

POLITICAL PERSECUTION OF PROF. JOSE MARIA SISON through and in the legal fora

*(Prepared only for purposes of
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I. OVERVIEW (1)

- "Prof. Sison has been subjected to a prolonged series of persecution by the Dutch government in collaboration with the US and Philippine governments."

"The Dutch government has used patently false charges from the Philippine and US governments to deny him admission as refugee:

- In violation of the Refugee Convention
- In disregard for his recognition as a refugee by the Office of the High Commissioner for Human Rights and Amnesty International
- In contempt of the repeated decisions of the Raad van State recognizing him as a refugee in 1992 and 1995 and extending to him in 1995 the protection of Article 3 of the European Convention of Human Rights.

"The Raad van State has explicitly ruled that:

- it is against the principle of fair administration to use secret dossiers against him and that
- nevertheless the secret dossiers shown to the court have not amounted to sufficient evidence against him."

"The Raad van State has ruled that the Dutch government has no choice but to admit him as a

refugee and grant him residence."

"Despite ...

- the 1995 ruling of the Raad van State,
- the GRP certification in 1998 that there is no pending criminal charge against him, and the
- absence of any formal charge against him by any government,

...the Dutch government has continuously slandered and demonized him as someone culpable for 'crimes against humanity', 'acts of terrorism' and 'contacts with terrorists' in order to bar him from employment commensurate to his qualifications and curtail his basic human rights."

"Under the baton of the US, the Dutch government has...

- frozen the joint bank account with his wife and
- terminated the social benefits for his essential human needs.

"In the process, it has...

- violated his basic human rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), particularly Articles 3, 6, 8 and Article 1 of the First Protocol and
- put his life and personal integrity at risk through official

pronouncements inciting hatred against him. x x x "

II. REVIEW OF LEGAL CHRONOLOGY

- 1977: Arrest, torture and detention up to 1986, mostly in solitary confinement
- 1986: Invalidation of subversion and rebellion cases in Marcos' military tribunal
- 1987: Cancellation of passport
- 1988: False criminal charge of subversion filed
- 1988: Application for Asylum
- 1990: 1st Negative Decision of the Dutch Justice Ministry denying asylum application
- 1991: Successful HR litigation against Marcos in the US
- 1992: 1st Favorable Landmark Decision of the Raad van State –Highest Dutch Administrative Court declaring him a political refugee according to the Article 3 of the Refugee Convention - (Sison I)
- 1993: 2nd Negative Decision of Dutch Justice Ministry (with Explicit References to Foreign Interference) refusing to accept Sison I
- 1995: 2nd Favorable Landmark Decision of the Raad van State declaring him again a political refugee as he has a well-grounded fear of persecution and is covered by the protection of Article 3 of the European Convention for the

Protection of Human Rights and Fundamental Freedoms (EVRM); he must be given asylum status and a permit to stay, should there be no 3rd country where he could go to - (Sison II)

- 1996: 3rd Negative Decision of Dutch Justice Ministry and Expulsion Order
- 1997: Decision of the REK (Law Unity Chamber) of the Newly-Created Aliens Court (with positive and negative aspects, with the latter to undermine Sison II)
 - > "hairsplitting between RECOGNITION and ADMISSION as refugee
 - > "disemboweling the absolute protection of Article 3 of ECHR (protection from torture and from inhuman and degrading treatment or punishment)
 - > "circumventing the pertinent provision in the Refugee Convention
 - > "making someone a 'TOLERATED ALIEN' and putting him in legal limbo" (1)
- 1998: Appeal to European Court of Human Rights GRP
- 1998: Certification of no pending criminal charge against Sison
- 1998: Denial by the Dutch Justice Ministry of Permit to Work
- 2002: Negative Decision by Rotterdam District Court of Permit to Work
- August 9, 2002: US State Department Listing of CPP/NPA as FTO

(1) any foreign organization

(2) that engages in any terrorist activity

(3) where such activity threatens the security of U.S. nationals or the national security of the United States.

"National security" = "the national defense, foreign relations, or

economic interests of the United States." (AEDPA, Section 302(a))

- August 12, 2002: US Treasury Department OFAC Listing of CPP/NPA and Sison

- August 13, 2002: Dutch *Sanctie Regeling tegen Terrorisme* Listing of Sison

>Balance of JMS' joint account with wife: 1,145.46 euros (approx. P50,000.00) consisting of social benefits

>Stopped health insurance and TPL insurance payments

>Stopped payment of house rent resulting in notice to vacate

- October 28, 2002: Sison listed in EU Council List of "Terrorists"

- 2002 onwards: Administrative and Court Hearings in the Netherlands on

>Freezing of Bank Accounts/Allowance –Dutch Ministry of Finance

>Denial of Permit to Work –

>Re Social Insurance/Pension - SVB

>Notice to Leave Apartment - Central Organ for the Reception of Asylum Seekers (COA), IND, Ministry of Justice

>Denial of Laissez Passe' (Travel Document outside the Netherlands) –Dutch Ministry of Foreign Affairs

- February 6, 2003: Sison Application against the European Council before the European Court of Justice in Luxembourg (Main Case; Court of First Instance)

>Violation of right to due process

>Violation of right to know the nature and cause of the

charges

- > *Violation of presumption of innocence*
- > *Violation of right to present evidence in one's defense*
- > *Violation of right to an impartial tribunal/court*
- > *Violation of right to examine evidence used against him*
- > *Violation of right to confront one's accusers and to cross-examine witnesses against him/her*

"Situation of a listed "terrorist"

- *Designation made by executive official for political consideration*
- *Use of secret files to justify designation*
- *No opportunity to confront accusers or to cross-examine*
- *No right to defend one's self before the designating official" (2)*

- April 25, 2003: Appeal for Access to Documents re (Auxillary Case; Second Chamber of the Court of First Instance) –after his lawyers have demanded 3x that they have access to any such documents used purportedly to put him on the list

:EU refused, saying that it would endanger "public security and the international relations of the EU"

- February 14, 2004: NDFP-GRP Peace Panels sign Oslo Joint Statement

"To resolve the outstanding issue of the 'terrorist' listing of the CPP/NPA and the NDFP Chief Political Consultant, effective measures shall be undertaken in consonance with the Hague Joint Declaration, JASIG, CARHRIHL and other bilateral agreements..."

" The panelists, consultants, staffers and other duly authorized

participants of said negotiations shall thereby be fully protected by the pertinent provisions of the Hague Joint Declaration, JASIG and CARHRIHL as well as the Amado V. Hernandez Doctrine on political offense...

"The GRP and the NDFP shall, jointly and separately, call upon the Government of the United States, the Council of the European Union and other concerned foreign states and governments, to support the efforts of the parties in resolving the outstanding issue of the 'terrorist' listing of the CPP/NPA and the NDFP Chief Political Consultant in order to advance and promote the peace negotiations and address the root causes of the armed conflict...."

- April 3, 2004: The NDFP-GRP Peace Panels signs The Second Oslo Joint Statement which reaffirmed the Oslo Joint Statement on effective measures undertaken to resolve the issue of 'terrorist' listing.
- August 9, 2004: Sison and CPP/NPA re-listed in US

III. UPDATES

- British and Dutch Governments have intervened in the Luxembourg Case
- NDFP Negotiating Panel has intervened in the Luxembourg Case
- Both Sison and EU Council have submitted Rejoinders and Replies making it Ripe for Oral Procedure (Hearing)
- November 17, 2004: Luxembourg Court Oral procedure (Hearing) on Application for Access to Documents
- (The lawyer of the European Council was obliged to admit that it is the legitimate right of Prof. Sison to demand access to and scrutinize the documents used by the EU

Council as basis for putting him on the so-called terrorist list.)

- *“They call me a ‘terrorist’ but they don’t show the documents they claim as basis for putting me on the list and they cannot cite a single incident of so-called terrorism that they can supposedly associate me with.”*
- As of today, all administrative and the Utrecht court phases are finished and all have been decided in the negative. An appeal is being readied with the Raad van State
- Recent proposed legislation in the Netherlands penalizing with imprisonment “terrorist organizations” and those associating with them
- Renewed and vigorous implementation of a 7-year old Dutch law re arbitrary spot check on identification of aliens
- GRP Delegation’s January 2005 Tour of Norway, Netherlands, Belgium and Luxembourg for ceasefire and pressure on Sison – claims he “need not fear political persecution in the Philippines”
- JMC of the CARHRIHL has not convened since April 2004 to discuss the many cases filed because of refusal of the GRP and linking it to the formal peace talks with precondition of capitulation and pacification
- Peace Negotiations in peril?

IV. PROSPECTS

- Decision on Application for Access to Documents (Luxembourg case) expected June 2005 at the earliest

- Oral Procedure (Hearing) on Main Application (Luxembourg case) not yet scheduled
- Appeal to Raad van State re administrative and court cases (Dutch)
- Recourse to the European Court of Human Rights in Strassbourg, France (should Raad van State be in the negative)
- Illegal, Unjust, Repressive and Unfounded Threat of Extradition and Arbitrary detention under the US-Dutch Extradition Treaty

V. CONCLUSION

- Outstanding Questions: (1)
 - > “Inhuman and degrading treatment and punishment by depriving him of the means to essential needs (for more than one year already)
 - > “Deprivation of property that belongs to him
- “Violation of due process because arbitrarily listed as “terrorist” and punitive sanctions inhuman and degrading to him and threatening to his life are inflicted
- “Someone who is quite available for criminal investigation cannot be subjected by executive authorities to the stigma of being INDEFINITELY serialized as a suspect or otherwise for the heinous crime of “terrorism”
- “Right to private and family life violated” (1)
- Violation of Hague Joint Declaration, JASIG, CARHRIHL, Hernandez Political Offense Doctrine

- *“Not even the Dutch government or the European Union can force my return to the Philippines because as a recognized political refugee I am protected by the Refugee Convention and by Article 3 and entirety of the European Convention for the Protection of Human Rights and Fundamental Freedoms.”*

- Legal battles intertwined with political and diplomatic pressures by the GRP and the US and its cohorts and with the status and developments in the peace negotiations between the NDFP and the GRP

WHO IS THE REAL TERRORIST?

References:

- (Outline of) *“Persecution of Sison”, Tentative Book Title as of 14 October 2004*
- *“Listed, therefore Terrorist”, Jayson Lamchek, Powerpoint Presentation, 2004*