

## Advice Chamber Clarification

Parquet number 09/750006-06

Jose Maria Canlas Sison

### Introduction:

It is of course known to the prosecutors office that it is not Sison who factually executed those murders on Kintanar and Tabara.

The prosecutors office thinks however, different from the defense that there are enough grave objection to keep Sison criminally responsible for these murders and will explain how it comes to this conclusion.

### Factually carrying out:

The first question that your court needs to answer is: Who factually carried out the murders on Tabara and Kintanar?

The answer to this question is easy, seen on the extensive and consistent testimonies of Cruz, Pabalan and Alonzo. From these testimonies it also turns out that they committed these murders as members of the NPA at the order of the CC of the CPP.

#### 1. Testimonies Cruz, ka Delfin Guzman, Ka Baste (Bringing in p.240)

Cruz declared literally about the murders of Kintanar: "I have got an assignment from Cayetano who told me with that he received this from the Central Committee. I have earlier testified about how it works within the party. These orders were no different from the other orders that I testified before, also this order was about an order from the Central Committee of the party and thus coming from Jose Maria Sison" (2nd hearing). He testified about the murder on Tabara: "I got the assignment orally from Vicente Cayatano. He gave me this assignment from the Central Committee. I have earlier testified about the way things work within the party. An order from the Central Committee of the party means an order coming from Jose Maria Sison (3rd hearing).

#### 2. Testimonies Alonzo, ka Boy, ka Boy Negro (Bringing in p.227)

Ka Baste told him that on 10 January 2003 there was an assignment from the Central Committee, with at the head Sison, to liquidate Tabara and Kintanar. He literally testified about the murder on Tabara: "This assignment is coming from the Central Committee of the CPP where Jose Maria Sison is the leader of. Ka Baste

told me that the assignment of came from the Central Committee. I know that ka Baste does not have any direct contact with the Central Committee. He shall have to approach the Central Committee beside an higher rank." (2nd hearing). He testified also: "Ka Baste told us that there is an assignment from the Central Committee, with at the head Joma, Jose Maria Sison, to liquidate Arturo Tabara and Romulo Kintanar". (1st hearing).

### 3. Testimonies Pabalan, ka Gorio (Bringing in 301)

Regarding the murder on Kintabar he testified: "The assignment is coming from the Central Committee of the CPP and is sent through to Leo Valasco, who subsequently set up a special operations group in juli 2002. The assignment was the liquidation of Romulo Kintanar". And further: "On the meetings on 17 and 18 january 2003 Leo Velasco said namely that Kintanar should be liquidated because he has got an assignment from Armando Liwanag." The name Tabara was on the hitlist. "I know that the list I saw came from Leo Velascao. It was one with computer typed paper in Tagalog. It was an official paper from the CPP with the logo of the CPP (1st hearing). He did not partake in the execution of Tabara. Pabalan answers to the question of the verbalizers if he knows what Sison is doing at the moment: "I only know that he is still in the Netherlands and that he is still the chairperson of the CPP".

### 4. Publications Ang Bayan (Bringin in 123, 138)

These murders were claimed by the NPA/ CPP, as it shows from the texts in the Ang Bayan taken up in the verbal-process before the arraignment with the judge-commissioner.

### 5. Eavesdropped telephone talks (councilchamer pv 48)

Sison said as answer to a question of a journalist in a radio-interview about the killings of Kintanar and Tabara at 16 june 2006 the following:

"Rey Langit: One more time my question: up untill now the NPA/ CPP has never made a confession about the deaths of these two? Joma: No, not true. They have already confessed. Look at the website philippine,revolutionwebcentral which you can find through surfing google. Look at the old media releases of the CPP and Ka Roger (fon.) The movement CPP and NPA is not comparable with the government. When the movement performs violent actions they will first announce this. Not like cowards like the government."

### NPA/CC

The next question is: Who gives leadership and tasks to the NPA, the military arm of the CPP?

From different testimonies from also Cruz, Pabalan and Alonzo as also from the schematic made by Bautista Guevarra (390) and Kintanar (368) follows that the Central Committee (CC) had got factual authority over the NPA.

### Leader CC

Next is the question who has got leadership within the CC. From herefore quoted testimonies of also Cruz, Pabalan and Alonzo it turns out that Armando Liwanag at the moment of the murders was given leadership to the CC. They are however not the only one. I would like to point out with this matter the testimonies of the following people:

1. Statement Jalandoni, chairperson of the peacenegotiations of the NDF.

Jalaondi declares: As far as I know there is a Central Committee and under that the regional committees. I do not know the original name of the current leader of the CPP. I only know the revolutionary name: Armando Liwanag.

2. Statement Sison against the officer of justice (76)

Sison declares on the question who Liwanag is he does not know exactly, but most likely this is ther person who followed-up Salas.

3. Testimony Veronica Tabara (araignment pv 337)

She declares: "Because my husband was part of the Central Committee he was also convicted by the people's court. The members of this court were the members who remain loyal to Jose Maria Sison. (...) It is party policy that the deathpenalty must be unanimously decided. Sison is member of the Central Committee en therefor must also vote along, besides his personal motives to punish those that question his documents." (1st hearing). And further: "As for the placing on the list and also for the decision to the murdering the eventual decision is with Jose Maria Sison". (2nd hearing).

4. Testimony Kintanar (araignment pv 360)

She declares: "After Sison got asylum outside the country in 1986, a meeting was held in the Central Committee with the question if Joma should be the leader of the CPP, eventhough he is residing outside the country. (...) Rolly did so, he told me after that Joma would again be the leader of the CPP, eventhough he was residing outside the country. It was decided that the Tiamzons would take the leadership within the Philippines, under the direct responsibility (of) Joma who resides outside the Philippines. Joma is and stays chairperson of the CPP."

## 5. Joint testimony Tabara and Kintanar

In the case of Romulo Kintanar and Arturo Tabara is the so-called people's justice in reality and in fact the Central Committee (CC), the Politburo (PB) and the Executive Committee (...) because they were both members of the Central Committee. Because it is about the death sentence an unanimous decision of the members of the CC/PB/KT-KS was needed and therefore needed the approval of their chairperson Jose Maria Sison alias Joma alias Armando Liwanag alias Amado Guerrero alias Joma Sison, the couple Benito and Wilma Tiamzon, and other as most ranking members of the Central Committee. The approval of Jose Maria Sison alias Joma alias Armando Liwanag alias Amado Guerrero alias Joma Sison is his as much as his right as his inherent responsibility on the basis of his function as the chairperson of the CPP/NPA. The Central Committee, the Politburo, the Executive Committee and the Military Commission are all being chaired by one and the same person, namely Jose Maria Sison.

## 6. Testimony Realiza (arraignment ov 322, advice chamber pv 280)

On the question of the verbaliser wie the leader was of the CPP Realiza answers: "From beginning of 1987 Jose Maria Sison was back as leader of the CPP until today. In november 1986 I was present at a meeting of the Steering Committee. I heard that these people talked about carrying over the leadership of the CPP to Jose Maria Sison. I heard that Benito Tiamzon said that he had the pretension to turn over his position as chairperson of the CPP to Jose Maria Sison. I heard that they argued that Joma was already chairperson since 1968 and that he never officially stepped down. To officially have another chairperson a congress of the CPP should take place. Until today there has never been a congress. That means that Joma up until now has never stepped down as chairperson of the CPP. At the meeting a week later I heard that the participants were congratulating Joma with the words: "Congratulations with being the chairman again".

Kintanar told him in 1987 that he talked with Joma about the communications system between the Philippines and the Netherlands. That would have to be between the members of the Central Committee on the Philippines and the members of the CC in the Netherlands, which called itself NDF. Kintanar said that always in the case of orders to the NPA that Joma gave these. Joma as party chairperson namely also the head the National Military Commission.

The verbalizers asked who makes the hitlist and Realiza answers: "I think that it is the Executive Committee of the party. There are two different things. The placing on the list is lose of the priority on the list. The priority on the list is being determined by the chairperson Jose Maria Sison. The executive committee determines who is placed on the list and turns the name, the reports about the person over to the chairperson of the party. The chairperson of the party, Joma,

determines on which place the person will be placed on the list. Joma is responsible for the NPA and takes care that the list ends up with the NPA to carry out (advice chamber pv 280). The list is not signed, it only says KT-KS. These are the initials of the words in Tagalog: Komiteng Tagapaganap ng Komiteng Sentral. This means Executive Committee of the Central Committee. I have seen this under the list myself. The discussion about the priority was being done by Benito Tiamzon, who sometimes said that he would present it to the chairperson, Joma. Mostly Benito said a few days later that the chairperson, Joma, said no and that the order must be carried out.

#### 7. Testimonies Bautista Guevarra (arraignment pv 381)

Sison is the chairperson of the Central Committee and as chairperson he is the one with the power within the party. As head of the Central Committee he is the boss and the decisions come from him. He also gives all the orders. It is so that all members of the Central Committee must vote and the majority of the votes count, but if the chairperson says we must do this then the decision of the chairperson is being followed by the other members. As far as I know he is still the chairperson of the CPP.

#### 8. Testimony Quitoriano (arraignment pv 398)

Later, in 1987, Romulo Kintanar told me that there was again a change in leadership and that Jose Maria Sison was the chairperson of the CPP. In 1990 Sison said during a meeting what our punishment was. He said that, even though it was a very grave crime on which the death was the punishment, he would not convict us to death because of our yearslong service for the NPA. He condemned us to the maximum punishment. That meant that all of our ranks were taken away from us and that we would be again a normal soldier and that we would have to undergo a two year reeducation. Kintanar told me that there was a meeting of either the political bureau or either the Executive Committee and that Tiamzon had said that he is not longer convinced that he should lead the party and that he wanted to return the chairpersonship to Sison.

#### 9. Testimony Quimpo (advice chamber pv, 257)

When Salas stepped down after the boycott fiasco of 1986, Benito Tiamzon took over the chairmanship for a short while, and after that Joma Sison became anew the chairperson.

#### 10. Testimony Benito (Advice chamber pv 269)

Of all rules, programmes and orders that come from the Central Committee everybody knows that these come from Joma. That is a by itself standing fact. On the orders it says from who to who the order is directed to. Also it says what

is expected from us. Central Committee gives the order. Everybody knows that that is from Joma. At the top it says: "Mula Sa: Komite Sentraal ng CPP".

11. Internal document "Reaffirm our Basic Principles and Rectify the Errors (advice chamber pv 97)

This piece was made by Armando Liwanag, Central Committee, CPP on 26 december 1991 and was found in the officebuilding of the NDF at the Amsterdamsestraatweg 50 in Utrecht (advice chamber pv 3)

12. A verbal-process regarding the finding of documents at the Amsterdamsestraatweg 50 (advice chamber pv 140) and verbal-proces documents found Abcoude (advice chamber 172)

In one of the residential layers above the officebuilding pieces have been found that have, amongst other, relation to uranium. These pieces were directed to the KT/KS. KT/KS means the Executive Committee of the Central Committee (advice chamber pv 4).

In the residence of Dan Borjal, consultant NDF, also pieces have been found of the NPA and CC.

It is remarkable that these documents, directed to or coming from the CC were found in the Netherlands.

13. Publications in the Ang Bayan

From research of the National Detective office at different pieces it shows that Armando Liwanag from 1998 until surely december 26 2003 was the chairperson of the Communist party of the Philippines and therefore also the chairperson of the armed component, the NPA.

#### Pseudonym Armando Liwanag

From previous statements it becomes clear that Armando Liwanag was and is the chairperson of the CPP and the CC, but also that this name is an alias or pseudonym.

Different people testified on the other hand who hides behind that pseudonym and that is not Benito Tiamzon, as the suspect assumes to the judge-commissioner. Hereafter I shall mention only few of these testimonies.

1. Testimony Cruz

From 1987 Jose Maria Sison uses the name Armando Liwanag until the present. I have once read a document where it says the name Jose Maria Sison aka Armando Liwanag. At the bottom the name Jose Maria Sison aka Armando Liwanag with a signature through it. I do not think I have such an example in my possession. I had to give back the example to the course leadership.

2. Testimony Salazar Alonzo (arraignment pv 296)

The verbalizers asked him if Jose Maria Sison still have other names. Salazar Alonzo answered: "Yes for sure, Armando Guerrero and Armando Liwanag."

3. Testimony Pabalan (arraignment pv 305, 308)

He literally testified: "The people who chose for Joma and such Armando Liwanag were called the "Reaffirmist" and the people who chose for Romulo Kintanar were the "Rejectionist". He testified further: "Armando Liwanag is the sheltername of a mister called Joma and that is chairperson of the CPP. His real name is Sison..."

4. Testimony Tabara (arraignment pv 342)

My husband, as member of the bureau knew that Armando Liwanag is another name of Jose Maria Sison."

5. Testimony Kintanar (arraignment pv 362)

In 1962 Sison was released, after the fall of Marcos. After that he used the name Armando Liwanag. I heard that from my second husband, Rolly Kintanar.

6. Testimony Bautista Guevarra (arraignment pv 381)

When he was released Sison was again appointed chairperson of the CPP and he then started using the sheltername Armando Liwanag. I myself was not there when it was talked about that Sison went to use the name Armando Liwanag. This was talked about during a meeting of the Central Committee of the CPP. Of this meeting minutes were made. It is said in the minutes that Sison is reappointed to the chairpersonship of the CPP. It does not mention that Sison uses the sheltername Armando Liwanag. That may never be placed in the document. The initials A. L. are in the minutes. It says that ka AL is rechosen to the chairpersonship of the CPP. The verbalizers ask him how he knows that A. L. stands for Armando Liwanag and that this is the sheltername of Sison. Bautista Guevarra testifies: I have heard this from colleagues that are members of the CPP. The fact that Sison is still the chairperson under the name Armando Liwanag is also being confirmed by other people. That is confirmed to me by, to mention a few, Frank Realiza and the late mister Kintanar.

## 7. Testimony Quitariano

The verbalizers ask him to be more specific about the relation between Joma Sison and Armando Liwanag. Quitariano testifies: "I am convinced holy that it's about one and the same person, because in the absence of somebody who pretends to be chairperson, he must be the chairperson."

## 10. Testimony Quimpo (advice chamber 237)

Armando Liwanag was the pseudonym of Joma Sison. I know this because Sison wrote several documents under this name and this he talked about with me and other in Netherlands based leaders and members. Sison is the chairperson of the CPP.

If people from the outside, for example from a party from abroad visited, then Sison was being introduced as the chairperson. This happened at at least 10 occasions where I was present. Both names were being used and introduced. But it was very vlear for the others that Armando Liwanag was an alias, an underground name, used by Sison (1st hearing). In Liege/Luik Sison was present as chairperson of the CPP, whereby he used the pseudonym Armando Liwanag (2nd hearing).

## 8. Testimony Vitus y Viscara (advice chamber 266)

I remember that there was another name used by Joma. This is the name Armando Liwanag.

### Grave objections

If you look at these evidences in their interconnection and coherentness then it is the opinion of the persceutors office that there is enough testimonies en enough other evidences that Sison uses the pseudonym Armando Liwanag en that during the time of the murders (and still now) is the chairperson of the CPP and the CC. It also shows from the evidences that the CC takes the decisions about the executions and also took the decisison about the murder on Tabara and Kintanar. From that Sison can be penalwisely held responsible for the murders.

That Sison and the NDF do not interfere with the (daily) business of the NPA on the Philippines is being rebutted with the documents found in the NDF and Dan Borjal found documents.

### Grounds

Hereafter the grounds for the temporary incarceration will be discussed.



### Danger of flight

According to the defense there is no danger of flight, because Sison cannot leave the Netherlands and he has a steady living and residence quarters.

The ECHR had determined that the following can be relevant when it comes to the danger of flight:

"Relating to the character of the person involved, his moral, his home, his occupation, his assets, his family ties and all kinds of links with the country in which he is being prosecuted."

(ECHR 27 June 1968, Series A 8 Neumeister)

Reijntjes stated that it's not required for the prosecutors office to show concrete intention for flight/

(J. M. Reijntjes, loose papered publication Melai, note 4 with article 67a penalprocess)

From the dossier it shows that Sison has got many contacts with people outside the country. He regularly leaves the country in the framework of the peace negotiations. This in combination with the fact that his ties with Netherlands are not strong, a serious danger of flight must be feared.

Furthermore from the documents that have been found during the searches it shows that the organization of which Sison is part of can possess large amounts of money.

### Shocked rule of law

The councillor has stated that on the basis of jurisprudence of the ECHR concrete facts and evidence must be presented to show that the release of Sison will cause unrest in the Netherlands.

The prosecutors office is of opinion that the release of Sison will also shock the rule of law in the Netherlands. In the Netherlands a lot of attention was devoted to the arrest of Sison. In several newspapers there was an extensive mentioning of the arrest and also the NOS journal spent time on the case. Even the detention of Sison was news. The murders were furthermore committed at the moment that Sison resided in the Netherlands.

In the literature and in the jurisprudence I furthermore have found no leads about that the shocked rule of law must exclusively be the Dutch rule of law. Against the position of the councillor the Dutch law about the shocked rule of law does not

saw about the shocked rule of law in the Netherlands. As it also seems to be confirmed by the defense the rule of law in the Philippines is at the very least severely shocked by the murders.

### Repeating grounds

With regards to repeating grounds Reijntjes stated the following:

"The nature of the presumably done fact, personality of the suspect and his judicial past play an contemplatory role."

(J. M. Reijntjes, a. w., note 8 with article 67a penalprocess)

The councillor admires from the judge-commissioner the attempt of the officer of justice to make something out of the grounds for repeat, but then speaks about an circle-argumentation.

The prosecutors office is of opinion that repeatition can be feared because there are serious objections existing that Sison committed the punishable fact from an ideological conviction, and that is why repeatition must be seriously feared. This can, seen what Reijntjes stated, most definitely play a role.

### Grounds for research

In the framework of the investigation several investigation acts must still be done, like the hearing of the witnesses. On 5 september the prosecutors office asked the judge-commissioner to hear a few witnesses on this case, some of which the shooters, Benito Tiamzon and his wife and a few other witnesses.

It is of importance of the investigation that Sison will not be given the opportunity to influence these witnesses and from the detention this will be made increasingly difficult.

### Health situation

The defense put a request with the judge-commissioner to suspend the temporary detention in relation to the bad health condition of Sison. The defense has handed over a doctor's testimony to the judge-commissioner.

With the judgement of the request for dismissal your court must decide if it is to the interest of society to hold Sison longer more important then his personal interest to be set free.

With regards to the health situation of Sison the prosecutors office wishes to remark the following. Contact has been made with the employee of the medical service of the detention center to give data on the health condition of Sison, also at the request of the defense. Untill today it does not show that Sison should be unfit for detention.

Seen these facts and the circumstances the interest of society, to the opinion of the prosecutors office, outweighs at this moment the personal interest of Sison. The request to suspend the temporary detention must be rejected.

### Conclusion

The prosecutors office persists with the process and processes rejection to the request for suspension of temporary detention.