

AFFIDAVIT

I, ROMEO T. CAPULONG, of legal age, Filipino, and presently a resident of Metro Manila, Philippines, under oath, depose and state, that:

1. I am a Filipino practicing attorney in the Philippines, in the United States of America and in other foreign or international fora. Attached herewith as Annex "A" is my Resume.

2. My current professional activities include being the Chairperson of the Committee on Human Rights and Due Process of the Integrated Bar of the Philippines. By statutory mandate, the Integrated Bar of the Philippines is the compulsory bar association composed of forty five thousand (45,000) Filipino lawyers nationwide. It has an independent and active human rights program whose duties and expertise are focused on:

2.1 monitoring the human rights situation in the Philippines;

2.2 exposing and documenting human rights abuses particularly violations of civil and political rights committed against political dissenters;

2.3 conducting research, studies and analysis of the human rights policies and programs of the Philippine Government, including legislation, jurisprudence, executive orders, proclamations and counter-insurgency programs and military campaigns affecting the human rights of Filipinos.

2.4 Conducting research, studies and analysis of international laws, treaties and conventions and national laws of other countries affecting the rights of more than four million Filipino migrant workers, expatriates and non-resident Filipinos abroad.

3. In connection with the application for political asylum of Prof. Jose Maria Sison and Julieta de Lima Sison in The Netherlands, I was designated by the National President of the

Integrated Bar of the Philippines in my capacity as Chairperson of the Committee on Human Rights and Due Process to submit this Affidavit to the Aliens Chamber of The Netherlands and to testify, if necessary, as a witness on the contents hereof.

4. The National President and Chairperson of the Board of Governors of the Integrated Bar of the Philippines instructed the Committee on Human Rights and Due Process to make a study of the facts and the laws relevant to the Sison asylum application for the purpose of contributing to a fair and enlightened decision in the case by the Aliens Chamber. Pursuant to this instruction, our Committee made a study of the pleadings, documents and laws pertaining to the application which include, among others:

4.1 The three (3) decisions of the Dutch Justice Ministry of July 13, 1990; March 26, 1995; and June 4, 1996;

4.2 The two (2) decisions of the Council of State dated December 17, 1992 and February 21, 1995; and

4.3 The pertinent provisions of the 1951 Convention on the Status of Political Refugees as amended by the 1967 Protocol thereto and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

5. The voluntary intervention of the Integrated Bar of the Philippines in the Sison asylum case has been prompted by its concern for the rights and welfare of the Sisons, its duty to uphold truth and justice and its fidelity to the rule of law.

6. Contrary to popular impressions abroad, the overthrow of the Marcos dictatorship in 1986 and the restoration of a formal constitutional government did not result in the improvement of the human rights situation in the Philippines. This is so because the structural apparatus of repression and exploitation under the late dictator Ferdinand Marcos has continued and, in various ways, strengthened by the succeeding governments of Presidents Corazon C. Aquino and Fidel V. Ramos. Such apparatus consists, among others, of repressive laws and government policies, an

abusive and corrupt police, military and para-military forces, an inept judiciary, and an elite-dominated government subservient to big business and foreign interests.

6.1 Against this backdrop is a Philippine society of sixty-eight (68) million people ruled by a tiny elite and composed predominantly of landless farmers, underpaid or unemployed workers, urban poor or squatters in constant search of jobs and places to live, indigenous people constantly subjected to de-culturation and deprivation of their ancestral lands, and small fisherfolk deprived of fishing rights by fishing magnates. More than 70% of the Philippine population live below the poverty line.

7. The legal system in the Philippines has not provided any adequate relief or response to the continuing violations of human rights. Instead, it has even engendered and encouraged impunity for the violators. This is manifested in the perpetuation of repressive laws and decrees; executive orders, policies and programs; and judicial precedents issued under the Marcos, Aquino, and Ramos governments.

8. Among them are:

8.1 General Orders No. 66 and 67 which authorize checkpoints and searches without warrants. This is complemented by the Supreme Court ruling in *Valmonte vs. de Villa* which sanctioned the setting up of checkpoints by the police and the military.

8.2 Presidential Decree No. 772 which penalizes squatting with imprisonment and treats urban poor individuals and families as criminals.

8.3 Presidential Decree No. 1866 which makes the possession of firearms in furtherance of rebellion a non-bailable and capital offense in addition to and independent of any other prosecution for political crimes as subsequently enunciated in *Baylosis vs. Chavez*. This is the most common practice of the Philippine government in criminalizing or treating alleged political offenders as common criminals.

8.4 Batas Pambansa Blg. 880 or the Public Assembly Act which restricts and controls the constitutional rights of the people to peaceful assembly, redress of grievances and freedom of speech.

8.5 Executive Order No. 129 which authorizes the demolition of urban poor communities in the guise of curbing the activities of "professional squatters".

8.6 Executive Order No. 264 which created and legalized paramilitary forces known as Citizens' Armed Force Geographical Units (CAFGUs).

8.7 Executive Order No. 272 which further lengthened the allowable period a person can be legally detained before presenting him to the judicial authorities.

8.8 Memorandum Circular No. 139 which allows the Philippine military to impose food blockades during so-called "counter-insurgency" operations.

8.9 Administrative Order No. 308 establishing the National Identification Reference System which mandates the centralization of an identification system in order to surveil and monitor the activities of suspected criminals and subversives.

8.10 Ilagan vs. Ponce-Enrile doctrine which makes the remedy of habeas corpus to assail the legality of a person's arrest unavailable if a charge is thereafter subsequently filed or if the person arrested opted to exercise his constitutional right to bail.

8.11 Guazon vs. de Villa doctrine which legitimizes saturation drives and zoning operations in urban poor communities and the consequent mass arrests of residents and the searches of their homes.

8.12 Umil vs. Fidel V. Ramos doctrine which legalizes warrantless arrests of alleged political offenders and suspected political dissenters.

8.13 Posadas vs. Court of Appeals doctrine which sanctions the stopping, frisking and arrest of a person "acting suspiciously."

9. The continuing erosion of the Filipino people's basic human and constitutional rights is even made more pronounced by an unending and persistent series of legislative proposals broadening the emergency powers of the Chief Executive and curtailing civil and political rights, including pending bills:

9.1 on anti-terrorism;

9.2 on anti-racketeering;

9.3 seeking to diminish the right of an accused to remain silent, to counsel, and the presumption of innocence;

9.4 seeking to invade the right to privacy;

9.5 expanding the list of heinous crimes subject to capital punishment to include political offenses;

9.6 expanding the coverage of warrantless arrests, unreasonable searches and seizures; and

9.7 clipping the powers of the Supreme Court to review acts of the executive branch of the government.

10. Because of the current conditions of human rights in the Philippines, several human rights lawyers' associations continue to have relevance through its active programs like the Free Legal Assistance Group (FLAG), the Protestant Lawyers League of the Philippines (PLLPP), the Public Interest Law Center (PILC), the Committee on Human Rights and Due Process of the Integrated Bar of the Philippines, and several others that indicate that the problem of human rights in the Philippines remains a grave concern and reality.

11. Majority of the thousands of victims of human rights violations in the Philippines belong to the oppressed and exploited sectors of Philippine society - mainly the farmers, workers, and the urban poor and those from the middle stratum composed mainly of intellectuals, professionals and church people who have taken up their cause.

12. Prof. Jose Maria Sison has never been considered a terrorist in the Philippines or anywhere in the world. Not even the Communist Party of the Philippines, the New People's Army, or the National Democratic Front of the Philippines to whose revolutionary activities Mr. Sison has been linked by the Philippine Government without basis may be considered terrorist organizations under accepted definition of the term in international law.

13. Because of his positive role in the current GRP-NDFP peace negotiations as Chief NDFP Political Consultant, the Ramos Government has of late stopped accusing Prof. Sison of terrorism or of being a terrorist.

14. In August 1991, Prof. Sison was charged with multiple murder in the so-called Plaza Miranda Bombing which took place in 1971. He was acquitted by the Department of Justice. Earlier, in 1988, he was charged with subversion, a case that was likewise dismissed after the repeal of the Philippine Anti-Subversion Law. Nonetheless, Prof. Sison continues to be in serious danger of being arrested if he returns to the Philippines. His name, together with that of Mrs. Julieta de Lima Sison, remains in the military Order of Battle and so-called Reward List with a price of One Million Pesos. Philippine Secretary of National Defense Renato de Villa recently announced that he would be arrested if he returns to the Philippines.

15. The significance of these above-mentioned two cases against Prof. Sison lies in the fact that they are the only cases which the Philippine Government filed against Sison, conclusively proving that since 1971 when the Plaza Miranda bombing took place, until the present date, the Philippine Government has no case against him that would stand in its own courts in terms of evidence.

16. All the public accusations against Prof. Sison by the Philippine Government such as his alleged complicity in the Kampanyang Aho (1985) while he was under maximum security detention and other incidents (Digos and Dipolog in 1989 and Del Monte in 1991) while he was abroad are mere propaganda intended to besmirch his reputation.

17. It is our considered view that any reliance or reference to these incidents in the deliberations of the Sison asylum case would not only be grossly unfair to the applicants but would also violate due process and the most elementary rules on evidence.

18. Moreover, the Philippine police and military forces are notorious for their practice of fabricating evidence and maliciously linking innocent people, particularly prominent leaders of the opposition, to concocted charges. For this reason, it would be a serious miscarriage of justice to use, invoke, rely or even make reference to their intelligence information for any purpose, especially in an asylum application of a family that involves the lives and liberties of victims of political persecution.

19. Our Committee finds it legally untenable and morally reprehensible that the universal norms of human rights and international human rights law should yield to abstract notions of general interest, credibility, and integrity of a state, which is what the adverse decisions of the Dutch Justice Ministry on Prof. Sison's asylum application advocate.

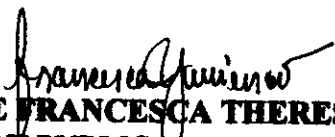
20. It is our humble submission that the Dutch government should maintain its credibility and integrity not simply with a transient government like the Ramos government and its military and police. More fundamentally, the Dutch government should maintain its integrity and credibility with the Filipino people by granting in this instance the asylum request of a long-persecuted nationalist and democrat and thereby upholding the rule of law and the universal norms of justice.

21. We are ready to substantiate further the factual allegations contained in this Affidavit by additional documentary evidence if this Honorable Aliens Chamber deems it necessary.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 8th day of March 1997 at the City of Makati, Philippines.


ROMEO T. CAPULONG

SUBSCRIBED AND SWORN TO before me this 8th day of March, 1997, affiant exhibiting to me his valid Philippine Passport numbered E242300 issued at Manila, Philippines on 3 August 1993.


MARIE FRANCESCA THERESE J. YUVIENCO
NOTARY PUBLIC
Until 31 December 1997
PTR # 3348597/2-2-96/Mandaluyong

RESUME

OF

ROMEO T. CAPULONG

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ANNEX A

Member, Philippine Bar since 1958

Member, New York, U.S.A. Bar since 1980

Fields of Practice

**HUMAN RIGHTS LITIGATION
and
GENERAL PRACTICE**

Current Professional Activities

**PRESIDENT AND MANAGING COUNSEL
Public Interest Law Center**

**CHAIRPERSON
Committee on Human Rights and Due Process
Integrated Bar of the Philippines**

**PRESIDENT
Philippine Peace Center**

**MEMBER
Free Legal Assistance Group**

**MEMBER
National Lawyers' Guild
New York Chapter, U.S.A.**

**MEMBER
International Association of Lawyers Against Nuclear Arms**

Relevant Past Professional Activities

CHAIRPERSON

**Human Rights Committee
Philippine Bar Association**

CHAIRPERSON

**National Legal Aid Committee
Integrated Bar of the Philippines**

PRESIDENT

**Integrated Bar of the Philippines-Nueva Ecija Chapter
and member of the National Board of Governors**

FOUNDING CHAIRPERSON

**Philippine Center for Immigrant Rights (PHILICIR)
New York, U.S.A.**

CHAIRPERSON

**Filipino Lawyers' Committee for Human Rights
New York, U.S.A.**

MOST RECENT RELEVANT AWARD

**Most Outstanding Alumnus of the University of the Philippines in the field of
Human Rights and Public Interest Lawyering (1996)**