

# **Statement on Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya**

June 9, 2011

Mr. President, Madam High commission, distinguished members of the Council, Ladies and Gentleman, as you know the Commission was established on 15 March of this year, with the mandate to investigate all alleged violations of international human rights law and international humanitarian law in the Libyan Arab Jamahiriya, to establish the facts and circumstances of such violations and of the crimes perpetrator and where possible, to identify those responsible and make recommendations, in particular on accountability measures. At its first meeting in Geneva on April 6th, 2011, the Commission decided to consider actions by all parties that might have constituted human right violations \*\* throughout the Libyan Jamahiriya. It also considered violations committed, before during and after the demonstrations witnessed in a number of cities throughout the country in Feb. 2011. The commission evaluated the events in the Libyan Arab Jamahiriya in accordance with legal regimes applicable to the different stages of events occurring in that country as the cycle of violence escalated. The first demonstrations and government reactions as of 15 February, took place during what would be called a time of peace. This required an analysis on the basis of international human rights law. Subsequently, in light of the armed conflict that developed in late Feb 2011, in the Jamahiriya and which continued during the Commission's operations, the Commission looked into both violations of international human rights law and relevant provisions of international humanitarian law, which is the *lex specialis* that applies during armed conflicts. Furthermore, following the referral of the events in the Libyan Arab Jamahiriya, by the Security Council to the International Criminal Court, the Commission also considered events in light of international criminal law. The Commission expresses its appreciation to the government of Libya, to the National Transitional Council for having facilitated its visits to Tripoli, Az-Zawiyah, Benghazi, Al-Bayda and Tobruk. The Commission is also grateful to the Arab Republic of Egypt and to Tunisia for facilitating trips to humanitarian camps established along the respective borders with Libya. The commission wishes to express its gratitude to civil society organizations which offered support and which under

difficult and challenging circumstances, continue to play a crucial role in upholding the universal principles of human rights. The Commission also wishes to express its gratitude to the High Commissioner for Human Rights for her support as well as to its dedicated Secretariat and staff without which the Commission would not be able to accomplish as much in such a short period of time.

The present report is based on the Commission's findings gathered during its field visits to Libya, Egypt and Tunisia. It is also the result of its meetings with over 350 persons including high level officials from the government of Libya and representatives of the NTC, but more particularly with victims, witnesses, doctors, medical staff, patients, members of the families, detainees and refugees. As part of its investigative process, the Commission also studied a large number of reports, submissions and documentations amounting to more than 5,000 pages, over 580 videos of different lengths and durations, and over 2,200 photographs. (9:07)

Mr. President, in assessing the information available, the Commission has found that what started as a series of peaceful demonstrations, aiming at achieving reforms in government and more particularly seeing a \*\* form of government, \*\* involved a more democratic form of government, subject to the rule of law and upholding human rights was met with the violent opposition of the government and those supporting it. In a relatively short period of time, this phase escalated into a civil war in which opposing forces fought battles in cities and for the control of territory. The cumulative number of people killed or injured to date is not certain. Government officials, the National Transitional Council and NGOs, have all provided high estimates of casualties, in these contexts, there have been acts constituting murder, unlawful imprisonment, other forms of severe violations of fundamental rules of international law such as torture, persecution, enforced disappearances, that were committed by government forces and by their supporters, as part of a wide spread or systematic attack against a civilian population, with the knowledge that the attack was directed against part of the Libyan population. Such acts fall within the meaning of crimes against humanity, as defined in article 7 of the ICC statute and under customary international law. The Commission also found that there have been many serious violations of international humanitarian law committed by government forces and their supporters amounting to war crimes as defined under article 8 of the ICC statute and the Geneva

conventions. These acts fall within the meaning of war crimes, they include attacks on civilians and civilian objects and targets, attacks on humanitarian related personnel, attacks on medical units and transports using the distinctive emblems of the Geneva conventions and other forms of violence to life and person and humiliating and degrading treatment to those deemed prisoners of war. These attacks, namely those falling within the meanings of war crimes, at first were committed first by aircrafts, and then after the Security Council established the no-fly zone resolution, tanks and artilleries were used. Most importantly, ground \*\* rockets were used against civilian populations as well as snipers, \*\* further investigation would however be required to determine whether these attacks on civilians and civilian targets amounted intentional targeting within the meaning of applicable international law and also to determine if possible those, who pursuant to the mandate, are deemed accountable. On eth biases of the information currently available, the commission is not of the view that the violations committed by the opposition armed forces were part of any wide spread or systematic attack against the civilian population such as to amount to crimes against humanity. However, in certain reports that indicates that these forces, connected with the opposition did commit certain international crimes such as killings, tortures, cruel treatment, and some outrages upon personal dignity, in particular against persons in detention, migrant workers and those believed to be mercenaries. Those acts that occurred during period of armed conflict constitute war crimes under applicable international law.

The Commission requested both sides conduct exhaustive, impartial, and transparent investigations into all allegations of international human rights law and international humanitarian law violations, and in particular to investigate with a view to prosecuting cases of extrajudicial, summary or arbitrary executions, disappearances, tortures, with full respect for judicial guarantees\*\*. The commission was also concerned with reports of rape as being part of a systematic policy and urged the government of Libya to look into it and to cease and desist from this practice. The Commission also notified (14:37) both sides about the need to release all prisoners who are not charged with crimes in accordance with international due process standards. The Commission welcomes the release by the government of Libya of five foreign journalists and the authorization granted to Mrs. Iman al-Obeidi to leave the country, all of whom on his behalf the commission had interceded providing the government with lists of

foreigners held in detention as well as foreign journalist and local journal held in detention. Moreover, a list of 87 detainees held in Tripoli at al-Jdaydah detention center, with whom eth commission visited, has also been left with the authorities in Tripoli with a request for their release and we hope that this is forthcoming soon.

Mr. President, the Commission was able to accomplish its mandate in a limited time frame and during a period of ongoing conflict. Nevertheless, given the gravity and complexity of the situation, it considers that further work needs to be done in order to investigate fully, the numerous allegations it continues to receive at a time when the conflict is still ongoing, and I refer in specific to the towns like Misrata, Ajdabiya, Zintan and Al-Brega (??). Future work would permit an assessment of the veracity of the allegations received, particularly with regard to the use of mercenaries, the use of child soldiers, sexual violence including allegations of rapes and violations against migrant workers. Future work would also permit visits to locations in Libya affected by the conflict. It would also be helpful to enable to commission to identify those responsible, to make recommendations, in particular, with respect to accountability measures, as requested by the Human Rights Council in the resolution establishing the commission's mandate. Accordingly, the commission recommends that the Human Rights Council remains ceased of the situation by extending the mandate of the Commission or by establishing another mechanism with the ability to continue\*\* the necessary investigations into both the human rights and humanitarian law situations in the Libyan Arab Jamahiriya with enough time and flexibility to enable the commission or any other body to fulfill its mandate properly as defined by the council. (17:30)

Mr. President, the Commission is aware of the challenges that lie ahead for the Libyan Arab Jamahiriya in relation to responding to the violations that have occurred. When or how the conflict will come to an end is still unknown. The prospective transition to democracy, the introduction of the rule of law, the equitable allocation of national resources, the restoration of public safety, the reconstruction of public administration, social coherence and cohesion across clans and provinces, the strengthening of civil society and the opening of the country to a new peaceful and democratic order will necessary have to take into account and address past and current violations. The Commission considers that the current situation in Libya and the findings

contained in its report should be viewed in light of future post conflict justice and transitional justice mechanisms, designed to provide justice and reconciliation among the people of the Libyan Arab Jamahiriya in order to ensure peace and justice in that country as well as between that country and the international community. Thank you. (19:00)

Mr. President: Thank you. I would like to thank Mr. Bassiouni, the Chairperson of the Commission of Inquiry for his presentation and for all the work undertaken by the Commission despite the extreme, difficult circumstances and the time constraints. As I mentioned yesterday, bearing in mind the long standing factors of the Council, as well as the relevant General Assembly resolutions 265/237 relating to the credentials of the current government of Libya and without prejudice to resolution 65/265 on suspension of the rights of the council membership of Libya, the concerned country, as represented by the current government will be given the opportunity to speak now. I will not give the floor to the concerned country\*\*, you have five minutes.