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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its seventy-third session, 31 August-4 September 2015

Opinion No. 24/2015 concerning Gloria Macapagal-Arroyo (the Philippines)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. The Human Rights Council assumed the mandate in its decision 1/102 and extended it for a three-year period in its resolution 15/18 of 30 September 2010. The mandate was extended for a further three years in resolution 24/7 of 26 September 2013.
2. In accordance with its methods of work (A/HRC/30/69), on 17 March 2015 the Working Group transmitted a communication to the Government of the Philippines concerning Gloria Macapagal-Arroyo. The Government replied to the communication on 15 June 2015. The State is a party to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his sentence or despite an amnesty law applicable to him) (category I);
 - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
 - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);



(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. Ms. Arroyo is a 68-year-old national of the Philippines. From 2001 to 2010, she served as the President of the Philippines, and from 1998 to 2001, as its Vice-President. She is currently an elected member of the Philippines House of Representatives, representing the 2nd District of Pampanga.

5. Since 2011, Ms. Arroyo has been the subject of criminal investigations in seven separate matters relating to various allegations of plunder, poll fraud and violations of anti-graft legislation. Three of those cases have been dismissed, while four cases are ongoing. Ms. Arroyo is currently detained in relation to one of the cases, which was referred to by the source as the “Sweepstakes case”.

6. On 16 July 2012, Ms. Arroyo, with nine co-accused, was charged by the Sandiganbayan Court of Quezon City with conspiracy to commit plunder for the alleged diversion between 2008 and 2010 of approximately \$8 million from the Confidential Intelligence Fund of the Philippines Charity Sweepstakes Office. The charge was brought pursuant to section 2 of the Philippines Republic Act (RA) No. 7080. The source notes that conspiracy is governed in the Philippines by article 8 of the 1930 Penal Code (as amended). The source attests that the Sandiganbayan is a special court that hears cases involving alleged misconduct by public officials.

7. On 20 July 2012, a travel ban valid for 60 days was issued against Ms. Arroyo. On 26 July 2012, the Ombudsman requested that an arrest warrant be issued against her. On 3 October 2012, such a warrant was issued. A day later, Ms. Arroyo was arrested by the Philippines National Police in her hospital bed at the Veterans Memorial Medical Centre in Quezon City.

Application for bail

8. According to the source, after Ms. Arroyo’s arrest, her lawyers challenged the finding that there had been probable cause for the arrest, first before the Sandiganbayan trial court and then on appeal before the Supreme Court on 24 October 2012. The Supreme Court has not as yet ruled on that motion. A favourable ruling on the motion would lead Ms. Arroyo’s release.

9. Ms. Arroyo was arraigned and asked to enter a plea on 29 October 2012, but her bail position was not considered on that date. Given the likely delay in the trial, Ms. Arroyo’s lawyers then applied for bail before the Sandiganbayan trial court on 18 January 2013, with a supporting memorandum filed on 10 April 2013 referring to the weakness of the evidence against Ms. Arroyo.

10. On 6 June 2013, the Sandiganbayan Court granted bail to three of Ms. Arroyo’s co-accused in the Sweepstakes case on the basis that the evidence against them did not disclose sufficient proof of guilt. However, the Court did not address bail in Ms. Arroyo’s case. On

22 July 2013, Ms. Arroyo filed a further motion that the Court rule on her application for bail, arguing that the finding of insufficiency of evidence made for her co-defendants should also apply to her. The Court refused to consider the application for bail, and Ms. Arroyo filed another motion for bail on 24 October 2013.

11. On 5 November 2013, over one year after Ms. Arroyo's arrest and arraignment, the Court ruled on bail for the first time. The Court dismissed Ms. Arroyo's motion on the basis that, under applicable Filipino law,¹ an accused person cannot be released on bail for a "non-bailable" offence, such as plunder, if the Court finds that there is "strong evidence of guilt". Ms. Arroyo filed motions for reconsideration of that decision on 21 November 2013, 18 February, 21 April, 5 May and 30 June 2014, but they were all denied.

12. On 1 October 2014, the Court again considered the matter and based its decision exclusively on its view of the strength of the evidence against Ms. Arroyo, refusing to take into account the absence of any risk of flight, evidence-tampering or further offending by the accused, or her precarious health condition. According to the source, two of Ms. Arroyo's alleged co-conspirators were released on bail in 2014, even though they had previously absconded to avoid arrest for over two years. Ms. Arroyo's lawyers filed another motion to reconsider the denial of bail, but that motion was dismissed on 18 February 2015.

13. In total, Ms. Arroyo has already brought 10 motions seeking bail in the context of the Sweepstakes case and challenging court rulings that ordered her detention on remand.

14. In August 2014, Ms. Arroyo filed a demurrer in which she requested that her case to be dismissed immediately after the close of the prosecution case, for insufficiency of the evidence. There has been no ruling on that motion by the Court and Ms. Arroyo has been given no indication as to when such a ruling will occur. Ms. Arroyo has not been given any information by the authorities as to the date on which her trial will resume or the expected time frame for a final judgment to be handed down.

Arguments regarding arbitrary detention

15. The source argues that the ongoing detention of Ms. Arroyo is politically motivated and designed to remove a former President with no previous convictions from the political scene, particularly from her current elected position as a member of the House of Representatives.

16. The source attests that, because Ms. Arroyo has been charged with the offence of plunder, which carries a maximum sentence of life imprisonment, a court is required under section 13 of the Constitution of the Philippines to automatically deny bail if there is strong evidence of guilt. As a result, the Sandiganbayan Court is not permitted to consider relevant factors in the case, resulting in the detention of Ms. Arroyo being both unlawful and disproportionate. According to the source, relevant factors that should have been taken into account include whether there is a risk of flight by Ms. Arroyo, her health, her family ties, her position as an elected member of the House of Representatives and the likelihood of evidence-tampering or reoffending by Ms. Arroyo. The source further argues that Ms. Arroyo's detention is not justified as the prosecution failed to present strong evidence that she is guilty as charged.

17. The source submits that the detention of Ms. Arroyo is not reasonable, necessary and proportionate, as required by the jurisprudence of the Working Group. The source argues

¹ Section 13 of the Constitution of the Philippines 1987 establishes a presumption of bail in criminal proceedings but specifies that this does not apply to offences punishable by life imprisonment, provided there is strong evidence of guilt. In such cases, under the Rules of Criminal Procedure, an accused person shall not be granted bail.

that, in denying bail to Ms. Arroyo on an automatic basis, the Sandiganbayan Court failed to give any consideration to the possibility of applying less restrictive alternatives to pretrial detention, such as house arrest, reporting requirements, sureties or other limits on Ms. Arroyo's activities, and therefore did not assess whether Ms. Arroyo's remand in custody was reasonable and necessary in all the circumstances.

18. The source points to the fact that there was no periodic re-evaluation of the justification for continuing the detention of Ms. Arroyo, and that the rulings denying Ms. Arroyo's numerous requests for bail over a 10-month period from January to November 2013 effectively remanded her in indefinite detention. The source notes that the Sandiganbayan Court only considered and ruled on the possibility of release on remand in November 2013, over one year after Ms. Arroyo was arrested. The source also argues that Ms. Arroyo's right to be tried without undue delay has been violated.

19. For these reasons, the source argues that the detention of Ms. Arroyo violates articles 9 and 14 of the Covenant.

20. Finally, the source contends that the criminal prosecutions against Ms. Arroyo are politically motivated and persecutory in nature, thus constituting discrimination on the grounds of Ms. Arroyo's political or other opinions, and violating her right to equal protection of the law and her right to a fair trial under articles 2 (1), 3, 14 (1) and 26 of the Covenant. The source referred to the Government's defiance of court rulings to remove travel bans against Ms. Arroyo and its removal of judges involved in Ms. Arroyo's cases, the timing of the charges brought against Ms. Arroyo, certain comments made by public officials suggesting her guilt while she was still on trial, the different treatment applied to five of her co-accused who were released on bail despite the charges against all accused being based on the same set of facts and the evidence of one prosecution witness, and the delay and uncertainty as to when her trial will take place.

Current situation of Ms. Arroyo

21. According to the source, Ms. Arroyo suffers from a number of medical conditions, including a degenerative disease affecting her back that has required delicate spinal surgery and has resulted in swallowing difficulties and choking episodes. She has also been diagnosed with hypoparathyroidism. The source stated that, although Ms. Arroyo currently receives medical treatment for those conditions while in detention, her doctors are unanimous that the continued detention of Ms. Arroyo is worsening her medical condition and impeding a full recovery. Ms. Arroyo has attempted to travel abroad to receive a specialist medical treatment for the conditions that is not available in the Philippines, but was prevented from leaving the country by the Government, in defiance of a court order to lift the travel bans against her. Ms. Arroyo's previous requests for less restrictive conditions of detention on the basis of her deteriorating health, including a transfer to house arrest, have been denied.

22. At the time of the communication to the Working Group, Ms. Arroyo has been detained for a consecutive period of two years and four months and a total period of detention of over three years in relation to the various criminal cases brought against her. She remains in detention at the Veterans Memorial Medical Centre at the present time. According to the source, Ms. Arroyo was authorized to leave detention briefly on two occasions in late 2014 and returned to detention in a timely fashion on both occasions. Ms. Arroyo has not been convicted of any crime.

23. The Working Group notes that the source had originally requested that the communication be dealt with under the Working Group's urgent action procedure, because of the effects of detention on Ms. Arroyo's deteriorating health, and as a regular

communication. However, the source subsequently confirmed that Ms. Arroyo wishes the matter to be dealt with as a regular communication.

Response from the Government

24. The Working Group transmitted the above allegations to the Government on 17 March 2015, requesting it to provide by 17 May 2015 detailed information about the current situation of Ms. Arroyo and to clarify the legal provisions justifying her continued detention. On 1 May 2015, the Government sought an extension of 30 days until 16 June 2015 to allow for consultation among government agencies. The extension was sought in accordance with paragraph 16 of the methods of work of the Working Group.

25. In its response of 15 June 2015, the Government provided the Working Group with the information below.

26. On 4 October 2012, Ms. Arroyo's lawyers filed with the Sandiganbayan Court an urgent motion to place Ms. Arroyo under hospital arrest at the Veterans Memorial Medical Centre. During a hearing on 15 October 2012, the prosecution withdrew its opposition to the request for hospital arrest. Although there is no domestic legislation providing for hospital arrest or detention, the Sandiganbayan Court granted the motion for humanitarian reasons. The Government notes that Ms. Arroyo filed motions on various dates to leave the Medical Centre for personal reasons, to undergo medical testing in Manila, or to have her relatives join her at the Medical Centre. Most of the motions were granted, except for motions to attend purely social functions. The Government also referred to the Court's finding in relation to Ms. Arroyo's case that the Medical Centre was the best place for her to remain in detention, given her serious health status.

27. The Government cites article 124 of the Philippines Revised Penal Code, which provides that there is a legal basis to detain a person when there are reasonable grounds for suspicion that he or she has committed a crime. The Government argues that the plunder charge in the Sweepstakes case constitutes a legal basis to detain Ms. Arroyo. The Government notes that Ms. Arroyo has not filed a criminal case for arbitrary detention, which is a domestic legal remedy available to her.

28. In addition, the Government contends that, according to section 13 of the Philippines Constitution, the granting of bail in non-bailable offences depends on whether the evidence against the accused is strong. In the present case, the Sandiganbayan Court found that the evidence was strong, after affording due process to Ms. Arroyo to argue her case. The Government cited relevant parts of the Court's ruling that indicated that the weight of the evidence had been considered at length by the Court.

29. The Government also responded to Ms. Arroyo's claim that she had been discriminated against because there was no basis to treat her differently to her co-accused, who were released on bail owing to a finding of insufficient evidence. The Government notes that the Sandiganbayan Court ruled on each of the motions for bail after conducting hearings to determine whether the evidence of guilt of each of the accused was strong. In the present case, bail was denied to Ms. Arroyo and one of her co-accused, while three other co-accused were granted bail. The Government referred to relevant parts of the Court's ruling relating to the evidence against the co-accused and the reasons why they were released on bail.

30. The Government submits that the purpose of the communication from Ms. Arroyo is that the Working Group review a domestic court's appreciation of the evidence and its application of municipal law, which is beyond the mandate of the Working Group and amounts to interference with the judicial processes of a sovereign State.

31. In relation to the delays in concluding the proceedings against Ms. Arroyo, the Government presented a timeline that included a long list of motions filed on behalf of Ms. Arroyo between July 2012 and April 2015 and the responses from the prosecution. The Government argues that due process required the Sandiganbayan Court to carefully consider all of the motions, which were carried out within a reasonable period and in accordance with applicable Filipino laws on the right to a speedy trial. The Government submits that any delay was attributable to the numerous motions filed by Ms. Arroyo.

Further comments from the source

32. The Government's response was sent to the source on 16 June 2015 for comment. The source replied on 10 August 2015. The source clarifies that Ms. Arroyo's detention was arbitrary under categories II, III and V of the categories applied by the Working Group, as the source had not made reference to the categories in its initial submissions.

33. The source notes that the Government's reply: (a) fails to address the issues raised by Ms. Arroyo; (b) refers only to domestic law and does not address the allegations that it has not complied with the international standards set out in the Universal Declaration of Human Rights and the Covenant; and (c) does not dispute any of the factual assertions made by Ms. Arroyo. Accordingly, the source argues that this leaves the legal conclusions in Ms. Arroyo's complaint intact.

34. The source argues that the Government's response is irrelevant to Ms. Arroyo's complaint. The source notes the Government's references to the numerous motions filed by Ms. Arroyo to seek permission to leave the Veterans Memorial Medical Centre or to have her relatives spend time with her there, arguing that the fact that Ms. Arroyo was allowed to leave confirms that she poses no flight risk and has been wrongfully denied bail. The source argues that the Government's references to the evidence against Ms. Arroyo is irrelevant because, under international human rights law, whatever the strength of the evidence against her, this alone cannot justify a denial of her requests for bail. Finally, the source refers to the Government's reply in which suggests that the Working Group cannot comment on the propriety of bail. The source argues that, to the extent that this is a claim that Ms. Arroyo's complaint is inadmissible for failure to exhaust domestic remedies, no such requirement applies to complaints before the Working Group.

35. The source submits that the politically motivated nature of the criminal proceedings against Ms. Arroyo on the basis of her political or other opinions violates the guarantees of non-discrimination set out in the Universal Declaration of Human Rights, making her detention arbitrary under categories II and V of the categories applied by the Working Group. The source reiterates its earlier submissions in relation to the denial of bail, undue delay and the politically motivated nature of the charges and submits that Ms. Arroyo's detention was arbitrary according to category III of the categories applied by the Working Group.

Discussion

36. In regard to Ms. Arroyo's numerous applications for bail, the Working Group recalls that, pursuant to article 9 (3) of the Covenant, it shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings. As emphasized by the Human

Rights Committee, pretrial detention should be an exception rather than the rule and as short as possible.²

37. In Ms. Arroyo's case, the reason for denial of bail was the Court's finding of strong evidence of her guilt, for which there was no presumption in favour of liberty and no room for consideration – or reconsideration on a periodic basis – of Ms. Arroyo's individual circumstances.³ The fact that the Sandiganbayan Court made this determination in accordance with the provisions of the Constitution of the Philippines and other laws does not prevent the detention from being arbitrary.⁴ The mere conformity of a court decision with domestic law in itself cannot be used to justify the detention of an individual for over three years without conviction and in violation of international standards.⁵ Ms. Arroyo has been deprived of her liberty in violation of the principle that release must be the rule and provisional detention the exception, as provided for in article 9 of the Universal Declaration of Human Rights and article 9 (3) of the Covenant.

38. In addition, because the Sandiganbayan Court had determined that the charges against Ms. Arroyo involved a non-bailable offence for which there was strong evidence of her guilt, it did not consider any alternatives to her detention. In a previous case,⁶ the Human Rights Committee found that the State party must demonstrate that there were no less invasive means available of achieving the same ends of detention – that is, mitigating the risk of flight, interference with evidence or reoffending – that may arise from release on bail, for example, by the imposition of reporting obligations, sureties or other conditions.⁷ In the present case, there were other options open to the Court, including house arrest, which would have imposed less hardship in terms of Ms. Arroyo's health. The Working Group considers that the fact that Ms. Arroyo was detained in a hospital at her request and was allowed to leave at various points does not make her detention the least invasive option open to the Government. The detention was therefore arbitrary under article 9 of the Universal Declaration of Human Rights and article 9 (1) and (3) of the Covenant.

39. The Working Group notes that Ms. Arroyo's eligibility for bail was not considered by the Sandiganbayan Court until November 2013, over one year after she had been arraigned in October 2012 and 10 months after she had made her first bail application in

² See Human Rights Committee general comment No. 8 on the right to liberty and security of persons, 30 June 1982, para. 3.

³ In its general comment No. 35, para. 38, the Human Rights Committee observed in relation to article 9 (3) of the Covenant that "detention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime".

⁴ The Working Group respectfully agrees with the approach taken by the European Court of Human Rights in a similar case, in which the Court said: "In the present case, the applicant's requests to be released on bail were similarly dismissed on the grounds that he was accused of an offence which, under article 19 of the Criminal Code, qualified as a serious offence and that article 143, paragraph 1, of the Code of Criminal Procedure precluded release on bail in such cases. The Court considers that such automatic rejection of the applicant's applications for bail, devoid of any judicial control of the particular circumstances of his detention, was incompatible with the guarantees of article 5, paragraph 3". See European Court of Human Rights, *Piruzyan v. Armenia*, app. No. 33376/07, 26 June 2012, para. 105.

⁵ The Working Group acknowledges that the period for which a person can be detained depends on the circumstances, including the complexity of the matter and the role of the accused. However, on the present facts, the detention was too long.

⁶ Communication No. 1014/2001, *Baban v. Australia*, Views adopted on 6 August 2003, para. 7.2.

⁷ See also general comment No. 35, para. 38, in which the Human Rights Committee stated that "courts must examine whether alternatives to pretrial detention, such as bail, electronic bracelets or other conditions, would render detention unnecessary in the particular case".

January 2013. The Government does not dispute that the first time that bail was considered and denied by the Sandiganbayan Court was on 5 November 2013. While there were numerous motions for the Court to rule upon, the Working Group considers that the Court should have given priority to Ms. Arroyo's bail motions, given the presumptive right to bail under article 9 of the Covenant. A delay of over one year in ruling on bail is incompatible with the provisions of article 9 (3) of the Covenant, which requires that "anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer".

40. The delay in considering Ms. Arroyo's bail status was also contrary to article 9 (4) of the Covenant. As the Human Rights Committee has noted, persons deprived of their liberty are entitled not merely to take proceedings, but to receive a decision on the lawfulness of their detention, and without delay.⁸ The Working Group considers that the violation of article 9 (3) and (4) amounts to a violation of the right to liberty and security of person and the right to a fair trial.

41. In addition, the Working Group considers that the delay in bringing proceedings against Ms. Arroyo in the Sweepstakes case violated her right to be tried without undue delay under article 14 (3) (c) of the Covenant and the right to a fair trial under articles 10 and 11 of the Universal Declaration of Human Rights. In a previous case, the Working Group found that a delay by the complainant in availing him or herself of the guarantees to a fair trial may result in the detention not being attributable to the State,⁹ as was argued by the Government in the present case. However, in the case of Ms. Arroyo, some of the delays were not caused by her, including the failure of the Sandiganbayan and Supreme Courts to rule on the motion challenging probable cause on 24 October 2012 and on the demurrer requesting the dismissal of Ms. Arroyo's case, which was filed on 27 August 2014.

42. For the foregoing reasons, Ms. Arroyo's case falls into category III of the categories applied by the Working Group, as the non-observance of the international norms relating to the right to a fair trial is of such gravity as to give the deprivation of liberty an arbitrary character.

43. The source claimed that Ms. Arroyo was subject to prolonged detention because of her political or other opinions and that this makes the detention arbitrary under categories II and V of the categories applied by the Working Group. Category II applies when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14 and 18-21 of the Universal Declaration of Human Rights and articles 12, 18, 19, 21, 22 and 25-27 of the Covenant. Category V applies when the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings.

44. The Working Group considers that the source has demonstrated that Ms. Arroyo's detention was arbitrary in accordance with categories II and V of the categories applied by the Working Group. The Working Group is of the opinion that Ms. Arroyo has been subjected to detention as a result of the exercise of her right to take part in government and the conduct of public affairs under article 21 of the Universal Declaration of Human Rights and article 25 of the Covenant. In particular, the Working Group takes note of the fact that, as a result of her ongoing detention, Ms. Arroyo has been effectively barred from serving in her current role as an elected member of the Philippines House of Representatives.

⁸ See communication No. 248/1997, *Campbell v. Jamaica*, Views adopted on 24 March 1993, para. 6.4.

⁹ In opinion No. 15/2001 (Australia), para. 23, the Working Group found that, although the length of detention of two men for the purposes of extradition had been abnormally long, this was the result of the fact that the men had availed themselves of all the guarantees to a fair trial provided for by law, so that the length of their detention could not be attributed to the Government.

Moreover, the Working Group is of the opinion that Ms. Arroyo has been subjected to detention because of her political or other opinion, contrary to article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant. In reaching this conclusion, the Working Group has taken into account a pattern of conduct which indicates that Ms. Arroyo was specifically targeted and the case against her was politically motivated, including: (a) the Government's defiance of court rulings to lift the travel bans against Ms. Arroyo and its removal of judges involved in Ms. Arroyo's cases; (b) the timing of charges brought against Ms. Arroyo; and (c) comments by public officials suggesting her guilt while she was on trial. These were factors cited by the source in arguing that Ms. Arroyo had been subjected to detention as a result of the exercise of her rights and that she had suffered discrimination on the grounds of her political or other opinion. The Government did not refute any of those allegations in its reply.¹⁰

45. Finally, a letter was submitted to the Working Group in March 2015 by a Filipino non-governmental organization in which it encouraged the Working Group to take into account numerous violations of human rights that had been allegedly committed by the Government led by Ms. Arroyo. The Working Group takes this opportunity to reiterate the universality of human rights and their applicability to all persons. The Working Group considers that there is no stronger affirmation of human rights than in ensuring that the rights of all persons, including those accused of serious human rights violations, are respected. The Working Group notes that its opinion in the present case concerns whether the rights of Ms. Arroyo under the Universal Declaration of Human Rights and the Covenant have been violated, but that it will be for the domestic courts in the Philippines to determine whether Ms. Arroyo has in fact committed any criminal offence under applicable law.

Disposition

46. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Gloria Macapagal-Arroyo, being in contravention of articles 7, 9-11 and 21 of the Universal Declaration of Human Rights and articles 9, 14, 25 and 26 of the Covenant, is arbitrary, falling within categories II, III and V of the categories applicable to the consideration of cases submitted to the Working Group.

47. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation of Ms. Arroyo without delay and bring it into conformity with the standards and principles in the Universal Declaration of Human Rights and the Covenant.

48. Taking into account all the circumstances of the case, the Working Group considers that the adequate remedy would be to reconsider Ms. Arroyo's application for bail in accordance with the relevant international human rights standards, and to afford Ms. Arroyo an enforceable right to compensation in accordance with article 9 (5) of the Covenant for the deprivation of liberty that has already occurred.

49. The Working Group reminds the Government that its national laws, including laws in relation to the granting of bail, should comply with all obligations under international human rights law.

¹⁰ The Government did respond to the source's allegation that the repeated rejection of Ms. Arroyo's bail applications and the different treatment applied to her co-accused, who were released on bail owing to insufficient evidence, was discriminatory. The Government provided relevant portions of the ruling relating to the co-accused, which demonstrates that the Sandiganbayan Court carefully weighed the evidence against the co-accused and gave persuasive reasons as to the lack of evidence against them. The Working Group considers that Ms. Arroyo did not suffer discrimination on that ground.

50. If the remaining criminal cases proceed against Ms. Arroyo, the Working Group requests the Government to ensure fair trials that respect all the guarantees enshrined in international human rights law. In particular, the trials must take place without undue delay, in accordance with article 14 (3) (c), of the Covenant.

[Adopted on 2 September 2015]
