

OPINION No. 4/2000 (PERU)

Communication addressed to the Government on 29 February 1996 (Interim decision dated 3 December 1996, Decision No. 43/1996)

Concerning Sybila Arredondo Guevara

The State is a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights, which extended and clarified its mandate in resolution 1997/50 and reconfirmed it in resolution 2000/36. In accordance with its methods of work, the Working Group transmitted the above-mentioned communication to the Government.
2. The Working Group expresses its appreciation to the Government for having provided the information requested promptly and in full.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);
 - (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
 - (iii) When the complete or partial non-observance of the international standards relating to a fair trial set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto.
5. This case, described below, was presented to the Working Group as follows: Sybila Arredondo Guevara, an anthropologist of dual Chilean and Peruvian nationality, born in 1935, was allegedly detained in 1983 in Lima and accused of collaboration with Sendero Luminoso, terrorism, assisting Sendero Luminoso and financing subversive activities. Ms. Arredondo was allegedly sentenced to 12 years' imprisonment; the judges who tried her case, as well as the prosecutor, were hooded; the prison terms to which she was sentenced were to be served consecutively and no release date was fixed. The Group was also informed that

Ms. Arredondo has been cleared in two of the three legal proceedings still pending. According to the source, Ms. Arredondo is detained in extremely harsh conditions in the women's prison "Penal de Santa Mónica" in Chorrillos, Lima, and her state of health is a source of considerable concern.

6. Having been consulted, the Government informs the Group that Matilde María Sybila Arredondo's state of health is normal. This is the conclusion reached by Dr. Aldo Poma Torres, the forensic physician who visited her in the company of Dr. Ana María Calderón Boy, Provincial Prosecutor of the 30th Provincial Criminal Prosecution Office of Lima, on 23 August 1996.

7. With reference to Ms. Arredondo's legal situation, the Government states that she was sentenced to a 12-year custodial sentence, that an appeal for annulment was lodged and referred to the Criminal Division of the Supreme Court on 10 June 1996, with the prosecution contending that no grounds for annulment existed, and that a final judgement is pending. Concerning case No. 98-93 she was sentenced to 15 years' imprisonment and an appeal for annulment was lodged and has been with the Criminal Division since 12 August 1996, and in case No. 237-93 she was acquitted in a judgement of 28 September 1995, pending referral to the Supreme Court.

8. On 3 December 1996, the Group decided to keep the case pending until it had carried out its planned visit to Peru, which would provide it with the necessary background information, in accordance with its methods of work.

9. During its visit to Peru in February 1998, the Working Group met with Ms. Arredondo Guevara. Having obtained no new information during that meeting, the Group attempted to obtain further clarifications concerning the case and was informed that the case of Ms. Arredondo Guevara had been transmitted to the Human Rights Committee on 17 November 1995, under the Optional Protocol to the International Covenant on Civil and Political Rights, and had been considered by the Committee and transmitted to the Government on 16 April 1996.

10. The Working Group has ascertained that the case is being considered by the Human Rights Committee, on the basis of the same facts and allegations as the communication received by the Group. Pursuant to paragraph 25 (d) of its methods of work, the Group decides to transmit the case of Ms. Arredondo Guevara to the Human Rights Committee without expressing an opinion on the arbitrary nature of the detention.

Adopted on 16 May 2000