegal. It clearly points out the grave abuse committed by the Arroyo and US governments when they colluded in transferring Smith to a US facility in contempt of the order of Makati RTC Judge Pozon's order to confine Smith in the Makati City jail pending transfer to the national penitentiary. The Arroyo government allowed our sovereignty to be subverted yet again," said Bayan secretary general Renato M. Reyes, Jr.

"In light of the SC decision, Romulo and Puno should be fired and must no longer be part of any negotiations to get Smith back. The two are directly accountable for placing the Philippines in the humiliating situation of having to negotiate for the custody of rapist convicted by our own courts," Reyes added.

Wide latitude

[IMPT: Pls state the criticism of the decision on Smith custody how instead of directing the Executive to take immediate steps to regain custody of Smith as is the Constitutional and legal thing to do, it merely says government should "negotiate". This, after ruling that the Romulo-Kenney agreement is patently illegal, not even having a basis under the disputed VFA. And that the US will certainly exploit this as a means to delay, or even refuse, Smith's transfer. The SC decision also allows the Executive to drag its feet.]

Bayan also warned the US government against any refusal or delay in the transfer of Smith. The US embassy says it has brought the matter to its legal experts in Washington.

The militant group is wary that the negotiations for Smith can take an indefinite period of time and gives too much leeway for diplomatic and political considerations between the two governments.

"Because the transfer will be done via negotiations between two governments, there is wide latitude for compromise or unreasonable demands. The negotiations will surely take into account unequal RP-US relations, the ongoing Balikatan war games, US aid to the Philippines and so on," Reyes said.

Bayan said that the Obama administration must do the right thing and turn over Smith to Philippine custody and allow him to be detained in a regular prison facility. "Failure to do so will further expose the patently unequal relations that the US continues to impose on the Philippines," Reyes said.

"Gloria Macapagal Arroyo on her part should not bungle efforts to get Smith back. She should not use the negotiations as some kind of political leverage in her bid to get Obama's attention. The Philippine government should stop acting like a pathetic puppet and start asserting national interest. The Philippine government should move to terminate the VFA," Reyes added.

Puno hailed for dissent

Bayan chairperson Carol Araullo, petitioner in the VFA case, meanwhile hailed Supreme Court Chief Justice Reynato Puno for his dissenting opinion on the constitutionality of the VFA. Puno argued that the VFA has not been ratified as a treaty by the United States and that its provisions are not fully enforceable under US law. Puno called the situation a continuing "slur on our sovereignty."

Another dissenting opinion was penned by Justice Antonio Carpio who argued that in the US Supreme Court ruling on *Medellin vs. Texas*, even if a treaty is recognized as such by the US government, it is not enforceable in the US without legislation unless the treaty is self-executing

"Justice Puno was correct in pointing out the double-standards that the VFA represents and that the agreement is an affront to our sovereignty. Puno along with three other justices courageously took the side of national interest while the majority took the safe route. The Supreme Court missed an opportunity to right a historic wrong when it upheld the VFA as constitutional," Araullo said.

"The VFA undermines Philippine sovereignty not just in a legal sense but also because it allows the entry and stationing of an unlimited number of foreign troops for an indefinite period of time. The violations are not just with the Smith case but also with the yearly military exercises and permanent basing that the US troops have done. These were issues that were not addressed by the Supreme Court in its latest decision," she added.

Stop Balikatan

Despite the legal setback, Bayan said that it would press on with its campaign against the VFA and the RP-US military exercises being held in different parts of the country.

"The fight for our sovereignty does not rely solely on the decisions of the Supreme Court. We shall continue to resist the presence of foreign troops in our country. "Ban Balikatan" is a campaign against the current Balikatan in the Bicol region and Bayan intends to make this a nation-wide campaign, wherever US troops go to next," Araullo said.

"We anticipate the upcoming Balikatan will be used as leverage by the US government in securing favorable terms for Smith. In the same way that the US cancelled the Balikatan exercises until it could get a favorable action on Smith's detention from the Arroyo government, the Philippine government should do no less," she added. [If my memory serves me right ginamit ng US ang controversy sa custody ni Smith para I-kansela os at elast isuspinde ang Balikatan']

Bayan said that the recent SC decision on the constitutionality of the VFA provides the US government free reign to station more troops in the Philippines and to increase the scope of its intervention. "The US will surely have another justification for sending more troops here. Despite the new Obama administration, US geo-political objectives in the Philippines remain the same," Araullo said. ####