

Mandates of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on freedom of religion or belief

REFERENCE:
AL TUR 10/2020

22 July 2020

Excellency,

We have the honour to address you in our capacities as Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 41/18, 35/15, 34/18, 42/16, 34/5 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government information received concerning the use of discriminatory language against lesbian, gay, bisexual and transgender ("LGBT") persons by religious leaders and public officials in Turkey.

According to the information received:

Ali Erbaş is the President of the Directorate of Religious Affairs ("Diyanet"), which administers mosques and personnel for Turkey's Sunni Muslim majority. On 24 April 2020, during the Friday sermon ("khutbah") titled "Ramadan: Patience and Will Training", which was aired on Diyanet TV, he publicly blamed homosexuality and premarital sex for the spread of HIV. He noted that Islam condemns homosexuality because "it brings illnesses and corrupts generations," and "[h]undreds of thousands of people a year are exposed to HIV caused by this great haram, which passes as adultery in the Islamic Literature. Let's come and fight together to protect people from this kind of evil." He also blamed homosexuals for the COVID-19 pandemic.

Erbaş' remark spurred a hatred campaign against LGBT people on social media. For instance, a popular anti-LGBT slur in Turkey "#YallahHollandaya" ("Go to Holland" in Turkish as the Netherlands is often associated with homosexuality in Turkey) started trending after the sermon. Also, a signature campaign titled "Shut Down LGBT Association" was launched on the Change.org site, which was later removed due to the violation of the website's regulations.

In addition, on 26 April, when the hashtag #LezbiyenGörünürlükGünü (“Lesbian Visibility Day” in Turkish) became one of the top trends on Twitter, people responded by using the hashtag “#AliErbaşYalnızDegildir” (“Ali Erbaş is not alone” in Turkish), which remained in top trends for over a day. Some government officials used this hashtag on their official social media channels to show their support to Erbaş, as illustrated below:

- The Presidential Spokesperson and Chief Advisor commented: “Those who dare to defame the order of the God who created the time and place are doomed to be defeated in this world and the hereafter. Ali Erbaş, who put the divine truth into words, is not alone.”
- The Minister of Family, Labour and Social Services stated: “We stand with our Religious Affairs Administration Chairperson Ali Erbaş, who reminds us of our religious values in order to protect our families and generations during Ramadan. Every attempt against our national and moral values shall be confronted by this nation. #AliErbaşIsNotAlone.”
- The Parliamentary Human Rights Investigation Commission Spokesperson noted: “The future of humanity is only possible through legitimate marriages. The search for a path other than that will lead to ugly and indecent ways. The LGBT lobbies command academia, politics, and media in many countries around the world, but we will not allow them on our own soil. #AliErbaşIsNotAlone.”

On 27 April, the Ankara Branch of the Human Rights Association (“IHD”) filed a criminal complaint against Erbaş and claimed that his statement constituted a crime. IHD further called on all the related institutions to initiate an investigation while removing him from the President of the Directorate of Religious Affairs. In addition, the Central Board of Healthcare and Social Worker’s Union (“SES”) stated that the sermon was discriminatory against LGBT people and those living with HIV and urged the Ministry of Health and the Science Board to make a scientific statement in response to Erbaş’ remark. The Ankara Bar Association also filed a complaint against Erbaş with the Ankara Prosecutor’s Office on the ground that his sermon constituted public provocation to hatred and hostility (Article 216/2 of the Turkish Penal Code). The Diyarbakir, Istanbul, and Izmir Bar Associations condemned Erbaş’ statement individually as well.

On the same day, however, the Ankara Public Prosecutor’s Office responded to the Ankara Bar Association’s complaint and started an investigation against it for its statement against Erbaş on the grounds of “insulting religious values that a part of the society has embraced” (Article 216/3 of the Turkish Penal Code). After the prosecutor initiated the investigation, the justice minister supported the investigation by stating on Twitter that the bar association’s statement is “never acceptable”. In addition, Ruling Justice and Development (“AK”) party’s spokesman tweeted “[i]t is the most natural right for people to speak according to

the value system they believe in. What is abnormal is demanding the contrary,” and accused the Ankara Bar Association of displaying a “fascist mentality” that sought to deprive Erbaş of his right to free speech. The Diyarbakir Chief Prosecutor’s Office filed a similar investigation on the same grounds against the Diyarbakir Bar Association. The website of both bar associations have been inaccessible since 28 April. The bar associations alleged that their websites had been targeted, but it was unclear by whom.

On 27 April, President Recep Tayyip Erdoğan threw his weight behind Erbaş and commented: “An attack on our Diyanet head is an attack on the State and Islam. Our Diyanet head has made a statement, and with this statement, he has fulfilled his duty with regards to his belief, discipline and duty. And what he said is totally right”.

According to information at our disposal, these events take place in a context where hateful rhetoric against LGBT people, both online and offline, is on the rise. Attacks have taken place in various contexts, including through public speeches, anti-LGBT manifestation against Pride parades, the media, and the internet.

While we do not wish to prejudge the accuracy of the information made available to us, we are gravely concerned that the use of vehemently discriminatory language by public figures and religious leaders, may amount to incitement to discrimination, hostility and violence, which the Government is under an obligation to prohibit under Article 2 (1) and 26 of the International Covenant on Civil and Political Rights (“ICCPR”). The State is under a negative duty to refrain from inciting to discrimination, hostility or violence, a positive duty to prohibit such speech, and due diligence obligation to enforce the prohibition in individual cases. As highlighted in the Rabat Plan of Action, and with due regard to the requirements of Article 19 (3) of ICCPR, individual criminal responsibility for hate speech should be reserved for the most serious cases of incitement.

In this regard, we note with great concern that the statements in question were made by a state official in a position of religious leadership, that the statements were broadcasted to a broad audience, and that the statements were publicly reiterated and endorsed by senior government officials. We further note that the statements have resulted in a public campaign that effectively denies LGBT people of their dignity and personhood, and which incites to discrimination based on sexual orientation or gender identity. These statements made, reiterated and endorsed by individuals whose conduct is attributable to the State, would appear to be in contravention of the negative duty of the State to refrain from any advocacy of hatred constituting incitement to discrimination, violence and hostility. Moreover, we are equally concerned that State authorities have not acted with due diligence and prosecute those who engaged in hate speech.

We are deeply concerned about the Ankara and Diyarbakir Public Prosecutor’s Office’s decision to launch an investigation against the bar associations for their work as defenders of human rights related to sexual orientation and gender identity. The

application of Article 216/3 of the Turkish Penal Code, which appears to prohibit blasphemy, would be contrary to Article 19 of ICCPR.

Finally, we are equally concerned that the violence and discrimination against LGBT persons may be exacerbated by the lack of reference to “sexual orientation and gender identity” into legislation on hate crimes or into the prohibited grounds of discrimination.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the allegations mentioned above.
2. Please clarify whether any administrative, civil or criminal proceedings have been taken to investigate the claims of hate speech to which reference is made in this letter, including politicians, faith-based leaders, and others.
3. Please indicate the measures taken to ensure that human rights defenders, including bar associations working towards the protection from violence and discrimination based on sexual orientation and gender identity in Turkey, can carry out their human rights activities without fear of threats or acts of intimidation and harassment of any sort.
4. Please provide information on any other measures taken by the authorities to prohibit and prevent further incitement to discrimination, hostility and violence against the LGBT community, such as any plans to enact legislation that would include the grounds of sexual orientation and gender identity as prohibited grounds for discrimination, incitement to hatred, violence and hate crimes.
5. Please provide information on the compatibility of Article 216/3 of the Turkish Penal Code with Article 19 of ICCPR.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency’s Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the

investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Victor Madrigal-Borloz
Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

1. Non-discrimination based on sexual orientation and gender identity

The principles of equality and non-discrimination are part of the foundations of the rule of law and human rights. Under Articles 1 and 2 of the Universal Declaration of Human Rights (“UDHR”), “[a]ll human beings are born free and equal in dignity and rights”, and “[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. This principle is reaffirmed by all human rights treaties, including Article 2 (1) of ICCPR, ratified by Turkey on 23 September 2003, and Article 2 (2) of the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), ratified by Turkey on 23 September 2003. The jurisprudence, general comments and concluding observations of United Nations treaty bodies have consistently held that sexual orientation and gender identity are prohibited grounds of discrimination under international law.

The Human Rights Council, in its resolutions 17/19, 27/32, 32/2 and 41/18, expressed grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity.

The United Nations High Commissioner for Human Rights echoed this concern and emphasized that States have an obligation to ensure equal protection before the law, freedom from discrimination, requiring States to prohibit and prevent discrimination in private and public spheres and to diminish conditions and attitudes that cause or perpetuate such discrimination (A/HRC/29/23, para. 16). He further stated that to this end, States should enact comprehensive anti-discrimination legislation that includes sexual orientation and gender identity among protected grounds, that States should review and repeal discriminatory laws and address discrimination against LGBT and intersex (“LGBTI”) persons, including in the enjoyment of the rights to health, education, work, water, adequate housing and social security (*Ibid.*, paras. 16 and 79 (c), A/HRC/19/41, para. 84 (e)).

In this regard, we wish to recall Your Excellency’s Government the Concluding Observations of 13 November 2012 of the Human Rights Committee, in which it was concerned about the lack of specific reference to the prohibition of discrimination on the basis of gender identity and sexual orientation. In light of this, the Committee recommended Turkey to enact legislation on anti-discrimination and equality, ensuring that it includes the prohibition of discrimination on the basis of gender identity and sexual orientation (CCPR/C/TUR/CO/1, para. 8).

Further, we refer to the last Universal Periodic Review (“UPR”) of Turkey (A/HRC/29/15) drawing particular attention to the recommendations in paragraph 150.31, which states: “Promote measures against discrimination based on sexual orientation and gender identity, including the investigation, and, where appropriate, the sanction of those

responsible of acts of discrimination and violence against LGBTI persons”, and in paragraph 150.32, which states: “Adopt comprehensive anti-discrimination legislation and take measures to prevent and combat discrimination on any grounds, including based on sexual orientation and gender identity, and religion”, which were considered already implemented by Turkey.

2. Preventing incitement to violence and hate speech

The right to freedom of opinion and expression is guaranteed under Article 19 of ICCPR, which affirms that everyone has the right to hold opinions without interference and to seek, receive and impart information and ideas of all kinds through any media and regardless of frontiers. The exercise of the right to freedom of expression, however, should not be aimed at the violation of any of the rights and freedom of others, as with all human rights. In particular, Article 20 (2) of ICCPR explicitly provides that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is to be prohibited by law. Also, the Human Rights Committee has affirmed that ICCPR requires the State to equally prohibit any advocacy of hatred on the grounds of sexual orientation or gender identity constituting incitement to discrimination, hostility or violence (*See* CCPR/C/USA/CO/3/Rev.1, para 25, CCPR/C/RUS/CO/6, para 28, CCPR/C/SWE/CO/6, para 19. *See also* A/74/486, para. 9).

In this regard, we recall Your Excellency’s Government the Concluding Observations of the Human Rights Committee dated 13 November 2012, in which it expressed concern about the discrimination and alleged acts of violence against people based on their sexual orientation and gender identity. The Committee reiterated that all cultures are always subject to the principles of universality of human rights and non-discrimination (CCPR/C/GC/34, para. 32), and recommended Turkey to state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transexuality, or harassment of or discrimination or violence against persons because of their sexual orientation or gender identity (CCPR /C/TUR/CO/1, para. 10). Further, the Committee urged Turkey to intensify its efforts to effectively prohibit hate speech violating Article 20 of the Covenant, and to ensure that relevant criminal law provisions and policy directives are effectively implemented (*Ibid.*, para. 22).

In accordance with customary international law, acts by State agents acting in an official capacity are attributable to the State (*See* Article 4 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts). Therefore, senior State officials inciting to discrimination, hostility and violence would be capable of constituting a violation of the duty to respect and ensure the rights enshrined in ICCPR (CCPR/C/21/Rev.1/Add. 1326, paras 4 and 6). We further recall that the duty to prohibit incitement is of general nature and will also cover speech made by State agents. Any prohibition on incitement must conform with the requirements of necessity and proportionality. As indicated in the Rabat Plan of Action (A/HRC/22/17/Add.4), the criminal responsibility for incitement should cover the most serious cases, taking into account the following elements: (1) Context, (2) Speaker, (3) Intent, (4) Content and form, (5) Extent of the speech act, and (6) Likelihood, including imminence.

Based on the general legal obligation under Article 2 (1) of ICCPR, States have a positive obligation to take reasonable measures to prevent hate speech, including exercising due diligence to prevent abuse by private actors (CCPR/C/21/Rev.1/Add.13, para. 8). Moreover, the Human Rights Committee has affirmed that an obligation to investigate alleged violations of ICCPR, including an obligation to prosecute and punish those responsible, forms part of the obligation to provide effective remedies under Article 2 (3) of ICCPR (*Ibid.*, paras. 15 – 18). This obligation applies particularly to severe forms of incitement. The failure to conduct effective investigations with a view to prosecute and punish those responsible may give rise to a separate violation of ICCPR (*Ibid.*).

In this regard, we further wish to draw attention to the Concluding Observations of 25 July 2016 of the Committee on the Elimination of Discrimination against Women, in which it concerned that discrimination and violence against lesbian, bisexual and transgender women still continued and were exacerbated by impunity for the perpetrators of hate crimes, including severe violence against and killings of lesbian, bisexual and transgender women and by the lack of integration of “sexual orientation and gender identity” into legislation on hate crimes or into the prohibited grounds of discrimination (CEDAW/C/TUR/CO/7, para. 32(f)). In light of this, the Committee recommended Turkey to include “sexual orientation and gender identity” into legislation on hate crimes and into the prohibited grounds of discrimination in Law No. 6701 (*Ibid.*, para. 33 (h)).

The United Nations High Commissioner for Human Rights highlighted violence motivated by homophobia and transphobia. In particular, he expressed concern at the rhetoric used to incite homophobic and transphobic hatred and related violence used by some political and community leaders to promote negative stereotypes, stir up prejudice and harass particular individuals, especially during electoral periods (A/HRC/29/23, para. 33). In light of this, he recommended that States address violence by prohibiting incitement of hatred and violence on the grounds of sexual orientation and gender identity, and holding to account those responsible for related hate speech (*Ibid.*, para. 78 (d)). In addition, he recommended States to address discrimination by supporting public education campaigns to counter homophobic and transphobic attitudes, and addressing negative, stereotypical portrayals of LGBT persons in the media (*Ibid.*, para. 79 (j)).

The Special Rapporteur on freedom of religion or belief rejected any claim that religious beliefs can be invoked as a legitimate “justification” for violence or discrimination on the basis of their sexual orientation or gender identity (A/HRC/43/48, para. 70). In addition, he recommended States: (i) reaffirm that traditional, historical, religious or cultural attitudes must not be used to justify violation of human rights, (ii) combat all forms of violence and coercion perpetrated against LGBT persons justified with reference to religious practice or belief, ensure their personal safety and liberty, and hold accountable perpetrators of such violence and ensure victims obtain redress, (iii) publicly condemn expressions of hostility against, and the perpetuation of harmful gender stereotypes of LGBT persons, and human rights defenders promoting gender equality, including by religious figures or “justified” with reference to religious belief; and instead express active support for gender equality, and (iv) create a safe environment in which

women, girls, LGBT persons and human rights defenders and others can exercise the right to freedom of expression in defense of human rights, and repeal laws criminalizing offences such as blasphemy or “offence to religious feelings”. Further, he recommended faith leaders to publicly oppose expressions of hostility against, and negative stereotypes of LGBT persons and human rights defenders promoting gender equality; and express solidarity with and support for LGBT persons (*Ibid.*, paras. 77 (a) (i), (iv), (vii), (viii) and (b) (i)). He also recommended the promotion of holistic and inclusive discussions between civil society organizations and faith leaders, on how practices “justified” with reference to religion or belief are causing discriminatory treatment, harmful practices and sometimes life-threatening abuses, and on measures to combat such practices (*Ibid.*, para. 77 (b) (ii)).

In this regard, we wish to recall Your Excellency’s Government the report by the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding an analysis of the progress made by Turkey in implementing the recommendations following his official visit to Turkey in 2012. He concerned that current hate crimes or anti-discrimination laws in Turkey had no reference to sexual orientation or gender identity, which exacerbate the vulnerability of LGBT people (A/HRC/29/37/Add. 4, para. 42-44). In light of this, he urged Turkey to reform domestic law into full compliance with international human rights standards so that protection of LGBT people is guaranteed both in law and in practice (*Ibid.*, para. 80).

Regarding hate speech related to HIV/AIDS, the Committee on Economic, Social and Cultural Rights noted that States should adopt measures to address widespread stigmatization of persons on the basis of their health status (E/C.12/GC/20, para. 33). Also, the Secretary-General of the United Nations noted that HIV-related stigma associated with “bad” behaviours and persons whose behaviours were regarded as immoral was one of the most frequently cited challenges to effective HIV responses (A/HRC/16/69, para. 5). In this regard, he recommended that national HIV response should prioritize reducing HIV-related stigma, among others (*Ibid.*, para. 50 (g)).

Regarding hate speech related to COVID-19, the Secretary-General of the United Nations recommended States to ensure that all public communications by state officials, especially statements by senior members of government, concerning COVID-19 do not attribute blame or responsibility for the emergence or spread of the virus on any particular community or group.¹ Also, UN and regional human rights experts noted that during the COVID-19 crisis, hate speech explicitly or implicitly inciting violence against LGBT persons has been on the rise, including discourse by prominent political or religious leaders blaming the pandemic on the existence of LGBT persons in the community. Therefore, they called on States to pursue all means necessary to ensure that this public health emergency will neither exacerbate existing misconceptions, prejudices, inequalities or structural barriers, nor lead to increased violence and discrimination

¹ António Guterres, “United Nations Guidance Note on Addressing and Countering COVID-19 related Hate Speech” (May 2020), available at <https://www.ohchr.org/Documents/Issues/HateSpeech/UNGuidanceHate.pdf>.

against persons with diverse sexual orientations and gender identities.² In addition, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity also recommended states to adopt all measures to combat hate speech in the context of the pandemic and all measures necessary to remedy disinformation campaigns and hate speech via social media.³

The European Court of Human Rights recognized in *Beizaras and Levickas v. Lithuania* that Lithuania's failure to investigate online hateful comments against a gay couple violated their rights to private and family life (Article 8) and to effective remedy (Article 13) as well as being discriminatory on the ground of sexual orientation (Article 14).

3. Protecting human rights defenders who work for the protection of LGBT people

States have an obligation to guarantee to everyone the right to freedom of expression without discrimination (Article 19 of UDHR, Article 19 (2) of ICCPR). Especially for human rights defenders, the right to participate in peaceful activities against violations of human rights and fundamental freedoms is guaranteed under Article 12 (1) of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms ("the Declaration on human rights defenders"). States shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration (Article 12 (2) of the Declaration on human rights defenders).

The Human Rights Committee noted that States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. Nor, under any circumstance, can an attack on a person, including lawyers, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with Article 19 (CCPR/C/GC/34, para. 23).

The United Nations High Commissioner for Human Rights acknowledged that LGBT defenders and supporters of related rights had been subjected to violence and harassment (A/HRC/19/41, para. 64). To that end, he recommended States ensure that individuals can exercise their rights to freedom of expression, association and peaceful

² Joint statement by UN and regional human rights experts, "COVID-19: The suffering and resilience of LGBT persons must be visible and inform the actions of States" (May 2020), available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25884&LangID=E>.

³ The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, "ASPIRE Guidelines on COVID-19 response and recovery free from violence and discrimination based on sexual orientation and gender identity" (June 2020), available at https://www.ohchr.org/Documents/Issues/SexualOrientation/SOGI-GuidelinesCOVID19_EN.docx.

assembly in safety without discrimination on the grounds of sexual orientation and gender identity (*Ibid.*, paras. 84 (f)).

UN and regional human rights experts acknowledged that defenders advocating for the rights of LGBTI individuals face serious challenges while exercising their work, including threats, attacks, criminalization of their activities, and defamation campaigns. In light of this, they urged that States build a climate of tolerance and respect in which all people, including LGBTI individuals and those who defend their rights, can express their thoughts and opinions without fear of being attacked, criminalized, or stigmatized for doing so.⁴

The Special Rapporteur on the situation of human rights defenders highlighted that defenders promoting the rights of LGBT persons are often the target of numerous attacks and the lack of any protection under the law or in practice exacerbates the vulnerability of those defenders (A/70/217, paras. 65 and 66). Therefore, he recommended that States: (i) do more to disseminate the work of defenders and to support their work through campaigns and specific communication and information activities that pay tribute, in particular, to the contributions made by certain categories of defenders, such as the rights of LGBT persons, (ii) conduct impartial investigations and ensure that the perpetrators of violations against the rights of defenders are brought to justice, and (iii) provide State agents, especially those who are in direct contact with communities of defenders, with the necessary training regarding the role and rights of defenders and regarding the Declaration on human rights defenders (*Ibid.*, paras. 93 (a), (e) and (i)).

In this regard, we wish to recall Your Excellency's Government the report by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on the visit conducted in Turkey in 2017. He highlighted LGBTI people in Turkey have a pervasive fear of being targeted by the Government, a result of bans on their groups, targeting by pro-government media, lack of protection for lawyers and advocates, restrictions on their ability to hold marches or otherwise express their views and blocks on social media applications which are friendly to their situation (A/HRC/35/22/Add.3, para. 65). He further noted that nobody should be held in detention, investigated or prosecuted for expressing opinions that do not constitute an actual incitement to hatred or violence consistent with Article 19 (3) and Article 20 of ICCPR (*Ibid.*, para. 77).

4. Blasphemy laws and similar prohibitions

As categorically expressed by the Human Rights Committee in its General Comment No. 34, "prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the

⁴ Joint statement by UN and regional human rights experts, "Free expression and association key to eliminating Homophobia and Transphobia" (May 2014), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14602&LangID=E>.

specific circumstances envisaged in Article 20, paragraph 2, of the Covenant” (CCPR/C/GC/34, para. 48). Moreover, the application of criminal law to the effect of criminalizing a lack of respect for a religion or other belief system will constitute a violation of the obligations of the State under Article 19 of ICCPR (*Ibid.*).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.