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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by Maat for Peace, Development and Human Rights Association, a non- governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 May 2021]

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\* Issued as received, in the language(s) of submission only.



## Violence against Women in the Middle East & North Africa

### Preamble

Maat for Peace, Development and Human Rights would like to thank the UN Special Procedures, especially the Special Rapporteur on violence against women, its causes and consequences, Ms Dubravka Šimonovic for her tireless and continuous follow-up on issues of violence and discrimination against women, especially sexual violence, which is a violation of a range of human rights, including the right to physical integrity, the right to privacy and the right to the highest possible level of physical and mental health. Having reviewed the report of the Special Rapporteur submitted to the UN Human Rights Council (HRC) at the 47th session of June 2021, which stressed the need for states to adopt legislation criminalizing rape as a serious crime and to justly and fairly prosecute perpetrators, and considering rape a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women, Maat, before moving to address the crime of "rape" at the level of law and practice in Egypt, Turkey, and the Sudan, would like to express its gratitude to the Special Rapporteur on violence against women, who referred, more than once in her report, to the statements of civil society organizations, including the statements of Maat on the situation in Somalia. Finally, Maat provides a set of recommendations that it deems necessary in order to harmonize the legislation related to rape and sexual violence in the aforementioned countries with international human rights standards.<sup>1</sup>

In Somalia, women and girls face the constant risk of rape and sexual violence. These crimes are widespread, especially against girls under the age of 18, who are denied access to justice in light of the lack of rule of law and the dominance of tribal sovereignty in settling such violent practices against girls. As an example of crimes of sexual violence in Somalia, a 19-year-old girl named Farah Hamdi Mohamed was raped by 11 men before they threw her from the sixth floor in a building in the Wabari neighbourhood in the Somali capital, Mogadishu. In June 2020, a 13-year-old girl was raped in an orphanage in Hargeisa, the capital of Somaliland. Such crimes are repeated continuously in light of the weaknesses of the judicial system and the widespread impunity. On May 17, 2020, a four-year-old girl was raped in Mogadishu's Medina neighborhood. On March 30, 2020, two children, aged three and four, who were playing in the street, were kidnapped, raped, and then transferred to the hospital in a critical condition.

The prevalence of rape and other forms of sexual violence is chiefly attributed to the legal shortcomings in legislation related to rape, whether at the level of federal or state legislation. In many cases, the perpetrator is allowed to marry the victim based on tribal settlements or what is known as customary law. The girl is forced to marry her rapist to avoid social pressures and stigmatization. In a related context, the Somali Penal Code does not contain deterrent provisions against the perpetrators of rape.

In Egypt, the law does not contain a clear reference to the term "rape" and uses instead terms like "indecent assault" or "threat of force or coercion". Several court rulings were recently issued to punish the perpetrators of this crime with various sentences, ranging from 10 to 3 years imprisonment. On May 24, 2021, El Talbia Criminal Court sentenced four defendants in case No. 12622 of 2020 to four years in prison for sexually assaulting a social media activist. The four defendants were arrested by security forces on May 26, 2020, and have been questioned for eight hours after making various charges against them, including the infringement on family principles and values and incitement to prostitution. They were then held in a centre dedicated to hosting and protecting victims of violence, based on a decision from the Public Prosecution Office. However, in similar cases, according to human

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<sup>1</sup> Rape as a grave and systematic human rights violation and gender-based violence against women, Somalia - Maat for Peace, Development, and Human Rights, Available at the following link: <https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRVAV.aspx>.

rights reports, victims do not want to report grave violations against them for fear of similar charges that may be brought against them.

In Turkey, women face a wide spectrum of sexual violence, especially in the context of domestic violence. These practices against women will likely continue in Turkey in light of the protection provided to women, both at the level of law and practice. A clear example of this is Turkey's withdrawal from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the "Istanbul Agreement", which Turkey signed on May 11, 2011, and ratified on February 10, 2012.

Domestic violence rates are unprecedentedly high in Turkey. In 2020, about 300 women were killed at the hands of their partners in the home, and given the reference made by the Special Rapporteur on violence against women in Paragraph 21 of her report to the HRC, in which she explains that rape is a form of discrimination and gender-based violence against women based on the general recommendation of the Committee on the Elimination of Discrimination against Women No. 35 of 2017 in which she states that rape is a manifestation of violence against women in domestic life. A Turkish woman was raped in July 2020 by her husband's brother, and despite reporting the case, the police released him after investigation, which prompted her husband to get rid of her. Such cases highlight the critical fact that the Turkish government need to urgently address impunity for domestic violence against women under international standards.

In the Sudan, the legislation contains clear loopholes in dealing with the crime of "rape". Rape, according to Article 149 of the Criminal Code, is seen as "adultery" without consent, which means that rape in Sudanese legislation is considered a crime against a woman and the honour of her family more than being gender-based violence against women.

Such legislations perpetuate impunity for sexual violence-related crimes in Sudan, especially since Sudanese courts often refuse to rely on DNA analysis as an alternative to bringing four witnesses. In addition, the penalty stipulated when rape is proven, which ranges from two to ten years, is not commensurate with the gravity of the crime committed by the perpetrator. The confusion between the crime of adultery and rape in the Sudanese Criminal Code indicates that a woman who fails to prove that she was subjected to sexual assault is tried for adultery, which is the death penalty if the woman is married, or 100 lashes for an unmarried woman.

## **Recommendations:**

- Somalia should legislate a law at the federal level that includes violence against women in line with relevant international standards, and that provisions relating to sexual violence, gender discrimination and rape crimes should be a basic component of the law.
- Intensifying the penalties stipulated in the Somali Penal Code in line with the gravity of the harm inflicted on the victim, and ending the settlements made under customary law such as the rapist marriage to his victim or the payment of compensation to avoid prosecution.
- Egypt should amend Article 267 of the Penal Code to designate the crime of rape in its name rather than using vague terms such as "indecent assault" or "threat of force or coercion." In addition, it is desirable to explicitly refer to "marital rape" as a crime requiring punishment in domestic laws.
- Turkey should reconsider withdrawal from the "Istanbul Agreement", and address the alarming surge of domestic violence in Turkey.
- The Sudan should amend Article 149 of its Criminal Code to eliminate the confusion between rape and adultery mentioned in the text of the aforementioned article, or to issue separate legislation that criminalizes rape as a violation of women's rights and strengthens penalties against perpetrators.