



PERMANENT MISSION OF THE REPUBLIC OF THE PHILIPPINES
TO THE UNITED NATIONS AND OTHER INTERNATIONAL
ORGANIZATIONS, GENEVA

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The Permanent Mission of the Republic of the Philippines to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights (Attn: Special Procedures Branch) and, with reference to communication AL PHL 6/2018 dated 23 May 2018 from the Special Rapporteur on the independence of judges and lawyers concerning the alleged threats and the ouster of former Chief Justice Maria Lourdes Sereno, has the honor to enclose the response from the Philippine Government.

The Philippine Government highlights that the ouster of Ms. Sereno in May 2018, decided through exhaustive deliberations by Ms. Sereno's own peers sitting *en banc* in the Supreme Court, was an independent act by the Supreme Court as a co-equal branch of the government.

The Supreme Court, as the highest court in the land, has considered the proceedings within the ambit of its power of judicial review, over which the Executive Branch has no influence or power to direct.

The Permanent Mission of the Philippines requests the assistance of the OHCHR Special Procedures Branch in publishing the Philippine Government's response on to the SPMH communications website.

The Permanent Mission of the Republic of the Philippines to the United Nations and other International Organizations in Geneva avails itself of the opportunity to renew to the Office of the United Nations High Commissioner for Human Rights (Attn: Special Procedures Branch) the assurances of its highest consideration.

Geneva, 19 October 2020

OFFICE OF THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR)

Attn: Special Procedures Branch

Palais Wilson

52 Rue de Paquis

CH-1201 Geneva, Switzerland



Enclosure: The Philippine Government's Response to AL PHL 6/2018 dated 23 May 2018

Communication AL PHL 6/2018 of 23 May 2018 from the Special Rapporteur on the independence of judges referred to information received on the alleged threats and the ouster of then Chief Justice Maria Lourdes Sereno. The Philippine Government highlights that the ouster of Ms. Sereno, decided by Ms. Sereno's peers sitting *en banc* in the Supreme Court, was an **act by the Supreme Court in the exercise of its independence as a co-equal branch of government**.

A copy of the Supreme Court Decision "Republic of the Philippines vs. Maria Lourdes P.A. Sereno" G.R. No. 237428 promulgated on 11 May 2018 is available in the Supreme Court website, herewith footnoted.¹

Following are the detailed responses to the issues brought to the attention of the Philippines concerning the decision of the Supreme Court to oust its chief justice and the alleged threats that President Rodrigo R. Duterte addressed to Ms. Sereno.

The ouster of Ms. Sereno: an independent act by the Philippine Supreme Court

The Philippines is a democratic and republican state, whose government has three co-equal branches- the Executive, the Legislature, and the Judiciary. Based on the doctrine of separation of powers, each of the three branches of government has exclusive cognizance of and is supreme in matters falling within its own constitutionally allocated sphere.

Under the Philippine Constitution, the Judiciary which is a co-equal and independent branch of the government, is duty-bound to uphold the Constitution. The Supreme Court ruling against former Chief Justice Sereno is an assertion of the supremacy of the fundamental law of the land.

Of significant relevance to the Special Rapporteur's communication AL PHL 6/2018 is part III of the Supreme Court's 19 June 2018 Resolution. The High Court pertinently said:

"There is nothing violative or intrusive of the Senate's power to remove impeachable officials in the main Decision. In fact, in the said assailed Decision, we recognized that the Senate has the sole power to try and decide all cases of impeachment. We have extensively discussed therein that the Court merely exercised its Constitutional duty to resolve a legal question referring to respondent's qualification as a Chief Justice of the Supreme Court. We also emphasized that this Court's action never intends to deprive the Congress of its mandate to make a determination on impeachable officials' culpability for acts committed while in office. We even explained that impeachment and quo warranto may proceed independently and simultaneously, albeit a ruling of removal or ouster of the respondent in one case will preclude the same ruling in the other due to legal impossibility and mootness. Quo warranto is not a figment of imagination or invention of this Court. It is a mandate boldly enshrined in the Constitution where the judiciary is conferred original jurisdiction to the exclusion of other branches of the government. Quo

¹ <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64003>

warranto, not impeachment, is the constitutional remedy prescribed to adjudicate and resolve questions relating to qualifications, eligibility and entitlement to public office... There is nothing in Our Constitution that says that impeachable officers are immune, exempted or excluded from quo warranto proceedings when the very issue to be determined therein is the status of an officer as such..."

This Resolution affirms the decision of the Supreme Court in G.R. No. 23728 to oust the former Chief Justice after majority of the justices voted in approval of issues contained in the *quo warranto* petition filed by the Solicitor General.

The *quo warranto* petition against then Chief Justice Sereno stemmed from her failure to submit to the Judicial and Bar Council (JBC) the required number of Statements of Assets, Liabilities and Net Worth (SALN) when she applied for the position of Chief Justice. Her chronic failure to submit her SALNs constituted violation of the Constitution and existing laws.

Ruling, among others, that the matter was of paramount importance to the public in the sense that the qualification, eligibility and appointment of an incumbent Chief Justice, the highest official of the Judiciary, was being scrutinized by an action for *quo warranto*, the Supreme Court ruled that Ms. Sereno failed to, on multiple occasions, file her Statements of Assets, Liabilities and Networth (SALNs) which are critical requirements for appointment to position of public officials. This, along with other instances of deliberate acts and omissions caused her own peers to believe that she did not have the critical qualification of proven integrity which is an essential criterion even as early as during the nomination stage for a seat in the Supreme Court.

Exhaustive deliberations were held leading to the decision, where Ms. Sereno's own peers, voting 8 to 6, found the critical qualification of proven integrity as mandated in the 1987 Philippine Constitution lacking, therefore voiding her appointment as Chief Justice.

Consistent with UN principles on the independence of the judiciary

The aforementioned action of the Philippines' independent judiciary affirms the United Nations Basic Principles on the Independence of the Judiciary (Basic Principles), specifically principle 10 under "Qualifications, selection and training," that: "Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law." In keeping with the promotion of the independence of the judiciary, the Philippine Supreme Court upheld the requirement to select individuals of proven integrity for judicial positions.

Moreover, principle 20 of the Basic Principles provides under "Discipline, suspension and removal" that: "Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review. This principle may not apply to the decisions of the highest court and those of the legislature in the impeachment or similar proceedings." **Clearly, the decision of the Philippines' highest court, voting as a collegial body to**

remove one of its own members, cannot be said to be in contravention of the Basic Principles.

Adherence to the rule of law and human rights

The Philippines affirms its adherence to rule of law and fundamental human rights principles. Like other citizens of the Philippines, former Chief Justice Sereno, who was removed from office through a quo warranto petition, was accorded the fundamental right to due process at every opportunity, as she was able to comprehensively defend her position both through written submissions and oral arguments where she was represented by counsel of her own choosing. Private citizens, including leaders of civil society groups, were also allowed to file motions for intervention echoing Ms. Sereno's own position. As a matter of fact, Ms. Sereno's request for oral argument was granted by the Supreme Court, which allowed her to personally appear and argue her case, whereas the Solicitor General's earlier motion to set the case for oral argument was denied.

It was also not the first time that a sitting Chief Justice was removed from office. Former Chief Justice Renato Corona was impeached and removed from office by the Philippine legislature in 2012.

The Philippine Government emphasizes that the Supreme Court, as the highest court in the land, has considered said proceedings within the ambit of its power of judicial review, over which the Executive Branch has no influence or power to direct. The action is therefore a valid exercise of the Judiciary's independence as a co-equal branch of government.

On the President's statement addressed to former Chief Justice Sereno

The Executive Branch recognizes the independence of and respects the separation of powers of the three branches of government. The President's statement on then Chief Justice Sereno's impeachment is a reaction to the latter's accusation that he is behind her ouster, which the President has denied. It was not an attack on the judiciary or an affront to judicial independence.

It was the Supreme Court, an independent and separate branch of the Philippine Government, that decided to remove the former Chief Justice from office.

As a co-equal branch of government, the Executive Branch respects the 11 May 2018 and 19 June 2018 Supreme Court decisions on the *quo warranto* against Ms. Maria Lourdes Sereno.

Equal application of the law

The Philippines wishes to underscore this tenet that no one is above the law and the Constitution is well-enshrined in Philippine jurisprudence. Republic of the Philippines vs. Maria Lourdes P.A. Sereno, G.R. No. 237428 dated 11 May 2018 cited Francisco, Jr. v. The House of Representatives, G.R. No. 160261 of 10 November 2003, to wit:

"No one is above the law or the Constitution. This is a basic precept in any legal system which recognizes equality of all men before the law as essential to the law's moral authority and that of its agents to secure respect for and obedience to its commands. Perhaps, there is no other government branch or instrumentality that is most zealous in protecting that principle of legal equality other than the Supreme Court which has discerned its real meaning and ramifications through its application to numerous cases especially of the high-profile kind in the annals of jurisprudence. The Chief Justice is not above the law and neither is any other member of this Court." **END.**