



Human Rights Council**Thirteenth session**

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Report of the Special Rapporteur on the situation of human
rights defenders, Margaret Sekaggya****Addendum****Summary of cases transmitted to Governments and replies received****Corrigendum****1. Page 156**Paragraph 1019 *should read*

1019. In a letter dated 29 December 2009, the Government of India responded to the communication sent on 29 July 2009 as follows. The Government has examined the communication and found the allegations to be inaccurate. No Government of India official contacted the subject in Geneva on 8 June 2009. As regards the allegation of a visit by an official of the Central Bureau of Investigation (CBI) to her house in Punjab, the allegation has been investigated by the local office of the CBI that has found it to be untrue. Subsequent to the allegation, the CBI has contacted the subject and provided her with contact details to help her in case any person approaches the subject at the behest of the CBI in future.

2. Pages 162 and 163*Delete paragraphs 1050 to 1057.***3. Page 164**After paragraph 1060, insert a new heading and paragraphs *reading***Response from the Government**

1060 bis. In a letter dated 5 November 2009, the Government of Indonesia responded to the communication sent on 4 September 2009 as follows. On 21 August 2009, in Abepura, Jayapura District, the District Police conducted a criminal investigation based on

a report which cited Mr. Andreas Wakerwa as being in possession of weapons without a permit according to the terms of Article 2 paragraph (1) of Emergency Law No. 12 of 1951. In the course of the investigation, the police did confiscate several items of evidence which included a machete, two Badik blades, a bayonet, a weapon made from a cassowary bone awl, and a slingshot. But the bicycle pump mentioned in the letter of the Special Rapporteur as allegedly capable of being turned into a bomb was not confiscated, nor was Mr. Wakerwa arrested on that day.

1060 ter. Based on the detention warrant letter Ref. Pol. SP.HAN/158/VIII/2009/Reskrim, Mr. Wakerwa's arrest and detention took place on the following day, 22 August 2009. However, in the absence of any conclusive evidence to the effect that weapons found at his premises were meant for offensive use, on 1 September 2009, Mr. Wakerwa was released on the following conditions: 1., he would not attempt to leave the area; 2., he would not repeat his actions (i.e. being found in possession of weapons without a permit); and 3., he would not eliminate the evidence. In addition, he was to report regularly to the investigators. However, to date Mr. Wakerwa has failed to fulfil this last condition, namely to report to the investigators.

1060 quarter. As regards the handling of the investigation into possible criminal acts or acts of subversion being committed, or being contemplated, by Mr. Wakerwa following the discovery of his offence with regard to possession of weapons without a permit, it was carried out strictly in accordance with procedure. Furthermore, Mr. Wakerwa's rights during the investigation and throughout his detention were fully respected. The Permanent Mission of Indonesia believes that, on the basis of the above clarifications, any doubts as to the fact that Mr. Wakerwa's detention was connected to his job as a human rights defender have been conclusively dispelled.

4. Page 199

After paragraph 1232, insert a new heading and paragraphs *reading*

Response from the Government

1232 bis. In a letter dated 24 January 2010, the Government of Israel responded to the communication sent on 13 November 2009 as follows. In confronting the threat of terrorism and protecting its civilians from suicide bombers and other attacks, Israel, like other countries facing such threats, has found that the use of administrative detention is, on occasion, a necessary and effective measure.

1232 ter. Where sufficient and admissible evidence exists against an individual, the authorities are required to bring that individual to justice, rather than adopt such measures as administrative detention. Thus, this measure may be used as an exception only when the evidence in question is clear, concrete and trustworthy, but for reasons of confidentiality and protection of intelligence sources, cannot be presented as evidence in ordinary trial proceedings. Issuance of administrative detention orders against detainees who pose a danger to public security, in cases such as those outlined above, is recognized by international law and is in full conformity with Article 78 of the Fourth Geneva Convention of 1949.

1232 quater. As an additional safeguard, the measure is only used in cases where there is corroborating evidence that an individual is engaged in illegal acts that endanger security and the lives of civilians, and each administrative detention order is subject to judicial review. Administrative detention orders are limited to six months and any extension requires a re-evaluation of the relevant intelligence material, as well as further judicial review. Furthermore, local legislation governing the process grants all relevant individuals the right to appeal the order to the Military Court of Appeals for judicial review. Petitioners

may be represented by counsel of their choice at every stage of these proceedings. All individuals have the additional right to petition the Israeli High Court of Justice for a repeal of the order. The judicial organs reviewing each and every order carefully examine whether the criteria outlined in case law and legislation are fully met.

1232 quinquies. Mr. Othman was detained in administrative detention in September 2009. The last order in his regard was issued on 22 December 2009, and was due to remain in force until 22 January 2010. In the judicial review of the order and after examination of the confidential material against Mr. Othman, the Court stated, inter alia, that the information at the basis of Mr. Othman's detention was the suspicion that he was in contact with a foreign agent of a terrorist organization, a suspicion that Mr. Othman himself confirmed. The Court also stated that relevant considerations of protecting security and the public stood at the basis of the decision to extend his administrative detention. At no point was Mr. Othman's political activity or personal views regarded as a basis for his detention.

1232 sexies. After weighing the respondent's right for freedom versus the public interest, the Court affirmed the order but shortened it until 12 January 2010 in order to give the security forces additional time for investigation procedures. Mr. Othman was subsequently released from detention on 12 January 2010. Mr. Othman was represented by a lawyer in all the legal proceedings and court hearings in his regard.

5. Page 376

After paragraph 2312, insert a new heading and paragraphs *reading*

Response from the Government

2312 bis. In a letter dated 22 December 2009, the Government of Turkey responded to the communication sent on 27 August 2009. The Government forwarded the judgement dated 9 June 2009 of the Fifth Criminal Court of Diyarbakir concerning the sentencing of Mr. Cemal Bektas, who was condemned to 10 months of imprisonment for having carried out propaganda on behalf of a terrorist organization. The prosecution alleged that Mr. Cemal Bektas, President of the Association of Mutual Aid and Solidarity with the Relatives of the Disappeared, participated in a meeting on 8 June 2009 entitled "The Disappeared and the Reality in Turkey", where he committed the offence of propagating for a terrorist organization. The prosecution requested that Mr. Bektas be sanctioned according to the provisions of Article 7/2 of the Law on Countering Terrorism and Article 53 of the Penal Code.

2312 ter. The Court found that the statement of Mr. Cemal Bektas amounted to propaganda on behalf of a terrorist organization, the PKK, the aim of which is to split a part of the territory of the Republic of Turkey in order to establish a Kurdish State based on Marxist-Leninist principles. The PKK is an armed terrorist group which has attempted, since its creation, to assert its authority in the region and throughout the country by blocking roads, extorting money and killing vulnerable persons in the villages it attacks. In its judgement, which is not yet final, the Court condemned Mr. Cemal Bektas to one year of imprisonment based on Article 7/2 of the Law on Countering Terrorism, which was amended by Article 6 of Law No. 5532. The Court also decided to reduce the sentence of Mr. Bektas by one sixth in accordance with Article 62 of the Penal Code, taking into account his tacit acceptance, his good behaviour and his conduct during the trial, and sentenced the defendant to 10 months in prison.