

## **PCIJ Interview with Manuel L. Quezon III, Undersecretary of the Presidential Communications Development and Strategic Planning Office (PCDSPO), April 2011**

**Philippine Center for Investigative Journalism (PCIJ): As a government official, a journalist and a part of the President's communication group, how important is transparency to you?**

**Manuel L. Quezon III (MLQ3):** As you know, transparency is one of the President's key platforms. It has always been one of his key advocacies. It is a concept and a practice that is being systematically applied throughout the government. As a former journalist and someone in the government, it's something I share and our office and other offices are trying to implement it on a daily basis. It's not easy most of the time.

**PCIJ: What about the FOI bill? What is the President's stance on this bill?**

**MLQ3:** The President has been consistently pointing out that there is a constitutional guarantee of access to information. Therefore, the question is really the details that people have to hammer out. The President has always been emphatic that there are two things that you have to balance here. There are the legitimate rights of the state when it comes to that. There's certain information in terms of security for example, or national security in particular, that the government does have a duty to safeguard and protect. And at the same time there's the public's desire and right to access information in general. Therefore, the question is how do you harmonize the two?

The President directed at the start of this year that we engage in substantive discussions with freedom of information advocates and with those who have been proposing legislation in Congress. As early as February we met with the freedom of information coalition people and we had a frank and open discussion, and I think a very good one. This led in turn to other discussions within the government so that we could hammer out our positions and areas of concerns that we had engaged in, in terms of the dialogue. And then talking to Congressman [Lorenzo "Erin"] Tañada [III], who as you know was one of the leading proponents [of the FOI bill] in the House of Representatives.

It's been moving quite well. There have been several meetings on this core. And the question will then become "What sort of engagement will the President have?"

There has to be a final agreement. We'll be going back, for example, to the proponents of the Freedom of Information act having gotten our positions together and we'll be engaging in a little more dialogue. The objective here is that once a general agreement is reached, it will enable speedier and smoother passage once all the parties have basically reached an understanding.

**PCIJ: What are the specific details that the administration wants to hammer out?**

**MLQ3:** Well, there are certain concerns that, for example, you just have to make sure that the concerns, for example, of the national intelligence community or the national security agency are taken into account. I think this has been successfully done so. In fact, the concerns that were raised by the national security agency in the past were already hammered out in the technical working group that has been composed in the House of Representatives.

There were other concerns that the President had, for example, and you can find this in his public statements where he filed, for example, that one thing that should be taken into account by the law

is that a President should have the freest possible debate and discussions in the formulation of policy. So, for example, if people felt that prematurely or just when you're exploring ideas and options, that these might be prematurely disclosed, it might have the unfortunate tendency to get people to shut up and not give their free and frank opinion.

So he wanted reassurance that this had been taken into consideration. We brought this up with the proponents. There's some language that may have to be revised. This is being done again in partnership with the proponents.

You want to have a dialogue that is undertaken in good faith. And I think so far we have been able to accomplish this.

**PCIJ: You were talking a while ago about the concerns – more or less hammered – is it the last point you mentioned, the President's concern with having free debate...**

**MLQ3:** Perhaps, I should walk you through what are the different things we've been talking about that might be of interest. Basically, you have on one hand, the need to balance what are considered the legitimate concerns of the state as a state in terms of information.

They range from anything from national security concerns. There are certain operational aspects, for examples, let's say you have police operation underway. Could you compel, or should you compel government to disclose information on an ongoing operation if it would harm lives or put people at risk?

The answer—ask both the proponents of the freedom of information and government – is no. But then these have to be specified in a legislation that would be approved.

You have the case of what may be ongoing diplomatic discussion, so of course those would have to be hammered out as well.

The President, as I mentioned, brought up the particular case that there should be the fullest and freest both within government to tackle and deliberate on policy. And how do you balance this with the public interest? The public interest would be to know what the basis of policy was once it was announced. So there should be no clash between the two.

What's happening is that we had a meeting with the proponents of the freedom of information, this broad coalition, and we raised these concerns, they gave their ideas. We went back to the Department of Justice, we talked to other agencies of the government knowing the concerns of the proponents and arrived at our counter proposals, and then these were then discussed with Cong. Tañada. And then back to revising again. We're planning to meet with the coalition again, to again update them on what's happening.

Again, what is the objective of all of this? The idea is to arrive at either a substitute bill or simply some amendments that could be introduced in plenary or at the committee level. That could then harmonize the two.

At the same time, we were also looking at different models around the world and the President has mentioned this, the presidential spokesman has mentioned this. You have, for example, some interesting ideas that the Canadian model puts forward an information commission, for example. You want sort of an objective referee that can be the one people go to in case there are any disputes

or questions on whether information should be disclosed. You need an assurance that the data privacy of individuals is protected and recognized. You also need, for example, a reassurance on the part of government officials that they know clearly what the procedures are to be followed.

That would involve, on the other hand, perhaps updating our system on classifying documents. I mean, if you look at, for example, the American freedom of information act and the way it was put together, one of the first mandates it had as a law was you have to set up a system: How do you classify documents? Who is going to be in charge? What is a procedure for processing these? And what is the cutoff date?

You can't, for example, expect a government that has not produced an inventory of even its documents to be compelled to produce documents that it may not even know exist, especially if they date back a long time ago.

So you have to look at all of these different models. And again, this has to be a thorough process. And that's why it takes a little time.

**PCIJ: Among the cabinet members are there any concerns regarding the FOI bill?**

**MLQ3:** Well, transparency does not even require an FOI bill. The President has also answered this that generally, "Are you open and willing to answer questions that are brought by reporters or researchers? Are you more forthcoming with your budget data? Are you more liberal with the more non-controversial items that can be immediately put online?"

That's why you are looking at the Official Gazette online, you are looking at the Department of Budget and Management. There are certain documents and info that is not debatable in terms of our obligation to provide them to the public so it's only a small minority of information that becomes controversial, because the tendency of bureaucracies and governments around the world is to safeguard certain kinds of information.

On the other hand we have a Constitutional mandate that says it is the policy of the state as much as possible to make the information available, so the Cabinet takes its cue from the President as well, [from] the President's stance on this.

There were certain reservations raised and it's the same in every administration. It is always the intelligence community, the national security community, the defense community, and the diplomatic arms of the government that are the most concerned about being very specific about the terms of disclosure and about what can be disclosed and when.

And this is when things get a little slow because the lawyers get involved and hammer it out. And this is also for the protection of the public in terms of its legitimate right as well as of the state because we don't want to imperil national security or the military or police operations on the basis of haphazard disclosures.

**PCIJ: Media groups have raised concerns with [the FOI bill's non-inclusion in the] LEDAC (Legislative-Executive Development Agenda Council), the coalition is wondering how long it would take to update these concerns and to update the bill to be exact?**

**MLQ3:** You have to look at what government has been doing this entire time. There was this very involved and ambitious effort to do zero-based budgeting, which is basically unprecedented. There is the legislative agenda of the President, and you can't do everything at once.

I do think if you go back to [Right to Know, Right Now! Coalition spokesman] Nepo [Malaluan] and Erin and others who are involved, it is moving – although perhaps not as fast as they'd like – it has moved substantially forward.

Perhaps a month from now you will find perhaps a consensus is already in the horizon, somewhere along there. Definitely, this is only the first LEDAC the President has had, there is going to be more, the opportunities are certainly there for the President to make a major announcement once all the parties have reached an understanding.

**PCIJ: Is the President prioritizing the FOI bill?**

**MLQ3:** Again that's a process. You have to make a distinction between certifying a bill as urgent, and what the President's stance is. I think the President has been clear in terms of where he stands. In terms of the Constitutional guarantees, the President has been clear that he has given the marching orders to the members of his Cabinet, and that's [PCDSPO head] Secretary [Ricky] Carandang, [Presidential Spokesperson] Secretary [Edwin] Lacierda, [Department of Budget and Management Secretary] Butch Abad, the Department of Justice, and so on and so forth, who have engaged the advocates of FOI, and make sure that the version of the bill and the discussion in the lower house are taken into consideration and therefore what emerges is something everyone can stand for.

**PCIJ: Will he certify a bill at all?**

Well, let's see where the discussions go with the FOI advocates. Once we get back to them with our proposed stand.

**PCIJ: Are you in favor of ratifying the bill?**

I'm in favor of freedom of information. I believe that the process is going to be a good one, one that builds.

The question of freedom of information is two things: one is the public is fully entitled to know what its government is doing and what the basis is for its actions, and what are the records involved.

On the other hand, having served in government and having been in government, there are certain cases where there is a legitimate need to withhold certain kinds of information. However, you don't want to make it a blanket withholding, and ideally what maybe legitimate to withhold today should not be withheld forever.

It's the same as the President's approach: How do you harmonize what are not necessarily contradictory interests. There should be a way to find a healthy balance between the two and that will result in more transparency and more accountability for officials

**PCIJ: What about the interagency taskforce [on the FOI bill], how did the administration decide who will be in and out of the taskforce?**

**MLQ3:** This is the group, as I've mentioned its Secretary [Leila] De Lima of the Department of Justice, Butch Abad, DBM, Ricky Carandang, Edwin Lacierda. Of course, one of those who sat in it for some of its meetings was the Presidential Legal Counsel. Certain meetings were also attended by the National Security Adviser. Again, these are the agencies that would be involved in any of the formulation of the government stand on something of this nature. For example, you need the Presidential Management Staff there.

Because a lot of the documents have crossed the President's desk, managed by the Department of Budget and Management, a lot of information that are particularly interest by the journalist involves the budgetary process, the disbursement of funds.

We need the Department of Justice to see if this is legal or not, what everyone is proposing. The National Security Adviser has to weigh in because of national security concerns. As former member of the media and as part of the communications group we're involved because it's the natural sync with things, it's the logical people to be involved.

**PCIJ: We talk about possibilities, we talked about models that you've been looking at and the concerns that some departments has raised. I know you are familiar with the previous bill that failed to pass last year, how is that bill vis-à-vis what you have in mind right now?**

**MLQ3:** I think it's safe to say that it would substantially incorporate both. You have to look at the evolution. Even if it happened, since that bill passed both houses but did not actually go through the bicameral committee, it was never signed into law.

That in turn was the basis of the bills that have been filed in the Lower House [in the 15<sup>th</sup> Congress] but even that has moved forward, there have been several committees and factors of technical working groups chaired by Cong. Tañada.

That is the heart of everyone's discussion, so it is the basic framework that we are looking at. What you are looking at are perhaps small amendments that maybe required, and in fact there was even talk, I think it's safe to say that there was even talk of whether we will pursue an entirely new administration bill or not, but then that in turn might send a negative signal.

But you're wrong because it's been a decade that this process has been going, so the basic decision was we must start with what everyone was engaged in for so long and move forward with so many minds engaged in it.

There were just a few concerns, I think, legitimately raised by the President and handled by the cabinet, and again it should not be the case of Malacañang dictating this on a very committed coalition. Therefore there is a need to talk to the proponents to explain our side that perhaps there may be assurances that can be given, that it turns out is not necessary, because everyone is on the same page, that's why we want to have a thorough discussions with the proponents first. That way, I think this is a time well spent because once everyone has signed off on it we'll move speedily on Congress.

**PCIJ: You've mentioned two specific issues with FOI, first is the national security issues... is it correct that the first concern has more or less address by the both parties?**

**MLQ3:** Yes, in terms of national security and the concerns that were raised by the national security team, quite early on, that has been substantially addressed.

**PCIJ: What about the second one?**

**MLQ3:** The second one, I think we have a winning solution but again, I don't want to pre-empt on the other hand the side of the proponents of the freedom of information. We will be talking to them to get their side.

**PCIJ: We also heard before that there are also some concerns to the effect of the administrative process, bureaucracy and over the burden of the institution.**

This has been discussed, I think it will boil down to, this has been substantially addressed both in the revisions made in the technical working group of the House of Representatives, where the procedures have been clarified.

We do have some ideas in this regard, we do also want to run it by the proponents and this is more of the administrative setup for the different agencies that will be compelled to undergo, the idea that you want to make it both smooth for the public when they are making requests, must be attended to with dispatch, it must be basis for decisions made, have to be clear.

And at the same time the point of view of bureaucracy, for example, there have to be clear parameters for. You should be encouraging public to seek out information already freely available, so there is no need to file. But that would have to be a provision introduced with full agreement of the proponents so you both know where you are coming from. This is why these talks must take place and agreements have to be reached before you even get to the LEDAC stage. The LEDAC stage is where everyone can say this is a reflection of a consensus.

**PCIJ: You've mentioned several models as possibilities [for the FOI bill]. I don't know if you're looking at them as probabilities.**

**MLQ3:** Everyone, I think, has primarily focus on the US model, in terms of procedures and different exceptions in terms of information. We have been particularly interested in the Canadian model in that it sets up a commission, that sets up an impartial referee and that could in a sense address the concerns of different departments, that if they get bogged down, there will be an arbiter.

But then again, this is something that still needs to be discussed with the different proponents because, on the other hand, proponents of FOI are also concerned every time you set up another layer of bureaucracy, so that's a reality we all have to contend with,. It has to be a free and frank discussion on both sides, "Is this the way we are going to go, or is it sufficiently addressed by provisions of the bill, or is there a compromise that can see it through?"

I don't want to preempt too much the discussion because we want to go to the FOI coalitions and proponents without sounding like we are dictating on them, it's a good faith position of the government, discuss it with them.

**PCIJ: The expectation of advocates was that FOI would be passed faster under P-Noy.**

I think we were looking at this, and it has been such a long process that people felt there was light at the end of the tunnel, and the worst thing is to have your expectations dashed that way. On the other hand what we were asking for patience on the part of the different coalitions so that

everyone's concerns can be addressed in a forthright way. In the end, [this] leads to faster and more unified movement. So it's just a little more time. There was a great desire to have it as part of the historic first LEDAC of the President; unfortunately, that didn't happen, but there will be other LEDACs and it's something I think we can be closer than farther.

The President definitely sees why proponents are so keen. Definitely he would not have instructed the Cabinet to move and have so many meetings unless he was aware and wanted to respond to these proponents. - ***Interview conducted by Ed Lingao, Stephanie Directo, Kristal Jimena, and Essen Miguel, PCIJ, May 2011***