

Mandates of the Special Rapporteur on freedom of religion or belief; the Working Group on Arbitrary Detention; 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 rights to freedom of peaceful assembly and of association; the Special Rapporteur on minority issues; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
AL IND 15/2020

9 October 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Working Group on Arbitrary Detention; 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 rights to freedom of peaceful assembly and of association; Special Rapporteur on minority issues and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 40/10, 42/22, 44/5, 43/4, 41/12, 43/8, 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **hate speech, violent attacks and harassment of peaceful anti-Citizenship Amendment Act protesters, disproportionately targeting Muslim religious minority.**

We have addressed our concerns in relation to allegations of excessive use of force, arrests and arbitrary detention of protesters, in the context of demonstrations against the Citizenship Amendment Act in an earlier communication (AL IND 3/2020) sent to your Excellency's Government on 28 February 2020.

According to the information received:

Spread of hate speech against Muslim minority

In September 2018, a high-ranked politician of the ruling party allegedly referred to Muslim migrants coming to India as "termites" and "infiltrators" during his nationally broadcast speech. In April 2019, as general elections started, he repeated these words and said that Muslim illegal migrants should be thrown "into the Bay of Bengal".

In December 2019, many peaceful protests and sit-ins against the enactment of the Citizenship Amendment Act (CAA) took place in Delhi and other parts of the country. Several political leaders, during their election rallies leading up to the Legislative Assembly elections in Delhi on 8 February 2020, made hate speeches against the anti-CAA protesters, demonising them as 'anti-nationals' and inciting hatred and violence against them. A local ruling party leader allegedly chanted, "shoot the traitors" when referring to those opposing the bill. The same person also called Shaheen Bagh in Delhi, the 24/7 sit-in protest site led primarily by Muslim minority women and students, the "mini

Pakistan” and claimed, “Pakistani hooligans have captured the streets of Delhi.”

On 28 January 2020, when referring to Shaheen Bagh protests, a member of Parliament belonging to the ruling party allegedly warned Indians that those demonstrating in that neighbourhood would come into their homes “rape their sisters and daughters and kill them”. On the same day, he also said in another speech that he would “not leave even one of [the mosques] standing” after the election.

These hate speeches led to violence in January 2020 on university campuses against those protesting the CAA as described in AL IND 3/2020. Even after the Delhi elections in early February, the hate speeches continued and further incited widespread violence in Northeast Delhi.

On 26 February 2020, the Delhi High Court in the case of Harsh Mander v. Government of NCT Delhi & Ors. W.P. (Crl.) 565/2020, ordered the Delhi police to “take a conscious decision” on filing a First Information Report (FIR) against a few political leaders who made hate speeches, within a day. No FIR has been filed against them so far while the Government also failed to condemn the hate speeches. Besides, instead of responding to court orders, the Government ordered to transfer one of the ruling judges to another state, taking riot-related cases away from him. The Delhi High Court Bar Association criticised the transfer and asked the Supreme Court collegium to revoke it.

Violent attacks against members of Muslim minority communities and their properties in Northeast Delhi

On 15 January 2020, a 24/7 peaceful sit-in protest led by women of all ages started, they sat on the Jaffrabad-Seelampur main road near Altaj Dawakhana, Northeastern Delhi with candles, placards and banners, while men stood by the side in solidarity. They peacefully demanded for inclusive policies, repeal of controversial law and rollback of the National Population Register and the National Register of Citizens. Subsequently, on 22 February 2020, a sit-in protest also began at Jaffrabad metro station and another at Kardampuri near Maujpur Chowk.

On 23 February 2020, a ruling party leader issued a call on Twitter to rally against the women-led Jaffrabad protest urging people to “prevent another Shaheen Bagh”. When addressing a rally that he led in Maujpur Chowk, he gave the Delhi police a three-day ultimatum to remove the protesters from Jaffrabad and threatened the protesters to take matters into his own hands with his supporters if the police failed to disperse them. This reportedly became a major inciting factor of the violence that took place subsequently. Around mid-afternoon of the same day, protesters were reported to have hurled stones at the pro-CAA gathering at Maujpur Chowk and near a temple. Clashes broke out between the anti-CAA and pro-CAA demonstrators in Karawal Nagar, Maujpur Chowk, Babarpur and Chand Bagh later that night.

According to reports, the initial few hours witnessed equal attacks by both Muslims and Hindus. However, the attacks soon targeted mainly Muslim minority neighbourhoods and other localities with rioters carrying weapons as police stood by without trying to control the riots. Several reports also indicated these incidents of violence were premeditated as there were evidence pointing to pre-planned mobilisation of the mobs from other states, prepared arms and ammunition; and targeted attacks based on religion.

Between the evening of 23 to 29 February 2020, mobs chanting “Jai Shri Ram” and “Hinduon ka Hindustan” (India for Indians) were seen organising attacks against members of the Muslim minority in Northeast Delhi. Violence flared up in Babarpur, Bhajanpura, Chand Bagh, Gokulpuri, Jaffrabad, Kardampuri, Karawal Nagar, Maujpur, Mustafabad, Seelampur, Shivpuri, Shiv Vihar and Yamuna Vihar either simultaneously or consecutively. The mobs also attacked many properties and businesses owned by Muslims in these Northeast localities, including looting of their personal possessions and burning of Qurans.

On 24 February 2020, people identified as members of a Hindu nationalist, paramilitary volunteer organisation, torched Farooqi Mosque in Mustafabad. There were around 20 people praying inside the mosque when the violence broke out and the Imam had locked himself in an upper room of the mosque. Reportedly, the police broke the door, dragged the Imam out and handed him to the waiting Hindu mobs, who beat him unconscious and smashed his limbs. On the same day, policemen were seen assaulting a group of Muslim men and forcing them to sing the Indian national anthem and “vande Mataram” between beatings. Reportedly, those Muslim men were also detained for over 36 hours and one of them, a 23-year-old man, sustained serious brain injury as a consequence of severe beating and denied medical attention. In Bhajanpura, a mob attacked a petrol pump, chanting slogans of Āzādī (freedom) and carrying petrol bombs, sticks and weapons. They burned vehicles and petrol tanks after looting available cash.

On 25 February 2020, the violence intensified. Stone pelting was reported from Maujpur, Brahampuri and other neighbouring areas. In Durgapuri witnessed clashes between Hindu and Muslim mobs, pelting stones and shooting at each other. Several mosques, vehicles and shops were burned. At Gamri extension, a Hindu mob allegedly attacked a lane, and an 85-year-old woman was burnt to death as her house was set on fire. In the areas of Bhajanpura, Chand Bagh and Karawal Nagar localities, people wielding sticks and iron rods roamed in the streets. By the same evening, it was reported that 13 people died due to violence. Among the injured, more than 70 people suffered gunshot injuries. At 10 p.m., shoot at sight orders were given to police in the riot-affected area.

On the same day, 25 February, Meena Mosque in Mustafabad was torched during the riots. In Ashok Nagar, Maula Baksh Mosque was vandalised and a saffron flag was hoisted on top of one of its minarets as a crowd cheer. The Auliya Mosque in Shiv Vihar was firebombed with gas cylinders. The imam was badly disfigured by acid thrown at him by the mob. Ayesha and Chand Bagh Mosques also suffered serious structural damage that day. Generally, the

mobs entered the mosques, burned Qurans and attacked the Imams and people staying there.

Several journalists along with a cameraman were assaulted by the mobs as well when they were recording the torching of a mosque, or taking pictures of a building that had been set on fire. A journalist involved in the same incident had to convince the mobs that the journalists were Hindus to save them from further assault. A mob questioned a photojournalist's intention of taking pictures and further threatened to remove his pants to verify if he was circumcised in order to prove that he was a Hindu. The photojournalist was approached again later by other rioters who demanded him to prove his religion.

On 26 February 2020, arson and mob lynching continued in Karawal Nagar, Maujpur and Bhajanpura areas. On 27 February 2020, several clashes were reported in Shiv Vihar with injuries and torched godown, shops, and motorcycles. A 60-year-old rag picker, who stepped out of his home assuming the situation had calmed down on 28 February 2020, was attacked and died due to head injuries.

Aftermath of violence

The Delhi riots resulted in at least 53 people being killed and hundreds injured, of whom most were members of the Muslim minority. The majority of victims were young men, but two were identified as senior women of 85 years and 70 years of age. At least three minors were also killed during the violence. In order to ascertain the religion of the protesters, many men were forced in some cases to remove their lower garments to be checked if they were circumcised. Among the injuries recorded in one hospital were lacerated genitals. Out of the 48 bodies that were identified by families, 34 were Muslims and 14 were Hindus. There were reported missing persons who remain untraceable from the riot-affected areas. There were also reports of sexual harassment, assault and gendered abuse against Muslim minority women, including a woman who was assaulted despite being nine months pregnant.

It was estimated that the number of Muslim casualties were almost three times more than the Hindus. Most of the violence-affected destruction, including houses, businesses, homes, and places of worship were disproportionately Muslim-owned. According to a report of Northeast Delhi District Administration, at least 122 houses, 322 shops and 301 vehicles were devastated or completely damaged during the violence. The local communities estimated that there were as many as 16 mosques that were destroyed or attacked.

After a week of the violence unfolding along with continuing rumours of another round of attacks, many Muslims had fled from these neighbourhoods for safety. Even in areas untouched by the violence, some Muslims had left their ancestral villages, fearful of their lives and security.

Police Omission and Complicity

During the Delhi violence, there are testimonies that pointed to the police bias, omission, and complicity in the violence. Delhi police reportedly received more than 13,000 calls for help during the period of violence. Riot survivors and eyewitnesses said that the Delhi police could have stopped the violence if they had arrived on time. Some victims recounted that they called the 100-emergency number many times but not even once was the call answered. When answered, apparently the operator responded saying: “you wanted Āzādī, here take your Āzādī now”.

The police and other authorities were accused of demonstrating bias against members of the Muslim minority and other anti-CAA protesters. Not only the police failed to protect people during the violent attacks, some evidences, including live-streamed videos on social media platforms, showed that some police officers used excessive use of force against demonstrators and even took part in the attacks against minority Muslims during the Delhi riots. In one of the videos, the Delhi police in Khureji Khas was seen pointing guns at a crowd to disperse the anti-CAA protest and breaking CCTV cameras at a petrol pump. In other videos, police were seen pelting stones and tear gas together with rioters, attacking a building.

Moreover, lawyers handling the cases of the riot survivors and detainees indicated that the Delhi police disproportionately arrested and detained Muslims after the riots. The police reportedly disregarded procedures established under the criminal code such as producing an arrest warrant, informing the person’s family of the arrest, and providing them a copy of the FIR, the official police case, or ensuring that those arrested have access to legal counsel, including during interrogation. The police were also accused of doing nothing despite many videos being shared with them, in which the perpetrators of the violent attacks could be identified easily.

Testimonies from affected victims and riot survivors documented a clear pattern of alleged arbitrary arrests, unlawful detention and retaliatory violence amounting to torture and other ill-treatment against the arrested persons in custody. Many families of the arrested or detained persons were not informed of the arrests or detention either. The riot survivors also reported intimidation and harassments by the Delhi Police through unlawful detention and in some cases, the victims were forced to sign on blank papers.

Hate speech, killing, arbitrary arrest, detention and harassment of protesters and activists in Uttar Pradesh

Authorities in Uttar Pradesh, a state with about 40 million Muslim inhabitants, the largest Muslim population in India, have allegedly cracked down hardest on anti-CAA protests. The Chief Minister in Uttar Pradesh, allegedly vowed to “take revenge” against those protesting against the citizenship law and verification process. He was previously charged with inciting and leading anti-Muslim violence as the founder of a Hindu youth militia but the Government eventually dropped the cases. He has repeatedly made hateful, anti-Muslim remarks in public, and has endorsed extrajudicial violence by the police. Nearly 80 people have been killed by the police in Uttar Pradesh since he took office in March 2017.

Police in Uttar Pradesh were accused of using excessive force including lethal force against protesters in Aligarh, Meerut, Kanpur, Bijnor, Sambhal, and Muzaffarnagar, leaving at least 23 people, including an 8-year-old minor, killed during the protests, dozens were injured, and hundreds of people were arrested. Out of the 23 people killed, 21 of them reportedly died of gunshot wounds.

On 20 December 2019, when some Muslims gathered to protest after their Friday noon prayers, protesters alleged that the police used teargas, beat protesters with batons, and fired unnecessarily to disperse the gathering. Meanwhile, the police accused the protesters of pelting stones, committing arson, and using locally made firearms. On the same day, police in Muzaffarnagar allegedly ransacked a madrassa following afternoon prayers, ostensibly looking for protesters earlier that day but started destroying property and detained its cleric and 35 students, 15 of whom were minors.

Moreover, police have allegedly raided homes without warrants in Muslim-majority neighbourhoods such as Lucknow, Muzaffarnagar, Varanasi, and Bijnor, and detained Muslim men, instilling fear among the community. Activists also alleged that the authorities have arbitrarily arrested hundreds of peaceful demonstrators and some well-known human rights defenders and social activists across of the state. In some cases, the police also detained relatives to force suspects to surrender, as a form of collective punishment.

The authorities have reportedly arbitrarily issued notices to at least 500 people for recovery of public property damaged or destroyed during the anti-CAA protests. Many others were threatened with notices of damaging public property unless they confess to be rioters. Such actions came after the Chief Minister's vowed to "take revenge" on those protesters. In Muzaffarnagar district, the authorities sealed nearly 70 shops, most of which belonged to members of the Muslim minority with low income, accusing them of participating in protests and damaging public property without providing a legal basis or evidence of their involvement. If they failed to pay the damages, authorities threatened to confiscate their property. Yet, none of those served has been found guilty of any wrongdoing.

The local Government also plastered photographs along with the names and addresses of protesters and peaceful activists it had served with notices for damages on billboards across the state exposing them to possible vigilante violence. In March, the Allahabad High Court ordered for their immediate removal, saying they were "illegal" and an "unwarranted interference in privacy." The Supreme Court also held that the Government's actions did not have the "backing of law," but it did not stay the high court order and referred the case to a larger bench of judges on privacy issue. Meanwhile, the Uttar Pradesh Government passed the Uttar Pradesh Recovery of Damage to Public and Private Property Ordinance 2020, which empowers it to recover damages to public or private property during hartal, bandhs, riots, protests, etc. through those accused. It appears that the burden of proof lies on the accused instead of the prosecution to provide evidence of innocence from alleged crimes. The accused would be liable to such damages through claim tribunals with no

judicial review by any other court simply on the account of being named in FIR, even without conviction.

While we do not wish to prejudge the accuracy of the above allegations, we express our deep concern over the lack of condemnation and accountability by the authorities, despite flagrant incitement to violence against Muslims through advocacy of hatred expressed by high-profile political figures and members of Parliament. When authorities or public figures, who are in positions of influence by virtue of their office, use such a speech against a certain group (in this instance against persons belonging to the Muslim minority), their speech not only halts democratic dialogue and deepens political polarization but it also stigmatizes that collective at a broader, deeper level. We are also gravely concerned at the violent attacks targeting the Muslim religious minority and their places of worship as well as properties in Northeast Delhi and Uttar Pradesh.

We further express our concern over the allegations of police complicity in some of the violence and excessive use of force against peaceful protesters. We are particularly concerned about the arbitrary arrests, detention and other forms of harassments, including arbitrarily issuing notices to people for damage recovery of public property, against Muslims and other activists as described above. There has been a persistent climate of impunity and serious lack of accountability by the authorities and police, including by disregarding procedures established under criminal code.

Moreover, we are deeply concerned of the wilful disregard by the police and authorities of various court orders to file cases against perpetrators of hate speech and to respect privacy of those who served notices from the authorities.

We are also concerned by the interference of the Government in the independence of the judiciary by transferring a presiding judge of a case abruptly due to his critical views. We are further concerned about the arbitrary use of the Uttar Pradesh Recovery of Damage to Public and Private Property Ordinance 2020 that deviates from normal legal procedures and may repress any forms of legitimate expression and peaceful assembly.

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 above-mentioned allegations.
2. Please provide information on the legality, necessity and proportionality of the use of force in the context of anti-CAA protests. Please explain measures taken to ensure that the use of force is

exercised in compliance with international human rights law, particularly the right to life.

3. Please provide information on the number of people arrested and detained during the protests in different states. Please indicate the number of those who have been released and of those who are still in detention, as well as the specific places of their detention. Please include the review of the legal and factual basis for the arrests and detention, including any charges brought against them, and explain how they are compatible with the international human rights obligations of your Excellency's Government.
4. Please provide information on measures taken by your Excellency's Government to carry out a prompt, impartial, independent and effective investigation into the reported advocacy of hatred constituting incitement to discrimination or hatred, and at times violence, made by certain political leaders following the court order, police omission and complicity in the violence, including excessive force against protesters or disregarding established arrest and detention procedures; and any efforts to arrest and prosecute perpetrators of violent attacks against the members of the Muslim minority, Hindus and members of other religious or belief communities. Please provide measures taken by the Government to address the increasing impunity.
5. Please provide information on efforts undertaken by your Excellency's Government to review the Citizenship Amendment Act following the feedback and criticism expressed by multi-stakeholders, including the religious minorities. Please provide information of any initiative undertaken by the Government to have a dialogue with the protesters expressing their grievances.
6. Please explain how your Excellency's Government intend to tackle the serious concern of discriminatory treatment of ethnic, religious or linguistic minorities with regard to the right to nationality or citizenship; and provide information of any interfaith initiative undertaken to promote religious tolerance while protecting everyone's right to freedom of religion or belief, freedom of expression and freedom of peaceful assembly and association.
7. Please provide more information on the Uttar Pradesh Recovery of Damage to Public and Private Property Ordinance 2020 and explain how the ordinance is used, including the criteria in determining the offence and the penalty. What safeguards are in place to prevent the Ordinance being arbitrarily used to repress any forms of legitimate expression and peaceful demonstrations?

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.

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punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 6 (1), 9, 14, 17, 18, 19, 20, 21 and 26 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by India on 10 April 1979, which protect the right to life, freedom from arbitrary arrest or detention and any arbitrary or unlawful interference with a person's privacy, reputation and home; the rights to freedom of religion or belief, freedom of opinion and expression, and freedom of peaceful assembly and of association as well as the rights of the minorities. As a state party to the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), ratified on 3 December 1968, India must also guarantee non-discrimination and equality, take effective measures to amend or eliminate racially discriminatory policies and provide effective protection and remedies.

With regard to article 6 of the ICCPR, the Human Rights Committee, charged with monitoring compliance with the Covenant, has indicated that the obligation under article 6 "extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life. States parties may be in violation of article 6 even if such threats and situations do not result in loss of life", CCPR/C/GC/36 para. 7. The obligation entails taking all necessary measures to prevent arbitrary deprivations of life, including by soldiers tasked with law enforcement missions, *id.* para. 13. The notion of arbitrariness in article 6 includes elements of "inappropriateness, injustice, lack of predictability, and due process of law as well as elements of reasonableness, necessity, and proportionality", *id.* para. 12. The use of potentially lethal force for law enforcement purposes is an extreme measure, which should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat, *id.* While preferable to lethal weapons, the use of less lethal weapons is also subject to strict tests of necessity and proportionality, *id.* para. 14. The Human Rights Committee preventive measures include the adoption of "appropriate legislation controlling the use of lethal force by law enforcement officials, procedures designed to ensure that law enforcement actions are adequately planned in a manner consistent with the need to minimize the risk they pose to human life, mandatory reporting, review, and investigation of lethal incidents and other life-threatening incidents, and the supplying of forces responsible for crowd control with effective "less-lethal" means and adequate protective equipment in order to obviate their need to resort to lethal force.", *id.* para. 13.

We would also like to highlight Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, endorsed also by the Human Rights Committee, which provides that, "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms", and the Code of Conduct for Law Enforcement Officials, ensuring protesters right to peaceful assembly and without resorting to excessive use of force.

We also refer to the joint compilation of practical recommendations for the proper management of assemblies of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial,

summary or arbitrary executions A/HRC/31/66, in which was stated that: “The use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. Any use of force must comply with the principles of necessity and proportionality. The necessity requirement restricts the kind and degree of force used to the minimum necessary in the circumstances (the least harmful means available), which is a factual cause and effect assessment. Any force used should be targeted at individuals using violence or to avert an imminent threat. The proportionality requirement sets a ceiling on the use of force based on the threat posed by the person targeted. This is a value judgement that balances harm and benefit, demanding that the harm that might result from the use of force is proportionate and justifiable in relation to the expected benefit” (paras. 57 and 58). Firearms may be used only against an imminent threat either to protect life or to prevent life-threatening injuries (making the use of force proportionate). In addition, there must be no other feasible option, such as capture or the use of non-lethal force to address the threat to life (making the force necessary) (para. 59). Firearms should never be used simply to disperse an assembly; indiscriminate firing into a crowd is always unlawful (para 60).

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment examined the issue of extra-custodial use of force in his interim report to the General Assembly (A/72/178) and concluded that “any extra-custodial use of force that does not pursue a lawful purpose (legality), or that is unnecessary for the achievement of a lawful purpose (necessity), or that inflicts excessive harm compared to the purpose pursued (proportionality) contradicts established international legal principles governing the use of force by law enforcement officials and amounts to cruel, inhuman or degrading treatment or punishment. Moreover, failure to take all precautions practically possible in the planning, preparation and conduct of law enforcement operations with a view to avoiding the unnecessary, excessive or otherwise unlawful use of force contravenes the State’s positive obligation to prevent acts of cruel, inhuman or degrading treatment or punishment within its jurisdiction” (para.62(c).)

In connection with the arbitrary arrests and detention of activists and protesters, we would like to refer to the right not to be arbitrarily deprived of liberty and to fair proceedings before an independent and impartial tribunal, as set forth in articles 9 and 14 of the ICCPR. We wish to highlight that deprivation of liberty resulting from the exercise of the rights or freedoms guaranteed by the ICCPR is arbitrary. Article 9 establishes in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law, and that anyone who is arrested shall be informed, at the time of arrest, of the reasons behind such arrest and be brought promptly before a judge for the purpose of legal assessment of detention. We would also like to remind Your Excellency’s Government that article 37 (b) of the Convention on the Rights of the Child provides that no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time detention of children should be a measure of last resort and avoided as far as possible.

With regards to security of person in article 9(1) of the ICCPR, this right concerns freedom from injury to the body and the mind, or bodily and mental integrity

regardless of whether the victim is detained or non-detained (CCPR/C/GC/35, para. 3 and 9). As interpreted by the Committee, “the right to personal security also obliges States parties to take appropriate measures (...) to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. States parties must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury”. Furthermore, we would like to recall that “States have a duty to prevent and redress unjustifiable use of force in law enforcement” (CCPR/C/GC/35, para. 9). Furthermore, article 14 (b) of the ICCPR provides for safeguards on the right to fair trial and legal assistance from counsel of own choosing.

Article 18 of the ICCPR provides that everyone shall have the right to freedom of thought, conscience and religion [...]. Article 2 (1) of the ICCPR urges the State to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as religion.

Under article 20 of the ICCPR, the State has an obligation to prohibit propaganda for war and advocacy of national, racial or religious hatred that constitutes incitement to discrimination, violence or hostility. General Comment 34 by the Human Rights Committee and the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4) provides further guidance on discharging state obligations in this regard. Only speech that reaches a very high threshold, with a strict interpretation of ICCPR Articles 20 and 19 (3), based on a contextual assessment using the six-part threshold test identified by the Rabat Plan of Action, should be prohibited. When such a speech occur, it requires a robust response from the authorities to reject the dissemination of hatred that incites discrimination or violence. As highlighted in the Joint Statement from the Special Rapporteur on freedom of opinion and expression, together with regional mechanisms on freedom of expression, “Politicians and other leadership figures in society should refrain from making statements which encourage or promote racism or intolerance against individuals on the basis of protected characteristics, including race, nationality or ethnicity”.¹

In addition, Human Rights Council Resolution 16/18 on Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief, which noted the call on States to speak out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence; adopt measures to criminalize incitement to imminent violence based on religion or belief; and understand the need to combat denigration and negative religious stereotyping of persons, as well as incitement to religious hatred, by strategizing and harmonizing actions at the local, national, regional and international levels through *inter alia*, education and awareness-building.

¹ <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=19915&LangID=E> See also para 18 of the report A/74/486 on the specific role played by leaders in society in this context.

Regarding the right to freedom of peaceful assembly we would like to refer to the recently adopted General Comment No. 37 of the Human Rights Committee on Right of peaceful assembly ([CCPR/C/GC/37](#)), which stressed that “the possibility that a peaceful assembly may provoke adverse or even violent reactions from some members of the public is not sufficient grounds to prohibit or restrict the assembly. [...] States are obliged to take all reasonable measures that do not impose disproportionate burdens upon them to protect all participants and to allow such assemblies to take place in an uninterrupted manner”.

In this regard, we would like to refer to Human Rights Council Resolution 24/5 which “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others”.

Article 26 of the ICCPR also stresses all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as religion. We would also like to bring to the attention of your Excellency’s Government the international standards regarding the protection of the rights of persons belonging to minorities. In particular, article 27 of the ICCPR establishes that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities have the right, in community with the other members of their group, “to enjoy their own culture, to profess and practice their own religion, or to use their own language”.

We also refer to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4). Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them.

The principles of non-discrimination and equality before the law are core State obligations affirmed in ICERD. We strongly urge your Excellency’s Government to comply with its treaty obligations to ensure equality before the law and equal protection of the law. This commitment to non-discrimination and equality is clearly evident from article 1 of ICERD broadly defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” We would also like to underscore that article 5 of the ICERD obliges States parties to guarantee the rights of all people to equality before the law, without distinction as to race, colour, or national or ethnic origin.