

## HUMAN RIGHTS COMMITTEE

### Arredondo v. Peru

Communication No 688/1996\*

27 July 2000

CCPR/C/69/D/688/1996

### VIEWS

*Submitted by:* Ms. Carolina Teillier Arredondo

*Alleged victim:* Mariía Sybila Arredondo

*State party:* Peru

*Date of communication:* 17 November 1995 (initial submission)

*Prior Decisions:* Special Rapporteur's rule 91 decision, transmitted to the State party on 16 April 1996 (not issued in document form) CCPR/C/64/D/688/1996 - Decision on admissibility adopted on 23 October 1998

*Date of Present Decision:* 27 July 2000

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 23 October 1998,

Having concluded its consideration of communication No. 688/1996 submitted to the Human Rights Committee by Ms. Carolina Teillier Arredondo, under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the author of the communication, her counsel and the State party,

Adopts the following:

### **Views under article 5, paragraph 4, of the Optional Protocol**

1. The author of the communication is Ms. Carolina Teillier Arredondo, daughter of Ms. María Sybila Arredondo, who is a Chilean national and Peruvian citizen by marriage, a widow, and currently imprisoned at the High-Security Prison for Women in Chorrillos, Lima (Peru), where she is serving several sentences for terrorist activities. The author is submitting the communication on behalf of her mother, who for technical reasons is unable to do so herself. She claims that her mother is the victim of violations by Peru of the International Covenant on Civil and Political Rights, more specifically of articles 7; 9, paragraphs 3 and 4; 10, paragraphs 1 and 3; and 14, paragraphs 1, 2, 3 (b), (c), (d) and (e), 6 and 7, of the Covenant.

#### The facts as submitted by the author

2.1 Ms. Arredondo had been arrested for the first time on 29 March 1985 (Case No. 1), in Lima. At that time she had been accused of terrorist activities, including possession and transport of explosives. She had been acquitted of the charges and released after two trials, for which judgements were passed in August 1986 and November 1987.

2.2 At the time of her re-arrest on 1 June 1990 (Case No. 2), Ms. Sybila Arredondo was working as a human rights advocate in Lima, specializing in aid to indigenous groups.<sup>1</sup> She was arrested in the building where she worked, together with several people connected with the terrorist organization Shining Path (Sendero Luminoso).

2.3 Ms. Arredondo on arrest was accused of being a member of Socorro Popular, an organization which is allegedly a support unit of Sendero Luminoso, and sentenced to 12 years' imprisonment by a "faceless court" (tribunal sin rostro) (File No. 05-93). In a legal opinion prepared by counsel for Ms. Arredondo's defence, it is stated that she was convicted on the basis of her mere physical presence in the building at the same time as several members of Sendero Luminoso were arrested by the police. None of the other co-defendants accused her, nor were there any witnesses against her, nor any expert evidence which incriminated her. Counsel accepts that at the time of her arrest Sybila Arredondo was carrying a false electoral card (libreta electoral). In her submission the author provides a legal opinion by a Lima counsel where he states: "with regard to the allegations against Mrs. Sybila, it is regrettable that nothing whatsoever has been done to clear her nor to refute the allegations against her. No evidence in her favour was put forward and what is more she did not respond to any questioning by the police or before the Judge, and this was the way other people involved had acted, which gave the impression that they all acted in a concerted manner since they allegedly belonged to the same organization".

2.4 In May 1992, while she was in detention, proceedings (Case No. 3) were initiated against Ms. Arredondo for her participation in events which had occurred in the first week of May 1992, when the police had intervened at Miguel Castro Castro prison. The prosecution asked for a life sentence, in accordance with the new Peruvian anti-terrorist legislation. She was acquitted in October 1995, also by a "faceless court" (File No. 237-93).

2.5 Case No. 1, for which she had been tried in 1985, was reopened in November 1995 before a "faceless court" and she was sentenced to 15 years' imprisonment on 21 July 1997 (File No. 98-93).

2.6 Appeals were lodged in all three proceedings, twice by Ms. Arredondo on being convicted and

once by the prosecution. The author acknowledges that domestic remedies have not been exhausted with respect to the criminal proceedings against her mother. She considers, however, that the proceedings have been unduly prolonged.

### The complaint

3.1 The author claims that prison conditions are appalling, and that the inmates are allowed out of their 3 x 3 metre cells only for half an hour each day. They are allowed no writing materials, unless expressly authorized. Ms. Arredondo has been given permission to write three letters in the last three years. Any books brought to the prisoners are strictly censored and there is no guarantee that the prisoners will receive them. They have no access whatsoever to magazines, newspapers, radio or television. Only inmates on the first floor of B wing are allowed to work in workshops; as Ms. Arredondo is on the second floor, she is only permitted to do very rudimentary jobs. The quality of the food is poor. Any food supplies or toiletries have to be handed to the authorities in transparent bags, and no tinned or bottled products are allowed into the prison. Any medication, including vitamins and food supplements, has to be prescribed by the prison doctor. Many inmates suffer from psychiatric problems or contagious diseases. All inmates are housed together and there are no facilities for the sick. When inmates are taken to hospital, they are handcuffed and fettered. Inmates are allowed only one visit a month from their closest relatives. Visits are limited to 20 to 30 minutes. It is claimed that, according to Peruvian legislation, inmates are entitled to one visit a week. There is also a provision for direct contact between the prisoners and their children or grandchildren once every three months. Children have to enter the prison on their own, and the persons accompanying them must leave them at the prison entrance. Ms. Arredondo is visited once a month by her daughter and once every three months by her 5-year-old grandson; however, due to police controls applied to adult visitors, the two elder grandchildren (17 and 18 years old) do not visit her since by so doing they would acquire a police record.

3.2 The author claims that the judicial proceedings (in courts of "faceless judges") brought against her mother are not in conformity with article 14 of the Covenant. She also complains of the dilatory nature of the proceedings.

3.3 It is stated that the same matter is not being examined under another procedure of international investigation or settlement.

### State party's observations and comments on admissibility

4. In its submission of 12 August 1997, the State party challenges the admissibility of the case on the grounds that domestic remedies have not been exhausted and that the victim's daughter is not legally entitled to submit the case on behalf of her mother. On the basis of the copies of two newspaper articles published in Chile, following the visit by several Chilean parliamentarians to Ms. Arredondo, the State party further claims that the latter does not desire favourable treatment and that she is prepared to wait for her case to be resolved.

5.1 In her comments on the State party's submissions, the author of the communication informs the Committee that she is in fact acting on behalf of and with the knowledge of her mother, because the latter is prevented from doing so herself. She again refers to the restrictions imposed on her mother

in prison regarding visits, contact with the outside world, writing materials, etc.

5.2 With respect to the State party's claim that domestic remedies have not been exhausted, the author reiterates that her mother was arrested in 1985, accused of terrorism, tried and twice acquitted. After being re-arrested in 1990, the 1985 trial was reopened in 1995. In 1997, she was sentenced to 15 years. An appeal before the Supreme Court is still pending. The author therefore requests the Committee to consider the communication admissible on the ground of undue delay in domestic remedies caused by the State party. Ms. Arredondo was also sentenced to 12 years' imprisonment for belonging to Socorro Popular, a sentence which she is currently serving. She was acquitted of the accusation of taking part in the events at Miguel Castro Castro prison in May 1992, but an appeal was lodged against her acquittal by the Public Prosecutor and the matter is still pending.

5.3 The author reiterates that the treatment received by her mother in prison constitutes violations of articles 7 and 10 of the Covenant. By a letter of 28 September 1998, which was transmitted to the State party on 1 October 1998, Ms. Teillier also reiterates and gives more information about the circumstances surrounding the arrest of her mother, who was detained without a judicial warrant in violation of article 9 of the Covenant, and states that the trials which she has undergone have not complied with the requirements and guarantees laid down in article 14 of the Covenant.

#### The Committee's decision on admissibility

6.1 At its sixty-fourth session in October 1998, the Committee examined the admissibility of the communication and ascertained, as required under article 5, paragraph 2 (a), of the Optional Protocol, that the same matter was not being examined under another procedure of international investigation or settlement.

6.2 On the question of the requirement concerning the exhaustion of domestic remedies, the Committee noted the State party's challenge of the admissibility of the communication on the ground of failure to exhaust domestic remedies. The Committee referred to its case law, in which it had repeatedly found that, for the purposes of article 5, paragraph 2 (b), of the Optional Protocol, domestic remedies must be effective and available, and must not be unduly prolonged. The Committee considered that, in the circumstances of the case, the remedies had been unduly prolonged. Ms. Arredondo was arrested in 1990 and tried for several offences, one of which dated back to 1985, and for which she had already twice been acquitted. By 28 September 1998, the case had still not been resolved. The Committee accordingly found that article 5, paragraph 2 (b), did not preclude consideration of the complaint.

6.3 With regard to the author's claims that the conditions in which her mother is detained constitute inhuman and degrading treatment in violation of articles 7 and 10 of the Covenant, the Committee found that these claims had been sufficiently substantiated for the purposes of admissibility and should be considered on their merits.

6.4 The author stated that her mother's arrests had not been effected in accordance with domestic legislation and were therefore in violation of article 9 of the Covenant. The Committee considered that this claim should be examined on its merits as it might raise issues under article 9 of the

Covenant.

6.5 With regard to the claims that the author's mother had undergone trials which did not comply with the guarantees laid down in article 14 of the Covenant, the Committee noted that she had been tried by a special military court. It further noted the State party's position to the effect that the criminal proceedings against her had been conducted, and were continuing to be conducted, in accordance with the procedures established by the anti-terrorist legislation in force in Peru. However, the question is whether these proceedings were in conformity with article 14 of the Covenant. This point should be considered on its merits.

#### The State party's observations and the author's comments

7.1 In its submission dated 4 August 1999, the State party requested a review of admissibility since it considers that the victim's daughter lacks competence to submit the case on her mother's behalf; it takes the view that the victim could herself have communicated with the Committee without difficulties of any kind. Alternatively she could, in its opinion, have given her daughter express authorization or have sent such authorization through her lawyer or her son, who is resident in Chile and has visited his mother in prison. In its submission, the State party says that Ms. Arredondo's son has never indicated that his mother wished to submit a case to any international body.

7.2 The State party maintains that the author's submissions are the same as those presented to the Working Group on Arbitrary Detention on 29 February 1996 and the fact that the Working Group has not issued an opinion means that it did not find the detention to have been arbitrary. The State party accordingly concludes that there has been no arbitrary action. It requests the Committee, in conformity with the non bis in idem principle, to declare the communication inadmissible.

7.3 The State party further submits that, if the Committee, despite the submissions presented with the aim of declaring the case inadmissible, considers that it should continue with the case, it could only do so in respect of the proceedings still under way against Ms. Arredondo. In these proceedings a decision has still to be reached on an appeal for annulment and a delay in the administration of justice would have to be admitted; the question arising would be whether or not the delay has been justified. In the State party's view, the causes relate to the redress sought by communication No. 688/1996 and to the principal objective of obtaining a decision by the Committee recommending the Peruvian State to release Ms. Arredondo on the ground that in the proceedings against her in the internal courts the guarantees of due process have not been observed. In this respect, the State party recalls that three judicial proceedings were initiated against Ms. Arredondo: in one she was acquitted at final instance, in the second a decision on an appeal for annulment (of the 15-year prison sentence) is pending, and in the third she was sentenced to 12 years' imprisonment. She is currently serving this sentence in the special high-security prison for women in Chorrillos. In the State party's view, the aim of the present communication is to obtain a decision annulling the pending proceedings against her on the ground of "unjustified" delay in the administration of justice and to secure her subsequent release; the Peruvian State would thus have to annul the pending proceedings and initiate other proceedings, or declare her case closed. The State party points out that, if this course were followed, there would be no change in Ms. Arredondo's situation since, as has been stated, she is serving a 12-year sentence. If the third judgement were confirmed, this would be combined with the current sentence and Ms. Arredondo would remain in prison until she completed

the 15-year sentence requested in the second of the proceedings against her.

7.4 The State party submits that the trial in which Ms. Arredondo was sentenced conformed to the guarantees of due process and, at the national level, there have been no complaints, denunciations or appeals on the ground of alleged irregularities in the conduct of the trial. In addition, it has not been proved in this international body that there have been violations of guarantees in the administration of justice.

7.5 As regards the claims concerning Ms. Arredondo's conditions of detention, the State party maintains that, according to the information provided by the National Prison Institute (INPE), the conditions complained of are those which were established when the problem of terrorism was at its height in Peru. Now that the situation has changed, it has been considered advisable to ease the prison regime for persons convicted of terrorist offences, and so Supreme Decree No. 005-97-JUS, of which Ms. Arredondo is a beneficiary, has entered into force. Since entering the Chorrillos high-security prison for women and in accordance with the assessments of the prison board, Ms. Arredondo has been held in maximum-security conditions. She is at present sharing a cell for two persons in B wing.

7.6 As to the number of family visits Ms. Arredondo has received, the State party points out that, during 1998 and up to the present time, she has been visited by her daughter and her grandson. She has also been visited by her mother and by her son by special arrangement, and has received a Christmas visit from her grandchildren living in Chile.

7.7 The special maximum-security regime (first stage) in force in B wing comprises the benefits provided for in the above-mentioned law and consists of "two hours' exercise, a one-hour visit in a visiting room on Saturdays for women and on Sundays for men, manual or craft work in their cells". The State party also asserts that, under this regime, those prisoners who show signs of progress in their rehabilitation treatment have access to the workshops supervised by INPE personnel.

7.8 The State party maintains that Ms. Arredondo is currently writing a book about her husband, and this invalidates the claim that she is being deprived of access to writing materials. Every day the personnel responsible for the security of women prisoners hand her pen and paper. In addition, the State party maintains that women prisoners are not prevented from watching television; they are even permitted to see videotaped films once a fortnight, and are allowed to read books and periodicals, which are checked for reasons of national security to ensure that they do not contain material relating to subversive topics. As to leisure activities, they attend sports events and dances and listen to music.

7.9 As to the claims relating to the quality of the food given to women prisoners, the food contains the necessary calories and proteins and is prepared by the prisoners themselves, who take it in turns to do this in groups. Their work is assessed and a prize is awarded as an incentive to the best group.

7.10 Concerning the claim that prisoners are not allowed to receive medicines without the authorization of the prison doctor, the State party maintains that this requirement is prompted by security considerations and is aimed at preventing poisoning by out-of-date or inappropriate medicines, medicines taken without medical prescription or consumed in excessive quantities, or

medicines which might in any other way endanger prisoners' health.

7.11 As to the claims relating to the treatment received by persons suffering from psychiatric problems, the State party says that it has a specialist who permanently evaluates the condition of women prisoners in this category and that they live in separate sectors in the various prison wings. They also receive work-therapy care in the open air in the countryside. Concerning the claims relating to contagious diseases, the State party says that there are few such cases and when they do occur, the necessary precautions are taken. On the question of the way in which prisoners are taken to and from hospital, transfers are effected in accordance with the directives of the Peruvian National Police (PNP). These directives are suited to the type of offence committed and are aimed at preventing escapes from treatment areas that might endanger other patients, since medical care is provided in public-sector hospitals.

7.12 Lastly, on the question of visits by children, according to the State party children are able to have direct contact with their relatives every Friday. On entering the prison, the children are taken by female PNP personnel to the place where they are to meet their relatives, who will be waiting for them, so as to prevent them from being frightened or mistakenly directed to other sectors. Adult relatives have an identification card in order to enter the prison; this establishes their relationship with the prisoner.

8.1 In her communication of 4 November 1999, Ms. Arredondo's daughter sent the Committee a certified photocopy of a general power of attorney and a handwritten letter signed by Ms. Arredondo supporting the proceedings initiated and pursued by her daughter on her behalf.

8.2 In her communication Ms. Teillier states that, although her mother does receive family visits, these take place in a visiting room with a double metal mesh between the prisoner and her relatives. There is no personal contact of any kind or any possibility of handing over any object. The relatives can only receive from the prisoners - after a mandatory examination by the guards - returned food receptacles and craft products. In addition, the relatives have to undergo a search before they are allowed to leave the prison. Visits by lawyers take place in the same conditions as visits by relatives.

8.3 As to the possibility of sending correspondence outside the prison, Ms. Teillier explains the procedure followed for this purpose. Once a week the women prisoners have to deposit any letter leaving the prison in a mail box in their wing. The letters are removed and checked by prison personnel. All the letters are read and not all of them survive this level of censorship. By way of example she states that, some weeks before, her mother had told her that she had deposited an envelope addressed to Ms. Teillier with the copy of the request concerning a health problem which her mother had sent to the prison governor. This letter never reached Ms. Teillier. Once the letters have been checked, on visiting days they are deposited in a box near the prison exit. The visitors collect the letters addressed to them and indeed any others, since nothing is done to ensure that they reach the correct addressee.

8.4 The author of the communication states that the complaint submitted on her mother's behalf relates specifically to the harsh prison conditions. She raises the question whether the representatives of the State party really believe that Ms. Arredondo can write and confidently send off her communications on this subject. She also says, as the State party itself has done, that all persons

found guilty of terrorist offences, including Ms. Arredondo, are subject to continuing assessment by the prison board set up by the prison authorities. This board can easily consider complaints to be tantamount to "bad behaviour".

8.5 As to the second question regarding consideration of the case by more than one international body, Ms. Teillier says that, although the Working Group on Arbitrary Detention established by the United Nations Commission on Human Rights may indeed have transmitted to the Peruvian State a number of complaints including one concerning Ms. Arredondo (widow), she is unaware of such a communication. Concerning the logical assumption mentioned in section 12 of the State party's communication to the effect that the Working Group "did not consider the detention of Ms. Arredondo to be arbitrary", she believes this interpretation to be far-fetched. The author suggests that it could be more accurately assumed that note was taken of the "dual consideration" and consequently any further action was suspended.

8.6 As to the "ultimate aim", the author states that this is not necessarily to "reach a decision annulling the pending proceedings", i.e. the proceedings which began 14 years ago in 1985, but rather to ensure that the Supreme Court takes a decision. She reiterates that if the Supreme Court confirmed the 15-year sentence handed down in July 1997 (two years and three months before), her mother would be eligible for the prison benefits corresponding to the legislation of that time. These benefits would allow her to leave prison since the 12-year sentence would be subsumed under the longer sentence. And if this decision was not reached in the short term, it might happen that, having completed the 12-year sentence, she would be forbidden to leave prison or be arrested immediately and again subjected to the interminable trial proceedings.

8.7 On the question of the trial that led to a 12-year prison sentence, the author maintains that it is not true that no complaints, denunciations or appeals have been lodged at the national level, as the State party claims. The annulment appeal was lodged with the competent organs but was rejected. The fact of the matter is that there are no more organs to be appealed to. In this connection, the author recalls that this trial also took place in accordance with the 1992 legislation, under the faceless judges system.

8.8 As to conditions of detention, it is true that in Chorrillos they are not so harsh as they had been at the Callao Naval Base, Yanamayo and Challapalca, but they still constitute a punishment regime. In this connection she repeats that although she is able to visit her mother for one hour once a week on Saturdays, the visit takes place in a room where no direct contact is possible and they are unable to speak freely. When she visits her mother, she takes along some food to make up for the deficiencies in the prisoners' daily diet, due to the low budget allocation by the State. Since the appointment of the new prison governor, who is a National Police colonel, the introduction of food has again been restricted and a list of permitted products has been published.

8.9 On the question of the State party's statement that there are few cases of contagious diseases, the author says that in B wing alone there have been 15 cases of tuberculosis among approximately 100 prisoners. Three of these cases occurred during the second half of 1999. As an example of the difficulties existing with regard to health matters, the author explains that for several months her mother has been awaiting authorization from the prison governor to go to the hospital for x-rays on her knee. These x-rays have been requested by the prison orthopaedic physician and by the INPE

specialist (18 July 1999). Subsequently two medical committees have held meetings to authorize her mother's hospital visit, but by 4 November 1999 the visit had still not taken place.

8.10 The author states that, although the matter does not directly affect her mother, she cannot but dispute the information provided by the State party concerning the conditions in which women prisoners with psychiatric problems are held, since they are not separated from the rest of the prison population. Moreover, they receive no work-therapy care in the countryside. She regrets that the Committee has been misinformed on this point.

8.11 As to the claim that prisoners are not prevented from watching television and that they are allowed to watch films every two weeks, this is simply not true. They are allowed to watch films only when these are scheduled by the prison authorities. They are not allowed to watch the news or any other programme broadcast by local channels. Furthermore, they are still not allowed to listen to the radio or to read current periodicals or magazines. The introduction of books into the prison also continues to be restricted. As for the statement that there is a continuing policy, based on security considerations, of preventing prisoners from reading material that might contain subversive topics, the author wonders what is subversive about the official gazette El Peruano, which her mother was recently not allowed to receive.

8.12 Lastly, concerning visits by children to B wing, these take place on Sunday mornings but only occasionally are the children escorted by women warders. In any event, they enter the prison alone and are searched alone. In the author's opinion, this certainly has incalculable consequences for the children.

#### Consideration on the merits

9. The Human Rights Committee has considered the present communication in the light of all the information made available to it by the parties, as provided for in article 5, paragraph 1, of the Optional Protocol.

10.1 As regards the State party's claim concerning the lack of competence of Ms. Arredondo's daughter to take action before the Human Rights Committee, the Committee notes that it is in possession of adequate written authorization provided by Ms. Arredondo to her daughter (see para. 8.1 above) and considers that this is sufficient to enable her to act on her mother's behalf. It also considers that Ms. Teillier is acting after full discussion with her mother.

10.2 The Committee takes note of the claim of inadmissibility made by the State party on the grounds that the present communication is before another international procedure of investigation or settlement body, since the Working Group on Arbitrary Detention of the United Nations Commission on Human Rights has, at Ms. Arredondo's request, taken up the question. The Committee decides to reach no decision on whether this matter falls within the scope of article 2, paragraph 5 (a) of the Optional Protocol, since it has received information from the Working Group that it realized the existence of the present communication and has referred the case to the Committee without any expression of its views.<sup>2</sup>

10.3 On the question of whether Ms. Arredondo's arrest was carried out in conformity with the

requirements of article 9, paragraphs 1 and 3, of the Covenant, in other words, whether she was arrested on the basis of an arrest warrant, and whether or not, after being taken to police premises, she was promptly brought before a judge, the Committee regrets that the State party has not replied specifically to the allegation made, but has, in a general fashion, said that the detention and trial of Ms. Arredondo were conducted in conformity with Peruvian laws. The Committee considers that, since the State party has not replied to these allegations, due weight must be given to them and it must be assumed that the events occurred as described by the author. Consequently, the Committee finds a violation of article 9, paragraphs 1 and 3, of the Covenant.

10.4 As to the author's submissions concerning her mother's conditions of detention, contained in paragraph 3.1 and reiterated in paragraphs 8.3, 8.4 and 8.8-8.12 above, the Committee takes note of the State party's acceptance that the description of these conditions is accurate, and that they are justified by the seriousness of the offences committed by the prisoners and by the serious problem of terrorism which the State party experienced. The Committee furthermore notes Supreme Decree No. 005-97-JUS, as referred to above. It considers that the conditions of Ms. Arredondo's detention, especially in the earlier years and to a lesser extent since the Supreme Decree's entry into force, are excessively restrictive. Even though it recognizes the need for security restrictions, these always have to be justified. In the present case, the State party has failed to provide any justification for the conditions described in Ms Teillier's submission. The Committee subsequently finds that the conditions of detention infringe article 10, paragraph 1, of the Covenant.

10.5 As to the author's complaint that her mother did not have a trial affording the guarantees of article 14 of the Covenant because she was tried by a court consisting of faceless judges, it has taken note of the book "*Terrorismo: Tratamiento juridico, Instituto de Defensa legal, Lima, 1995, pp. 288-290*" on which the author has relied to describe the process of trial before faceless judge courts:<sup>3</sup> It takes note of the State party's statement that Ms. Arredondo's three trials were conducted in accordance with the national legislation in force at that time. It reiterates its jurisprudence to the effect that the trials conducted by the faceless courts in Peru were contrary to article 14.1 of the Covenant since the accused did not enjoy the guarantees provided by that article.<sup>4</sup>

10.6 As for the delays in the legal process, in violation of article 14, paragraph 3 (c), the Committee notes that the State party acknowledges a delay and that, despite instructions said to have been given to decide the case, the appeal on the reopened case remains unresolved. Given that the reopening, by the prosecution in 1995 of Ms. Arredondo's second acquittal of 1987, involves such unacceptable delays, the Committee finds that this constitutes a violation of article 14, paragraph 3 (c), of the Covenant.

11. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts as found by the Committee constitute violations of article 10, paragraph 1, of the Covenant as regards Ms. Arredondo's conditions of detention; of article 9 as regards the manner of her arrest; of article 14, paragraph 1, as regards her trial by a court made up of "faceless judges"; of article 14, paragraph 3 (c), with respect to the delay in the completion of the proceedings initiated in 1985.

12. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Ms. Arredondo with an effective remedy. The Committee considers that Ms.

Arredondo should be released and adequately compensated. The State party is under an obligation to ensure that similar violations do not occur in the future.

13. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views.

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\* The following members of the Committee participated in the examination of the case: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. P.N. Bhagwati, Ms. Christine Chanet, Lord Colville, Ms. Elizabeth Evatt, Ms. Pilar Gaitan de Pombo, Mr. Louis Henkin, Mr. Eckart Klein, Mr. David Kretzmer, Mr. Rajsoomer Lallah, Ms. Cecilia Medina Quiroga, Mr. Martin Scheinin, Mr. Hipólito Solari Yrigoyen, Mr. Roman Wieruszewski and Mr. Abdallah Zakhia.

#### Notes:

1/ By letter of 21 March 1999, the author informed the Committee that, although her mother had indeed been working as a human rights advocate at the time of her arrests, she was working on the compilation of the second part of the complete works of José María Arguedas.

2/ See opinion No. 4/2000 adopted on 16 May 2000.

3/ "The anonymity of the magistrates, as pointed out by the Goldman Commission, deprives an accused of the basic legal guarantees: an accused does not know who is judging him or whether the person is competent to do so (for example, if they have the necessary legal training and experience); an accused is deprived of the right to be tried by an impartial tribunal since he cannot recuse the judge [Report of the International Commission of Jurist on the administration of Justice in Peru, Instituto de Defensa Legal, Lima, 1994, p.67]".

4/ See Views No. 577/1994, para. 8 (8), Victor Polay Campos v. Peru, adopted on 6 November 1997.