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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.

[02 June 2019]

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

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The right to peaceful assembly and association in Turkey

Introduction

Maat for Peace, Development and Human Rights (Egypt) expresses its concern about the situation of human rights defenders in Turkey as a result of the Turkish government's announcement of a state of emergency in the country, following the failed coup in 2016, paving the way for the Turkish government to arrest thousands and close hundreds of NGOs. To deprive those who need their defense, as well as, NGOs, provide indispensable support to all marginalized and communities and minorities whose rights are violated in the Turkish society.

The state of emergency officially ended in July 2018 and replaced with the Anti-Terrorism Act, which is not different from the Emergency Law in terms of arbitrary provisions, but has further expanded the powers of the concerned state governors, which are already extensive, to restrict gatherings and mobility. Police began restricting the right to freedom of peaceful assembly, by detaining university students following peaceful protests and accusing them of spreading terrorist propaganda. The Ministry of Interior banned weekly gatherings of some Turkish organizations. The scene of human rights violations in Turkey continues. What is happening now in Turkey is similar to "collective punishment for the Turkish citizens".

The legal and constitutional Framework of the right to freedom of assembly and association in Turkey

Article 33 of Turkey's Constitution of 1982 amended in 2011, on the rights and freedoms of assembly, reads that "Everyone has the right to form associations, or become a member of an association, or withdraw from membership without prior permission. No one shall be compelled to become or remain a member of an association. Freedom of association may be restricted only by law on the grounds of national security, public order, prevention of commission of crime, public morals, public health and protecting the freedoms of other individuals. Associations may be dissolved or suspended from activity by the decision of a judge in cases prescribed by law. However, where it is required for, and a delay constitutes a prejudice to, national security, public order, prevention of commission or continuation of a crime, or an arrest, an authority may be vested with power by law to suspend the association from activity. The decision of this authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his/her decision within forty-eight hours; otherwise, this administrative decision shall be annulled automatically."

Furthermore, article 34 of Turkey's Constitution states that "Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission. The right to hold meetings and demonstration marches shall be restricted only by law on the grounds of national security, public order, prevention of commission of crime, protection of public health and public morals or the rights and freedoms of others." It is worth mentioning that such articles may be entirely suspended under article 15 of the Constitution, concerning the suspension of the exercise of fundamental rights and freedoms, which states "In times of war, mobilization, martial law, or a state of emergency, the exercise of fundamental rights and freedoms may be partially or entirely suspended, or measures derogating the guarantees embodied in the Constitution may be taken to the extent required by the exigencies of the situation, as long as obligations under international law are not violated."¹

The state of emergency was imposed in 2016, and all the rights and freedoms granted to the Turkish people were violated. After the end of state of emergency in 2018, it was replaced by the Anti-Terrorism Law, which includes provisions of the Emergency Law for a period of three years. The state governors have been, under the Law, extensively empowered, also the

¹ نفس المصدر السابق.

authorities have been empowered to restrict assembly and movement, dismiss administrative personnel by the executive power, including judges, in addition to the powers of the police, including detention for periods of up to 12 days. The law was described as a "permanent state of emergency".²

Restrictions on the Right to Peaceful Assembly, and Suppression of Demonstrations

Public demonstrations dwindled as provincial governors imposed arbitrary and blanket bans, citing powers under the state of emergency, and police used excessive force against the small number of individuals. The annual Istanbul Pride march was banned for a third successive year on spurious security grounds. Police used unnecessary and excessive force, firing rubber bullets, and made arbitrary arrests, targeting small groups of people attempting to celebrate LGBTI's Pride march.³

In November 2017, the Turkish authorities imposed an indefinite ban on events organized by lesbian, gay, bisexual, transgender and intersex (LGBTI) solidarity organizations. Again, the authorities cited spurious security reasons. A year later, in 2018, the arbitrary ban on public gatherings increased after provincial governors had extensive powers to restrict gatherings under the Anti-Terrorism Law. Police detained students from prominent universities because of peaceful protests at the campus against the Turkish attack on Afrin. 18 students were arrested and more were tried on charges such as "spreading terrorist propaganda" and "insulting the president."

In August, the Interior Minister banned the long-running peaceful weekly vigil at a central location in Istanbul by the Saturday Mothers. Police violently dispersed and briefly detained 27 of the organizers for a short period. The ban on holding the vigil at the traditional location remained in effect at this writing. A Saturday Mothers' vigil in Diyarbakir was also banned, as were all public assemblies organized by the Diyarbakir branch of the Human Rights Association from September onwards. On September 15, 2018, police detained hundreds of construction workers who protested poor work and living conditions on the building site of the third airport in Istanbul. Courts ordered 37, including trade union officials, into pretrial detention, with six later released. Many more are under criminal investigation accused of offenses such as staging an unauthorized protest and resisting dispersal.⁴

Restrictions on the right to peaceful assembly, and the arrest of activists

Since the failed coup attempt in July, 2016, Turkey has renewed its state of emergency seven times. The state of emergency essentially enables the government to rule without checks and balances, by issuing executive decrees. These executive decrees have the force of law, and are subject to almost no scrutiny by Parliament or the courts. Furthermore, 1,300 associations and non-governmental organizations have been closed. On November 22, 2016, the Van Women's Association (VAKAD), a vibrant organization that worked to prevent violence against women and girls in eastern Turkey, was closed down under executive decree.⁵

Amended Presidential Decree No. 17, which was published on September 13, 2018, on Civil Society abolished the Department of Associations and established a Directorate General for Relations with Civil Society under the Ministry of Interior. Article 83 of the Regulation on Associations was amended in October 2018 to require associations to provide an array of information about their members, including identification numbers, name and surname, occupation, education status, and dates of membership in the association. All these legal provisions and amendments have paved the way for the Turkish authorities to restrict

² البرلمان التركي يمرر مشروع قانون مكافحة الإرهاب كبديل لقانون الطوارئ، م منشور على موقع مصرأوى، بتاريخ 25 يوليو 2018، ويمكن قراءة المقال كاملاً من خلال الرابط التالي: <http://cutt.us/7a8W6>

³ العفو الدولية، تقرير منظمة العفو الدولية السنوي، تركيا 2017-2018، ويمكن قراءة التقرير السنوي كاملاً من خلال الرابط التالي: <http://cutt.us/eVb73>

⁴ هيومن رايتس ووتش، تقرير هيومن رايتس ووتش السنوي، تركيا 2018، ويمكن قراءة التقرير كاملاً من خلال الرابط التالي: <http://cutt.us/6ZZTw>

⁵ Amnesty International, We need to talk about turkey, To read more: <http://cutt.us/iySJR>

fundamental freedoms, including freedom of association, under the pretext of maintaining national security or public order.⁶

Accordingly, activists and human rights defenders have been arrested on terrorism-related charges. A Turkish court sentenced six human rights defenders to prison, including the Director of Amnesty International Turkey Idil Eser, who was arrested on July 7, 2017. The six detained were: Günel Kurşun and, Human Rights Agenda Association, Özlem Dalkıran, Citizens' Assembly, Ali Gharwa, an Information Technology Strategy Consultant, and Peter Studtner, an instructor in the field of nonviolence and safety preservation on random charges such as assisting terrorist organizations. These detentions come less than a month after Amnesty International's Turkey chair, Taner Kiliç. In November 2017, Osman Kavala, a businessman and a well-known figure in the Turkish civil society, was imprisoned for investigations into fabricated charges, including his involvement in the failed coup attempt in 2016.⁷

Recommendations

Believing in the important role that civil society organizations play in the utilizing of human rights approaches and the utilizing of its mechanisms and tools to promote human rights, Maat for Peace, Development and Human Rights recommends:

- To fully comply with international human rights obligations and to ensure the rights enshrined in the European Convention on Human Rights.
- To establish a specialized committee to review the internal laws and regulations on civil society organizations.
- To immediately and unconditionally release of the detainees of expression, activists and human rights defenders.
- To consider the provisions of the Anti-Terrorism Law and amend it in line with international human rights standards and covenants.

⁶ The International Center for Not-For-Profit Law, Civic Freedom Monitor: Turkey, To Read more: <http://cutt.us/AnxoM>

⁷ أطلقوا سراح أعضاء منظمة العفو الدولية: المدافعين عن حقوق الإنسان في تركيا، بيان مؤسسة التآخي لحقوق الإنسان، بتاريخ 20 يوليو 2017، ويمكن قراءته كاملاً من خلال الرابط التالي: <http://cutt.us/OrGI8>