

**Statement by Mr. M. Cherif Bassiouni,  
Chair of the United Nations Commission of Inquiry to investigate all  
alleged violations of international law in the Libyan Arab Jamahiriya**

**Human Rights Council 17th Session – 8 June 2011**

Check against delivery

Mr. President,  
Madame High Commissioner,  
Distinguished members of the Council,  
Ladies and gentlemen

On behalf of Ms. Asma Khader and Mr. Philippe Kirsch, I have the honour to present to the Council the report of the Commission of Inquiry to investigate all alleged violations of international law in the Libyan Arab Jamahiriya. Let me first express the regrets of my two colleagues for not being able to join us today for the interactive dialogue. Both came to Geneva for this meeting but unfortunately, had to leave due to scheduling conflict resulting from the Council's successive decisions to postpone the discussion on Libya.

As you know, the Commission was established on 15 March of this year with a mandate to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, to establish the facts and circumstances of such violations and of the crimes perpetrated and, where possible, to identify those responsible, to make recommendations, in particular, on accountability measures.

At its first meeting in Geneva on 6 April 2011, the commission decided to consider actions by all parties that might have constituted human rights violations throughout the Libyan Arab Jamahiriya. It also considered violations committed before, during and after the demonstrations witnessed in a number of cities in the country in February 2011.

The commission evaluated the events in the Libyan Arab Jamahiriya in accordance with legal regimes applicable to the stages of events occurring in that country. The first demonstrations and Government reactions as of 15

February took place during a time of peace, requiring analysis on the basis of international human rights law.

Subsequently, in the light of the armed conflict that developed in late February 2011 in the Libyan Arab Jamahiriya and continued during the commission's operations, the commission looked into both violations of international human rights law and relevant provisions of international humanitarian law, 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 the light of international criminal law.

The Commission expresses its appreciation to the Government of Libya and to the National Transitional Council for having facilitated its visits to Tripoli, Al Zawiyah, Benghazi, Al Baydha and Tobruk. The Commission is also grateful to the Arab Republic of Egypt and Tunisia for facilitating visits to humanitarian camps established along the respective borders with Libya.

The Commission wishes to express its gratitude to civil society organisations 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 without which the Commission would not have been 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 a result of its meetings with over 350 persons, including high level officials from the Government of Libya and representatives of the NTC, victims, direct witnesses, doctors, medical staff, patients, members of their families, detainees and refugees. As part of its investigative process, the Commission also studied a large number of reports, submissions and other documentation amounting to more than 5000 pages, over 580 videos and over 2200 photographs.

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 governance and more particularly seeking to see the regime evolve into a democratic form of government subject to the rule of law and upholding human rights was met with the violent opposition of the Government and of those supporting it. Within a relatively short period of time, this initial 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 non-governmental organizations have provided high estimates of casualties.

In these contexts, there have been acts constituting murder, unlawful imprisonment and other forms of severe violations of fundamental rules of international law such as torture, persecution and enforced disappearance that were committed by Government forces and their supporters as part of a widespread 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 has 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 which fall within the meaning of “war crimes”. These include attacks on civilians and civilian objects, attacks on humanitarian related personnel, medical units and transport using the distinctive emblems of the Geneva Conventions, violence to life and person, humiliating and degrading treatment.

These attacks – those falling within the definition of war crimes - at first used aircrafts, and then after the SC non-fly zone resolution, used tanks, artillery, Grad rockets and snipers. Further investigation would, however, be required to determine whether those attacks on civilians and civilian objects amounted to “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 the basis 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 “widespread or systematic attack” against a civilian population such as to amount to crimes against humanity. However, it received reports of facts that would indicate that forces connected with the opposition did commit international crimes. It has established that some acts of killings, torture and cruel treatment and some outrages upon personal dignity have been committed by opposition armed forces, in particular against persons in detention, migrant workers and those believed to be mercenaries. Those acts that occurred during the period of armed conflict constitute war crimes under applicable international law.

The Commission requested both sides to 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 and torture with full respect of judicial guarantees.

The Commission also notified both sides about the need to release all prisoners not charged with crimes in accordance with international due process standards. The Commission welcomes the release by the Government of Libya of 5 foreign journalists and the authorization granted to Ms. Iman El-Obeidi to leave the country, all of whom on whose behalf the Commission had interceded. A list of other journalists and 87 detainees in Tripoli Al-Jdeida Detention Centre has also been left with the authorities in Tripoli for release. We hope that this is forthcoming soon.

Mr. President,

The commission was able to accomplish its mandate in a limited time frame during a period of ongoing conflict. Nevertheless, given the gravity and complexity of the situation, it considers that further work has to be done in order to investigate fully the numerous allegations it continues to receive at a time when the conflict is still ongoing. 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 rape and violations against migrant workers. Future work would also permit to visit locations within Libya affected by the conflict. It would also hopefully enable the Commission to identify those

responsible, to make recommendations, in particular, on accountability measures as requested by the Human Rights Council in the resolution establishing its mandate.

Accordingly, the commission recommends that the Human Rights Council remain seized of the situation by extending the mandate of the commission or by establishing a 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 it to fulfill its mandate properly as defined by this Council.

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 cohesion across clans and provinces, the strengthening of civil society and the opening of the country to a new peaceful and democratic order will necessarily 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 the report should be viewed in the 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 the country and the international community.

Thank you.

