

question of cultural identity, the SR observed that the crux of the issue of cultural identity and freedom of expression lies in the adequacy of existing legislative safeguards and the depth of the political support for universally recognized human rights in Turkey. The SR then stated that a distinction should consistently be made between incitement to hatred and the use of violence on the one hand, and non-violent calls for greater liberty in the assertion of a specific cultural identity on the other. The report notes that in Turkey, too often, no attempt is made to distinguish clearly between the two with the result that an opinion that expresses a degree of understanding for terrorist violence or tries to explain reasons for that violence, without simultaneously and expressly condemning it, risks being considered an act in praise of a felony or an incitement to disobey the law.

In the section dealing with conclusions and recommendations, the report acknowledges that the government has taken some steps towards greater protection of the right to opinion and expression. The section also notes, however, continuing concerns and cites credible case information on violations that include: death or torture of press professionals while in police custody; threats and harassment of writers, journalists and human rights advocates and persecution of them for the expression of non-violent opinions; use of disproportionate violence against journalists and protesters during demonstrations; intimidation of human rights advocates and victims of and witnesses to human rights violations; regular occurrence of suspension of media and seizure of newsprint; and, lack of precision in laws and rules of proof used by courts to justify restrictions on the right of opinion and expression.

The recommendations focus on the following areas:

- ▶ further amendments to national laws and revisions to administrative and policy measures to require courts to explain more directly the motivation for any restriction on the rights to freedom of opinion and expression;
- ▶ annulment of convictions of persons solely for the peaceful expression of their opinions;
- ▶ explicit justification in court proceedings for practices such as banning of books, seizure of newsprint, closure of media outlets and punishment of persons considered a threat to national security through the exercise of rights to freedom of opinion and expression;
- ▶ establishment of a national human rights commission, apart from and independent of the parliamentary commission; and
- ▶ translation into Turkish and wide dissemination of the Special Rapporteur's report.

The report concludes by noting that Turkey is a party to the European Convention, the government has agreed to the compulsory jurisdiction of the European Court, and, finally, that some 800 individual complaints have been filed under the European Convention.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1997/32, paras. 15, 20, 165–169)

The report reviews cases transmitted to the government, including that of the former Chairman of the Balikesir Bar Association who had been charged with "insulting the laws of the Republic" on the basis of an article he had written which

was included in a book published by the Human Rights Foundation of Turkey (HRFT). The report notes that the charge and trial are an unwarranted restriction on the duty of lawyers to take part in public discussions of matters concerning the law. A second case related to a lawyer and board member of the Hakkari branch of the Turkish Human Rights Association (HRA) who was detained without warrant and released after several hours. The report notes that during his detention his house and the offices of the HRA were searched and that information received indicated the actions were taken against him solely because of his activities as a human rights lawyer. The report notes that since his release, the lawyer was reported to have received death threats.

The government's response to the first case asserted that excerpts of the published article showed that it was an open attempt to degrade and insult Turkish law and the Constitution which is an offence and, on that basis, the trial was not aimed at the exercise of the freedom of expression concerning the law, the administration of justice, or the promotion and protection of human rights. The government also stated that the lawyer had not complied with Principle 23 of the Basic Principles on the Role of Lawyers stipulating that lawyers should always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession. On the second case, the government asserted that grounds for the detention had been found in documentary evidence, gathered during operations previously conducted by the security forces, which indicated that the individual had provided financial assistance to the PKK. The additional searches had not provided more evidence and the person had been released after interrogation.

The SR has requested an invitation from the government to visit Turkey.

Racial Discrimination, Special Rapporteur on: (E/CN.4/1997/71, para. 40)

The report provides the text of information submitted by the government on measures to end manifestations of racism. The government stated that: domestic laws should be harmonized to deter and severely punish offences committed with racist motivations; similar deterrent elements should be put into effect in the administrative domain, such as harsh penalties for government agents who are involved or acquiesce in racist activities or who condone or do not intervene to prevent such activities; training should be provided to government agents, such as the police and customs officials, who frequently have to deal with foreigners, emphasizing racism and other related ills; special assistance should be provided for the redress and rehabilitation of victims of racist attacks; a UN voluntary fund should be established for victims of racism; abhorrence of racism in all its forms and manifestations, with special emphasis on concrete examples from history, must be included in educational curricula in a manner which takes into account the levels, age and specialization of the students; and, similar courses must be incorporated into professional training, particularly for security and customs personnel.

Religious intolerance, Special Rapporteur on: (E/CN.4/1997/91, paras. 9, 17, 20, 23, 25, 51, 58, 66)

The report notes that religious intolerance has been reported in Turkey with regard to Christianity, Islam and