



March 20, 2015

UN Human Rights Council must take urgent action to address impunity for grave human rights violations in Libya

Joint Call for Action by 13 National, Regional, and International Civil Society Organisations

In light of ongoing discussions at the Human Rights Council on the situation in Libya, the undersigned human rights organizations, call on Member States of the Council to support the creation of an independent mechanism, with the mandate of establishing the facts and investigating serious violations of international human rights and humanitarian law in the country by all sides since the end of the mandate of the international Commission of Inquiry in 2012, with a view to identifying, where possible, those responsible, and to ensuring accountability, justice, truth and reparation.

An independent, effective, and transparent investigation into past and ongoing violations would play a crucial role in the adoption and implementation of an agreement reached within the context of the ongoing political dialogue, which includes on its list of priorities the creation of a unity government, reaching a cease-fire agreement and preserving the work of the Constitution Drafting Assembly. All state and non-state armed factions operating across the country must realize that their actions are being monitored and investigated and that accountability for the crimes they commit is a real possibility.

The widespread and ongoing grave violations of international human rights and humanitarian law taking place in Libya have escalated dramatically following the intensification of fighting in May 2014, with all actors operating, thus far, with full impunity. Over the course of 2014, several hundred individuals were killed and more

than 400,000 people were internally displaced across 25 cities in the country. Direct and indiscriminate attacks on civilians, unlawful killings, abductions, enforced disappearances, forced displacements, torture and other ill-treatment, the targeting of civil society actors, journalists and the media as well as arbitrary detention have increased.

The continued alleged presence of chemical weapons,¹ including mustard gas and the nerve agent Sarin, which date back to the Gaddafi era, is also of concern. There is a real risk given the overall security situation that these chemical weapons could make their way into the hands of different armed factions including those of the Islamic State.

The situation in Libya has now shifted from a political crisis underpinned by armed clashes into a fully-fledged armed conflict where the leaders of armed groups and their respective allies, have emerged as the real power brokers. Armed groups on all sides have been responsible for wide spread human rights violations throughout Libya, targeting civilians, including human rights defenders, women, children, minorities, and non-nationals, along with vital infrastructure and key state institutions. This includes documented attacks on medical facilities, ministries,² courts,³ airports used for civil aviation, schools, media institutions and oil fields. Despite this, over 200,000 fighters and members of various militias continue to receive central state funds, according to UNSMIL.⁴ A number of parties to the ongoing political dialogue have used attacks on civilians and civilian neighborhoods as a form of pressure to impose their demands

¹ See the Organization for the Prohibition of Chemical Weapons, "<http://www.opcw.org/the-opcw-and-libya/libya-facts-and-figures/>"

"Upon joining the Convention in January 2004, Libya declared the possession of the following materials and capabilities, which were verified by OPCW inspections:

- 24.7 metric tons (MT) of sulfur mustard
- 1,390 MT of precursor chemicals
- 3,563 unloaded chemical weapons munitions (aerial bombs)
- 3 former chemical weapons production facilities.

In November 2011 and February 2012, the new Libyan government declared a "previously undeclared chemical weapons stockpile", consisting of several hundred munitions loaded with sulfur mustard, few hundreds kilograms of sulfur mustard stored in plastic containers (the total amount of sulfur mustard declared by Libya stands now at 26.3 MT), as well as a limited number of unfilled plastic containers (munitions components).

Libya was unable to meet the final extended deadline of 29 April 2012 and has submitted, as requested by a decision of the Conference of the States Parties, its detailed plan for the destruction of the remaining chemical weapons in which it included a planned completion date, which is December 2016. Destruction operations were planned to resume in March 2013.

² The ministries of Justice, Defense and the Interior, in Tripoli, have been broken into and a large number of documents, including civilian criminal investigation files, were taken by fighters reportedly belonging to Fajr Libya. On August 31, the government announced that it had lost control of most ministries and government facilities in Tripoli.

³ The courts in Derna, Benghazi, and Sirte have ceased functioning since March 2014 and in Tripoli since the fighting erupted in July. Prosecutors and judges have suffered repeated threats and attacks in the form of court bombings, battery, kidnapping of individuals or family members and unlawful killings.

⁴ In the last four years, the government of Libya adopted several ad hoc measures for militia integration which provided varying degrees of legitimate authority to militias without actually bringing them under any national control.

Additionally, we urge the Council to remind Libya of its obligation to cooperate with the International Criminal Court (ICC), as per the mandate given to the Court through Resolutions 1970 and 2174 of the UN Security Council, to examine all incidents of alleged international crimes, including war crimes and crimes against humanity, that have taken place in Libya since February 2011. We note with concern that the ICC has not yet initiated investigations into recent events that fall within its jurisdiction.

We recall the words of the Prosecutor of the International Criminal Court (ICC) in her last report to the United Nations Security Council, in which she stressed the alarming deterioration of the situation and called for the creation of an international contact group on justice issues, through which material, legal, and other support could be provided to Libya. She also noted that the ICC is “committed to ensuring that justice and accountability are respected and advanced in Libya”.⁵

In this context, the undersigned human rights organizations highlight that hundreds of cases of alleged grave violations, including extrajudicial killings, widespread use of torture and arbitrary arrest have been submitted to Libya’s General Public Prosecutor, during 2012, 2013, and 2014 against a number of armed groups with no concrete measures taken to date towards achieving accountability. The national courts in Libya are unable to prosecute alleged perpetrators of serious crimes due to continuing threats to judges, lawyers and prosecutors by armed groups.

The efforts of the UN Human Rights Council to address the situation in Libya through technical assistance no longer adequately reflect the gravity or the urgency of the situation on the ground. The ongoing human rights and humanitarian crisis in Libya falls directly within the Council’s mandate to “address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon” and to “respond promptly to human rights emergencies.”

The response of the Council to the human rights crisis affecting the people in Libya should appropriately reflect the increasingly urgent crisis and we thus call for an adequately resourced and independent mechanism of inquiry.

Signed Organization:

- 1. Cairo Institute for Human Rights Studies (CIHRS)**
- 2. Egyptian Initiative for Personal Rights (EIPR)**
- 3. Euro-Mediterranean Human Rights Network (EMHRN)**
- 4. Forum Asia**
- 5. International Federation for Human Rights (FIDH)**
- 6. International Commission of Jurists (ICJ)**
- 7. Reporters without Borders (RSF)**
- 8. Lawyers for Justice in Libya (LFJL)**
- 9. Libyan Organization for Legal Aid**

⁵ Statement to the United Nations Security Council on the Situation in Libya, pursuant to UNSCR 1970 (2011), Ms Fatou Bensouda, Prosecutor of the International Criminal Court, 12/11/2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20statements/statement/Pages/otp-statement-12-11-2014.aspx

- 10. Libyan Judges Organization**
- 11. Libyan Network for Human Rights Defenders**
- 12. Mercy Association for the Defense of Internally Displaced Persons, Libya**
- 13. World Organization Against Torture (OMCT)**