

**MULTI-DONOR TRUST FUND FOR  
UN ACTION AGAINST SEXUAL VIOLENCE IN CONFLICT<sup>1</sup>**

**UN TEAM OF EXPERTS: RULE OF LAW/SEXUAL VIOLENCE IN CONFLICT**

**FINAL NARRATIVE REPORT COVER PAGE**

<p><b>Participating UN Organization(s): UNDP</b></p>	<p><b>Project<sup>2</sup> Title:</b> Team of Experts support to the implementation of the Somalia Joint Communique on addressing sexual violence</p> <p><b>Project Number:</b> UNA043</p>
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<sup>1</sup> Only relevant if project is more than one fiscal year (i.e. 1 January - 31 December)

<sup>2</sup> The term “project” is used for projects, programmes and joint programmes

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# UN TEAM OF EXPERTS: RULE OF LAW/SEXUAL VIOLENCE IN CONFLICT

## Final Narrative Report

**Project Title:** *“Team of Experts (TOE)’s support to the Government of Somalia to address conflict-related sexual violence”*

**Project Duration:** April 2014 – December 2016

**Contribution:** \$300,000

**Project Title:** *“Team of Experts’ Support to the Government of Somalia to implement national action plan to address conflict-related sexual violence”*

**Project Duration:** April 2016 – December 2017

**Contribution:** \$500,000

**Project Title:** *“Follow-up and consolidate support by the Team of Experts on Rule of Law / Sexual Violence in Conflict to the Government of Somalia to address conflict-related sexual violence”*

**Project Duration:** April 2017 – December 2018

**Contribution:** \$500,000

### I. Background

Somalia has faced chronic insecurity; destruction of its social, economic, political, security and legal infrastructure; and widespread human rights abuses, including sexual violence, following decades of conflict and instability. Throughout 2014 to 2018, conflict-related sexual violence continued to be reported in Somalia, perpetrated by various actors including the terrorist group Al-Shabaab, and perpetrated during both ongoing inter-clan conflicts and military offensives. Internally displaced women and girls and those from minority as well as marginalised clans continue to be exposed to the greatest risk. The United Nations (UN) has reported cases of rape and gang rape, especially in Al-Shabaab controlled areas, where access to services for victims continues to be limited. Somalia’s weak legislative framework and the limited capacity of national institutions continue to hamper access to justice, perpetuating a climate of impunity.

Despite these challenges, the Federal Government of Somalia has made efforts to increase engagement on human rights issues, including by adopting a Post-Transition Human Rights Road Map for the period of 2013 to 2015 and signing the Somali Compact at the New Deal Conference in Brussels.

On 7 May 2013, the Government of Somalia and the UN adopted a Joint Communiqué on addressing sexual violence. The Joint Communiqué offers the support of the UN Team of Experts on the Rule of Law / Sexual Violence in Conflict (TOE) to help the Government of Somalia define and implement an action plan in line with the priorities expressed in the Joint Communiqué.

In December 2013, the TOE undertook a joint technical assessment mission to Somalia and Kenya. The results of the assessment helped to inform a May 2014 consultation workshop organized by the Ministry of Women and Human Rights Development (MOWHRD), with the support of the TOE. The workshop provided an opportunity for all relevant Government ministries to agree on common objectives and to solicit input from those delivering services in areas affected by the conflict. As a result of these consultations, the Government developed a National Action Plan on Ending Sexual Violence in Somalia to guide its work in meeting commitments under the Joint Communiqué. In June 2014, a draft of the National Action Plan was launched at the Global Summit to End Sexual Violence in Conflict held in the United Kingdom.

In April 2014, the Government of Japan provided a financial contribution of US\$300,000 to support the implementation of the TOE's project, which started on 1 April 2014 and was scheduled to conclude on 31 March 2015. During this period, a deteriorating security situation, as well as disputes between the President of Somalia and the Prime Minister paralyzed government activities, including the MOWHRD, one of the TOE's primary interlocutors and the main entity overseeing the issue of conflict-related sexual violence. On 16 April 2015, the TOE requested and was granted by the Government of Japan a no-cost extension for the project until 31 December 2015. During the remainder of 2015, Somalia continued to face political turmoil, cabinet reshuffles, and limited access due to insecurity, including attacks targeting government officials, infrastructure, as well as the African Union Mission to Somalia (AMISOM). These attacks led to the shrinking of humanitarian and development space, which affected the timely delivery of the project. Despite these challenges, the Government of Somalia demonstrated strong commitment and leadership in addressing sexual violence, including through the MOWHRD, Ministry of Justice and the national police. On 29 January 2016, the TOE requested and was granted an additional no-cost extension until 31 December 2016 by the Government of Japan. In addition, on 26 February 2016, the Government of Japan pledged an additional US\$500,000 for the TOE's work in Somalia. On 15 March 2017, the TOE requested and was granted by the Government of Japan a no-cost extension for the US\$500,000 project until 31 December 2017. In addition, on 28 February 2017, the Government of Japan pledged an additional US\$500,000 for the TOE's work in Somalia. In March 2018, the TOE requested and was granted a no-cost extension until 31 December 2018 by the Government of Japan for the US\$500,000.

In an effort to efficiently and effectively deliver on the projects in cooperation with partners on the ground, enhance coordination, and build synergies with partners, the TOE worked with the United Nations Development Programme (UNDP) and the United Nations Support Mission in Somalia (UNSOM) to imbed support for National Action Plan activities into the Somalia Joint Rule of Law Programme, thus preventing duplication of implementation modalities. The Somalia Joint Rule of Law Programme ended in June 2018.

## **II. Objectives**

Building on the Joint Communiqué, the TOE's concentrated its efforts on achieving the following objectives: (i) supporting the Government in developing, implementing and monitoring the National Action Plan; (ii) supporting the Government in identifying and clarifying legislative reform priorities relating to sexual violence; (iii) assisting the Government in assessing the national level justice sector capacity to respond to issues of sexual violence; and (iv) developing a strategy for providing technical support to the police, the prosecution and the judiciary to respond to sexual violence.

## **III. Progress/Results**

### **National Action Plan on Ending Sexual Violence in Somalia**

#### *Relevant Output(s):*

- *Government supported in developing, consulting, implementing, and monitoring the National Action Plan on Sexual Violence in Conflict*
- *Achievements under the National Action Plan on Ending Sexual Violence in Somalia assessed and strengthened*

The TOE has actively supported the Government of Somalia in developing, consulting, implementing and monitoring the National Action Plan on Sexual Violence in Conflict. The TOE's assistance began with support to the SRSG-SVC during her initial assessment mission to Somalia. During this mission the TOE

helped identify key issues for inclusion in the Joint Communiqué. This support was followed by a technical assessment in December 2013 and support to the May 2014 consultation workshop on the National Action Plan.

Following approval of the National Action Plan, the TOE actively supported the Government in establishing a Steering Committee, which serves as a platform for coordination, management and implementation of activities under the National Action Plan and a Coordination Cell to facilitate this work. The Steering Committee seeks to ensure that all relevant policy documents, including the National Development Plan 2017-2019, the Joint Communiqué and the GBV Strategy 2014-2016, are mutually reinforcing and strengthen national efforts to ensure long-term peace and state-building according to the principles of human rights, gender equality, accountability and respect for justice. The Steering Committee is comprised of Federal Member States, UN agencies, and civil society organizations, and is co-chaired by the MOWHRD and UNSOM. In support of the Steering Committee and the MOWHRD in general, the TOE assisted with the recruitment of a National Coordinator who sits within the MOWHRD and whose main functions are to facilitate the implementation of the National Action Plan, coordinate activities of the Federal Government of Somalia with all of the Federal Member States which are now part of the National Action Plan, and support reporting on expenditures.

In addition to supporting the Steering Committee and the Coordination Cell at the federal level, the TOE also sought to enhance outreach and awareness raising at the regional level. This included efforts to organize technical consultation workshops on the National Action Plan through the regional MOWHRD in the Jubaland and South West State, as well as meetings and public outreach with community leaders and women's groups. These activities eventually took place in 2017, but were initially delayed because of insecurity, the ongoing electoral process and political dynamics between the Federal Government of Somalia and the state authorities in the regions. Despite delays in outreach to Jubaland and South West State, community outreach programmes aimed at raising awareness on the need to end sexual violence in conflict were conducted at the federal level in 2016. These activities included media debates; radio programmes to explain the National Action Plan and obtain buy-in; and the airing of messages on sexual violence that emphasized the need for everyone to work together to end sexual violence and the impact of sexual violence has on the society.

In 2017, the MOWHRD undertook several consultation meetings on the National Action Plan. In January, a National Coordination Workshop created a platform for government institutions at federal level and in Federal Member States to share information, gain a better understanding of the National Action Plan, and agree on how to move forward with implementation. Key areas discussed included how to increase accountability in institutions and how to make comprehensive services available and accessible to the population, especially justice and police services. Meeting participants also agreed to strengthen the capacity of the MOWHRD to collect and analyse data pertaining to reported cases of sexual violence, through the establishment of a national data base.

Through consultative meetings in Jubaland and South West State, the MOWHRD ensured that the regions were actively involved in implementing the National Action Plan, and activities were rolled out in the Federal Member States.

On 28 and 29 November 2017, the Government with support of UNSOM, UNDP and the TOE organized a review of the National Action Plan, which had been set to expire on 31 December 2016, but was extended until 31 December 2018, to determine whether the intended objectives were met. Specifically, the purpose of the review was to (i) ascertain the level of implementation of the National Action Plan; (ii) identify remaining priority areas of focus; (iii) identify lessons learned; and (iv) determine the next steps following

the review. During the review each relevant ministry presented its progress toward implementation of the National Action Plan, challenges faced in implementing the various activities, and priority actions going forward. In addition to presentations by ministries, the UN was also provided an opportunity to present its work, challenges faced, and priorities going forward. Participants also divided into working groups to discuss in more detail gaps and opportunities in the current and future National Action Plans. After presenting the outcomes of the group discussions in plenary, there was a discussion on the way forward. Based on the discussions it was agreed that while this two-day event was a critical first step in moving forward with the review of the National Action Plan, considerably more work is required to ensure a full understanding of where implementation stands and to bring on-board various groups which were not initially involved in the process. Of particular focus in the discussions was the need to engage with the various Federal Member States who until now were not part of the National Action Plan - Puntland, Galmudug and Hirshabelle - both to sensitize them on the ongoing work, but to also engage them in the planning and work going forward. The inclusion of these three states is significant as it will allow these states to learn from the experiences of others thereby strengthening their frameworks for addressing sexual violence in conflict. In the case of Puntland, a number of good practices are already in place and other states can benefit from such progress.

In further support of the Federal and Regional MOWHRD, the TOE assisted in the identification of equipment needs and facilitated the provision of such equipment through UNDP (Somalia) for distribution to the MOWHRD and regional ministries. The purpose of this support was to better enable the MOWHRD to support the implementation and monitoring of the National Action Plan.

## **Legislative Reform**

### *Relevant Output(s):*

- *Support to the Government in identifying and clarifying legislative reform priorities relating to sexual violence*

The TOE has sought to respond to one of the key concerns in Somalia, specifically the inadequacy of the legal framework to address sexual violence crimes. The TOE contributed to efforts by Somali authorities to organize consultations to review its legal framework. It should be noted that the legal system of Somalia is built on common law, Islamic law, as well as customary law practices. The consultations were an opportunity to engage practitioners and legislators on what type of laws and policies Somalia should enact to address the sexual violence crimes. These consultations comprised relevant government ministries including MOWHRD, Defence, Justice, National Security, Education, Higher Education, Religious Affairs and Health, as well as the Somali Armed Forces and the Somali Police Force. Civil society organizations were also consulted and contributed to the process.

The process resulted in the identification of key areas that needed improvement. These included: (i) support to the Policy and Legislative Drafting Unit in the Ministry of Justice through the provision of expertise in legislative drafting, specifically with sexual violence expertise; (ii) the review of the Penal Code and the Criminal Procedure Code to ensure that they effectively address sexual and gender-based violence; (iii) the development of procedures, policies and protocols on the protection of victims and witnesses; (iv) the adoption of a policy on internally displaced persons that integrates the protection of displaced women and children from sexual violence; (v) the development of a policy regarding legal assistance; and (vi) a review of the roles, responsibilities and jurisdiction of traditional justice actors.

Based on the needs identified above, the TOE supported the development of a legal aid policy which aims to ensure quality legal aid for those seeking assistance. This support was coupled with training on the legal aid policy to civil society organisations, key ministry personnel and members of the Somali National Police. The

TOE provided technical input to the draft “Sexual Offences Bill” (2017), which was submitted to Parliament. On 30 May 2018, in a significant step aimed at strengthening the legal framework to prevent and respond to sexual violence, the Federal Council of Ministers passed the Sexual Offences Bill. If enacted, the Sexual Offences Bill will create a new, robust and survivor-responsive legal framework. Significantly, the Sexual Offences Bill includes a new definition of rape, which is no longer classified as a “crime against morality”. In addition the Sexual Offences Bill includes the critical element of consent which will assist both law enforcement agents and the prosecutorial authorities. Furthermore, the Sexual Offences Bill contains new substantive provisions including, *inter alia*, sexual exploitation, sexual slavery, sex trafficking, forced marriage, sexual abduction, unlawful detention [kidnapping] with aim for sex or sexual slavery purposes, and sexual slavery of an adult person. However, opposition to the Sexual Offences Bill by some Somali religious leaders continues. Most recently, on 18 October 2018, some Somali religious leaders held a press conference in Mogadishu in which they denounced the Sexual Offences Bill arguing that “adulthood” as defined in the Bill contravenes Sharia law. The TOE also provided technical input to the draft “Somaliland Rape and Sexual Violence Law” to ensure compliance with international standards. Sexual violence is now clearly defined by this law, which also strengthens penalties for the commission of sexual violence crimes. In addition, the TOE provided recommendations on the way forward for the implementation of the recently adopted Sexual Violence Act of Puntland.

### **Capacity Assessment and Capacity Building**

#### *Relevant Output(s):*

- *Assistance to the Government in assessing national level justice sector capacity to respond to issues of sexual violence*

Based on the TOE’s 2013 technical mission to Somalia, the Government has engaged in dialogue and consultations to review and analyse the capacity of the justice sector in addressing conflict-related sexual violence.

The MOWHRD and the Ministry of Justice have been the primary interlocutors for the TOE on the issue of conflict-related sexual violence. A series of consultations have taken place since 2015 with the latest having taken place in Jubaland State from 4 to 5 February 2018 and in Galmudug State from 11 to 12 February 2018 by these ministries, which brought together government and non-governmental entities. These consultations helped explore the current challenges faced by the justice system, including: (i) the delivery of justice for sexual crimes; (ii) the tools at the disposal of Somalia to address sexual crimes; (iii) the capacity of the judiciary both in Mogadishu and the country more broadly to prosecute crimes of sexual violence; and (iv) obstacles impeding access to justice. These consultations helped identify serious capacity gaps including the lack of a basic understanding of the crimes of sexual violence, limited availability of human resources and the inadequacy of existing tools, infrastructure and resources.

These consultations also helped the Government of Somalia identify a number of actions including: (i) establishing joint training for police, prosecutors, judges and legal aid providers; (ii) strengthening the capacity of military courts with respect to investigations; (iii) introducing sexual violence investigation techniques into police training curricula; (iv) establishing specialized units in the police regarding sexual violence offenses and offenses against women and children; and (v) establishing protocols and mechanisms to protect victims and witnesses who come forward to seek redress. In addition, the Attorney General’s Office has now established a Sexual Gender Based Violence Unit with four female prosecutors whose main function is to prosecute sexual violence crimes including cases of conflict related sexual violence.

Three sensitization trainings were held for the judges, prosecutors, traditional elders and lawyers on the nature and complexity of sexual offences in conflict and the importance of addressing the needs of witnesses and victims. The trainings were held in Jubaland, Puntland and South West State.

## Technical Support to Police, Prosecution and the Judiciary

### *Relevant Output(s):*

- *Strategy for providing technical support to the police, prosecutors, and the judiciary to respond to issues of sexual violence developed*
- *Rapid response unit (RRU) on investigating sexual violence within the police established and supported*
- *Specialized police units for women and children, established and strengthened*

In line with the National Action Plan and the needs articulated through the extensive consultation process, the TOE, through UN colleagues on the ground, supported the development of civilian and military justice capacities in Somalia. Specifically in November 2015, the Police Working Group authorised a proposal to establish Women and Children Protection Units within the Somali Police Force. Based on this agreement, the TOE and UNSOM supported the development of the terms of reference for the Woman and Child Protection Unit. The terms of reference were validated in a workshop, approved and adopted by the Somali National Police in September 2016. The Women and Children Protection Units were then supported by a Working Group made up of Federal Government of Somalia entities, including the Police, the Attorney General's Office, the judiciary, the MOWHRD, the Ministry of Internal Security, and civil society organizations, as well as UNSOM Women Protection, UNSOM Child Protection, UNPOL, UNDP, UN Women, UNICEF and AMISOM.

The aim of the Woman and Child Protection Unit is to provide a coordinated multi-sectorial approach in investigating and preventing sexual and gender-based violence, conflict-related sexual violence, and violence against children in all its forms. The Woman and Child Protection Unit provides survivor-friendly services and provides access by victims to additional services that may be required such as medical services, psychosocial support, access to a safe house or other places of safety as may be necessary on a case by case basis, and to legal aid services. The Woman and Child Protection Unit also provides specific services regarding all forms of violence against women and address protection issues pertaining to children in conflict with the law.

The Woman and Child Protection Unit is located in the Somali National Police headquarters and works with all police stations in Mogadishu. While functional, the Woman and Child Protection Unit is facing operational challenges. Police officers outside the unit reportedly do not view the Woman and Child Protection Unit's activities as serious police work and perceive it as providing support to survivors, an activity traditionally associated with NGOs. According to information received, female police officers are not interested in working in the Woman and Child Protection Unit, mainly due to the threats reportedly received by those working in the Unit. Many of the alleged perpetrators of sexual violence that the Woman and Child Protection Unit is required to investigate are uniformed personnel, either from the police or the military. These alleged perpetrators are sometimes from powerful clans.

Due to these threats and perceptions, working in the Woman and Child Protection Unit is considered to be very challenging. There is little support from the police leadership to change perceptions and to protect junior officers from threats. Police officers working in the Woman and Child Protection Unit are also frustrated by what they see as the unjustified use of the traditional justice system, the *Xeer*. The view of the Woman and Child Protection Unit is that the law dealing with sexual violence is clear and does not provide for the settlement of sexual violence cases under the *Xeer*. However, the police leadership reportedly favours the use of the traditional justice system to settle sexual violence cases through mediation. One of the main motivations to refer cases to the *Xeer* may be that the police receive payment from alleged perpetrators in exchange for cases to be settled through mediation.

In further support of the Woman and Child Protection Unit, the TOE through the Somalia Joint Rule of Law Programme assisted in (i) the identification and training of mobile training teams to provide training to Somali

National Police on addressing sexual violence, (ii) the procurement of investigation tool kits for use in investigating sexual violence cases, and (iii) the development of various structures within the police. An assessment of the effectiveness and efficiency of the Woman and Child Protection Unit is scheduled to be undertaken.

In addition to support provided in Somalia, the TOE also engaged in capacity building efforts of Somalis outside of Somalia. In August 2015, the TOE supported a three-day training in cooperation with the International Conference on the Great Lakes – Regional Training Facility. The workshop brought together eighteen military and justice officials including representatives from Somalia to strengthen their capacity on investigating and prosecuting sexual violence crimes and the use of forensic evidence in sexual violence cases. The workshop contributed to strengthening the capacity of national actors to address sexual violence in their justice systems and fostered ties between international practitioners and national justice authorities.

In November 2016, through an experience sharing exercise hosted by the Government of Côte d'Ivoire on "Addressing Conflict-Related Sexual Violence by National Armed Forces in Africa", the TOE supported the participation of the Somali military. The aim of the exercise was to promote south-south experience sharing and to initiate the development of guidelines for African armed forces on addressing conflict-related sexual violence. The conference brought together senior military officers from Forces Armées de la Côte d'Ivoire (FACI); Forces Armées Centrafricaines (FACA); Forces Armées de la République Démocratique du Congo (FARDC); Forces Armées et de sécurité du Mali (FAMA); Sudanese People's Liberation Army (SPLA), and Somali National Armed Forces (SNAF). It was also attended by representatives from the military components of MONUSCO, MINUSMA, the United Nations Operation in Côte d'Ivoire, United Nations-African Union Mission in Darfur, United Nations Mission in the Republic of South Sudan, and African Union Mission to Somalia, as well as representatives from the African Union, UNDP, the United Nations Institute for Training and Research, the Nordic Centre for Gender in the Military, and the Kofi Annan International Peacekeeping Training Centre. This was an opportunity for the SNAF to learn from others' experiences, best practices, tools and strategies to prevent and respond to sexual violence. It was also an opportunity to analyse and discuss challenges they are facing and how this could be addressed through cooperation with other armed forces in Africa.

## **Coordination**

### *Relevant Output(s):*

- *Coordination between formal justice institutions in Southwest Administration, Jubaland, Banadir, Galmadug and Puntland and civil society and service providers strengthened*

In 2017, the Ministry of Justice at federal level led a national process to identify a legal aid model for Somalia based on the cabinet approved legal aid policy. To understand the various modes, experiences and challenges in accessing justice, a comprehensive workshop on legal aid and mobile courts was organized in Mogadishu. The workshop was attended by approximately 25 justice stakeholders, including seven women, from Benadir. The workshop aimed at identifying and understanding how access to justice is delivered in Benadir, how to improve collaboration and coordination among stakeholders delivering on legal aid and mobile courts, and how to improve the quality of services provided. Workshop participants proposed the use of legal aid providers contracted through a national process led by the Ministries of Justice and Finance with support from the United Nations.

In 2017, a total of five legal aid centers were supported in Mogadishu, Baidoa and Kismayo with nine lawyers (female 2 and male 7), 19 paralegals (female 15 and male 4) and 10 interns (female 7 and male 3). These centers were run by Somali Women Development Center, Save Somali Women and Children and Mogadishu University, providing legal aid services to a total of 22,391 (female 15,962 and male 6,429) clients through their lawyers and paralegals. The legal aid services provided included legal representation, mediation, legal counselling and support for gender-based violence. In addition, through the legal awareness efforts of the Somali Women

Development Center, Save Somali Women and Children and Mogadishu University, 26,411 (female 19,515 and male 6,896) people were reached through legal awareness and sensitization sessions and distribution of materials about legal aid services and legal rights in Mogadishu, Baidoa and Kismayo for both internally displaced persons and host communities.

In Jubaland, the Ministry of Justice opened community dispute centers in Garbaharey and Kismayo districts and hired two data management officers. The officers work closely with women's groups and traditional elders to enhance the case management and databases systems related to the cases address leading to enhanced better service provision to the people in Jubaland.

#### **IV. Conclusion**

Efforts to support the implementation of the National Action Plan will continue to face political and security challenges particularly as the efforts relate to work outside of Mogadishu. The work also requires the cooperation of the Federal Government and the Federal Member States without which, it will be difficult to fully implement the National Action Plan. Despite these challenges, the Federal Government as well as the Federal Member States continue to place strong emphasis on addressing conflict-related sexual violence.

END/