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# Advance Unedited Version

Distr.: General  
7 June 2011

Original: English

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## Human Rights Council

### Seventeenth session

Agenda items 2 and 4

### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights situations that require the Council's attention

## Report of the High Commissioner under Human Rights Council resolution S-15/1\*

### *Summary*

The present report provides follow-up information on the situation of human rights in the Libyan Arab Jamahiriya, as requested by operative paragraph 13 of resolution S-15/1 of 25 February 2011.

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\* Late submission.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Background .....	1–4	3
II. Context and recent developments.....	5–17	3
III. Legal framework .....	18–21	5
IV. Allegations of violations of international human rights and international humanitarian law .....	22–51	7
V. Humanitarian situation and international response .....	52–66	12
VI. Conclusions .....	67–68	15

## I. Background

1. At its fifteenth Special Session, the Human Rights Council adopted resolution 15/1, entitled "Situation of human rights in the Libyan Arab Jamahiriya." Operative paragraph 13 of this resolution requested the High Commissioner to submit a follow-up report to the Council at its seventeenth session, as well as to organize an interactive dialogue on the situation of human rights in the Libyan Arab Jamahiriya during the same session. The present report is submitted pursuant to this request.

2. On 9 and 10 May 2011, the Office of the High Commissioner for Human Rights (OHCHR) addressed Notes Verbales to the Libyan Arab Jamahiriya authorities, to Permanent Missions of States neighbouring Libya, to regional organizations (African Union, European Union, League of Arab States, and Organization of Islamic Conference), to the North Atlantic Treaty Organization (NATO), the International Committee of the Red Cross (ICRC), as well as to several United Nations and specialized agencies. The Notes Verbales requested information on the human rights situation in Libya.

3. Responses were received from ICRC, IOM, UNICEF and NATO. This report draws information from these responses, but also from other accounts received by OHCHR since February 2011, including meetings with non-Governmental and civil society organizations, and a review of reports of international organizations, including United Nations agencies, United Nations-led interagency taskforces, of non-Governmental and civil society organizations, as well as of media reports.

4. Given the fluctuating situation in the State concerned, the absence of a presence of OHCHR's own staff or those of regular UN partners on the ground across the relevant locations, OHCHR has been unable individually to verify and assess for credibility the totality of allegations received. In consequence, this report sets out allegations as received and reported, without possibility of verification as at the point of publication of the report.

## II. Context and recent developments

5. Demonstrations sparked in Libya in mid-February 2011, when thousands of Libyans protested against Libyan leader Colonel Moammar Qadhafi. On 22 February, Colonel Qadhafi announced on Libyan National Television that he would lead 'millions to purge Libya inch by inch, house by house, household by household, alley by alley, and individual by individual until I purify this land.' He blamed foreigners for the problems and called the protestors "rats" who needed to be executed.

6. On 25 February 2011, the Human Rights Council convened a Special Session on the Situation of Human Rights in the Libyan Arab Jamahiriya, and adopted resolution S/15-1, deciding to "urgently dispatch an independent, international commission of inquiry, to be appointed by the President of the Council, 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, with a view to ensuring that those individuals responsible are held accountable".

7. On 26 February 2011, the Security Council unanimously adopted Resolution 1970 (2011), in which it deplored the gross and systematic violation of human rights, including the repression of peaceful demonstrators, expressed deep concern at the deaths of civilians, and rejected unequivocally the incitement to hostility and violence against the civilian population made by the highest level of the Libyan Government. It recalled the Libyan authorities' responsibility to protect its population. The Council further welcomed the

Human Rights Council resolution A/HRC/RES/S-15/1 of 25 February 2011, including the decision to urgently dispatch an independent international commission of inquiry to the Libya. It further urged the Libyan authorities to act with utmost restraint, respect human rights and international humanitarian law, to allow immediate access for international human rights monitors, and to ensure the safe passage of humanitarian and medical supplies, humanitarian agencies and workers into the country. The Security Council also referred the situation in Libya to the Prosecutor of the International Criminal Court, imposed sanctions against the Libyan authorities, as well as an arms embargo and the freezing of assets of the country's leaders. On 10 March 2011, the Secretary General nominated Mr. Abdel-Elah Mohamed Al-Khatib, former Minister for Foreign Affairs of Jordan as his Special Envoy to "provide leadership and oversee the coordination of the United Nations system" with regards to the Libyan crisis, working closely with governments in the region and with the international community.

7. On 1 March 2011, General Assembly Resolution 65/265, unanimously adopted, decided to suspend Libya's rights of membership in the Human Rights Council.

8. In mid-March, a senior OHCHR representative accompanied Mr. Al-Khatib, Special Envoy of the Secretary General on Libya, on his mission to Tripoli and Tobruk, where they met with Government officials and opposition leaders. In addition, a mission, undertaken under the mandate of the High Commissioner, visited the Libyan border areas in Saloum, Egypt from 23 to 30 March in order to support the work of the Secretariat of the Commission of Inquiry on Libya.

9. On 14 March 2011, during the 16<sup>th</sup> session of the Human Rights Council, the Deputy High Commissioner provided an oral update on behalf of the High Commissioner on the human rights situation in Libya, pursuant to Resolution S-15/1, in which she highlighted that since the convening of the 15<sup>th</sup> Special Session, the human rights situation had continued to deteriorate, with reports of intensified fighting and indiscriminate air strikes resulting in numerous civilian injuries and deaths through indiscriminate attacks, cases of summary executions, violence and harassment of nationals from sub-Saharan African countries and of other foreigners, sexual violence, torture, and enforced disappearances at the hands of Government forces. The Deputy High Commissioner also noted that humanitarian access to the war-affected areas remained hindered.

10. On 15 March 2011, the President of the Human Rights Council established the United Nations International Commission of Inquiry (henceforth the Commission) and appointed three members, Mr. M. Cherif Bassiouni (Egypt); Ms. Asma Khader (Jordan) and Mr. Philippe Kirsch (Canada). The President also designated Mr. M. Cherif Bassiouni as the Chairperson of the Commission. As requested by the Human Rights Council, the Office of the United Nations High Commissioner for Human Rights (OHCHR) established a secretariat to support the Commission

11. On 16 March 2011, the Libyan General People's Committee for Foreign Liaison and International Cooperation informed OHCHR that the Permanent Mission of Libya in Geneva no longer represented the Libyan Arab Jamahiriya.

12. On 17 March 2011, the Security Council adopted Resolution 1973, in which it condemned the gross and systematic violation of human rights, including arbitrary detentions, enforced disappearances, torture and summary executions, and further condemned acts of violence and intimidation committed by the Libyan authorities against journalists, media professionals and associated personnel and urging these authorities to comply with their obligations under international humanitarian law as outlined in resolution 1738 (2006). It demanded the immediate establishment of a cease-fire and a complete end to violence and all attacks against, and abuses of, civilians. Further, the Council authorized Member States, regional organization to take all necessary measures, to protect civilians

and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya. Furthermore, it authorized Member States to take “all necessary measures (...) to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory”.

13. On the basis of that resolution, an international coalition commenced missile and air strikes against military installations, aircraft and other Government forces, in areas under Government and under opposition-control. Despite the Libyan Government’s declaration of unilateral ceasefire on 18 March, it continued to engage in heavy military operations, followed by armed opposition counter-offensives. On 27 March, NATO assumed control of the international military operations.

14. In its first ruling against a State party, adopted on 25 March 2011, the African Court on Human and Peoples’ Rights unanimously ordered provisional measures against Libya. The African Commission, deciding that there had been “serious and widespread” violations of human rights in Libya, decided for the first time to refer a case to the African Court. The court declared the situation as one of “extreme gravity and urgency”, and ordered Libya to end any action that would cause the loss of life or violation of anyone’s “physical integrity”, in violation of international human rights law.

15. On 29 March 2011, the UN Secretary-General gave a statement, in which he backed the call of the United Kingdom’s Prime Minister for a “Contact Group” for the Libyan crisis, to ensure close coordination between the UN, the League of Arab States, the African Union, the Organization of the Islamic Conference and the European Union. The Contact Group met on several occasions to explore ways to broaden and strengthen Security Council Resolution 1973 and search for urgent means by which humanitarian aid could be conveyed to cities heavily affected by the conflict, such as Misrata.

16. On 6 April 2011, the UK Secretary of State for International Development addressed a letter to the Secretary General calling on the UN to lead international efforts on early planning and preparedness towards the resolution of the conflict and assistance thereafter. On the same day, the Emergency Relief Coordinator, Ms. Valerie Amos, nominated Mr. Panos Moutziz to succeed Mr. Rashid Khalikov as Humanitarian Coordinator for Libya.

17. In a statement issued on 2 May 2011, the Prosecutor of the International Criminal Court (ICC) stated that he had “strong evidence” that crimes against humanity, including illegal arrest, torture, forced disappearances, were, and continue to be, committed by the regime of Moammar Qadhafi. On 16 May, the Prosecutor requested ICC judges to issue arrest warrants against Moammar Qadhafi, his son Saif al-Islam, and military intelligence chief Abdallah al-Sanoussi on two types of crimes against humanity, murder and persecution. The Prosecutor said his office had gathered direct evidence detailing the orders issued by Qadhafi, the role of Saif al-Islam in recruiting mercenaries, and the participation of Abdallah al-Sanoussi in attacks against demonstrators.

### III. Legal framework

#### Applicable law

18. Libya is a party to the core international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR),<sup>1</sup> the International Covenant

<sup>1</sup> 15 May 1970

on Economic, Social and Cultural Right (ICESCR),<sup>2</sup> the Convention on the Elimination of all forms of Racial Discrimination (CERD),<sup>3</sup> the Convention on the Elimination of Discrimination Against Women (CEDAW),<sup>4</sup> the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment (CAT),<sup>5</sup> the Convention on the Rights of Child (CRC),<sup>6</sup> and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW)<sup>7</sup>. It has also ratified the first Optional Protocol to the ICCPR<sup>8</sup>, as well as the Optional Protocol to the CRC on the involvement of children in armed conflict (OP-CRC-AC).<sup>9</sup> Libya is also a party to the Convention on the Non-Application of Statutory Limits to War Crimes and Crimes against Humanity.<sup>10</sup> Libya is a party to the African Charter on Human and Peoples' Rights.<sup>11</sup> In terms of international humanitarian law, Libya is also a State party to the 1949 Geneva Conventions and both of the two Additional Protocols.

19. As has been stated by the International Court of Justice,<sup>12</sup> international human rights and international humanitarian law apply to situations of armed conflict in a concurrent and mutually reinforcing manner. This approach has been also adopted by the Human Rights Committee.<sup>13</sup> In that context, Libya's international human rights and international humanitarian law obligations both apply to the armed conflict that erupted in February/March 2011, including the principles of distinction and proportionality.

20. It is worth recalling that non-State actors that exercise government-like functions and control over a territory, such as de facto National Transitional Council (NTC) established in Benghazi, are obliged to respect human right norms when their conduct affects the human rights of the individuals under their control<sup>14</sup>. They also have an obligation to comply with relevant national laws and can also be held accountable for human rights violations amounting to offences or crimes under national law. In addition, non-State armed groups party to an armed conflict are also bound by international humanitarian law, in particular the provisions under article 3 common to the Geneva Conventions and Additional Protocol II to the Geneva Conventions, to which Libya is a State party. Furthermore, relevant rules of customary international humanitarian law apply to such non-State armed groups party to an armed conflict, including the principles of proportionality and distinction.

<sup>2</sup> 15 May 1970

<sup>3</sup> 3 July 1968

<sup>4</sup> 16 May 1989

<sup>5</sup> 16 May 1989

<sup>6</sup> 15 April 1993

<sup>7</sup> 18 June 2004

<sup>8</sup> 16 May 1989

<sup>9</sup> 29 October 2004

<sup>10</sup> 16 May 1989

<sup>11</sup> 19 July 1986

<sup>12</sup> *Legal consequences of the Construction of a wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 178, para. 106, and *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment of 19 December 2005.

<sup>13</sup> See Human Rights Committee, General Comment 29, *States of Emergency (article 4)*, U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), and General Comment 31, *Nature of the General Legal Obligation on States Parties to the Covenant*, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004).

<sup>14</sup> See, for example, the Report of the High Commissioner for Human Rights on the implementation of Human Rights Council resolution 7/1 (Human rights violations emanating from Israeli military attacks and incursions in the Occupied Palestinian Territory, particularly the recent ones in the occupied Gaza Strip), 6 June 2008, A/HRC/8/17, para. 9.

21. NATO and other States participating in the armed conflict are parties to the 1949 Geneva Conventions and most are also parties to its first additional Protocol of 1977<sup>15</sup>, which apply to the military operations undertaken by it on Libyan territory since March 2011. In addition, relevant rules of customary international humanitarian law apply to NATO military operations carried out in the armed conflict, including the principles of proportionality and distinction.

#### **IV. Allegations of violations of international human rights and international humanitarian law**

22. After the surge in protests in mid-February 2011, when thousands of peaceful demonstrators called for economic, social and democratic reforms, Libyan forces reportedly sealed off neighbourhoods and used live ammunition against protesters. Within a week, the uprising had intensified and spread across the country. The NTC was reportedly established on 2 March, led by Mustafa Abdul Jalil, and the situation quickly escalated into armed conflict, with armed opposition forces achieving control over a number of coastal cities in the east, followed by Government counter-offensives. Cities particularly affected by the conflict include include Ajdabiya, Brega, Benghazi, Bin Jawad, Misrata, Ras Lanuf, and Az-Zawiyah.

23. On the basis of Security Council Resolution 1973 (2011), international military action was taken against Libyan military forces. A counter-offensive by pro-Qadhafi forces reversed gains of the armed opposition, as Government forces recaptured several key towns mid-March, including Ras Lanuf, Zawiyah, and Brega. Military operations remained marked by see-sawing ground action along the coastal strip and major highways, with the exception of the protracted siege of Misrata by Government troops.

24. Since the beginning of the crisis, OHCHR has received information pertaining to the following major categories of human rights violations (i) summary executions, torture and ill-treatment, including sexual violence, arbitrary detentions and enforced disappearances, (ii) violence against children, and (iii) civilian casualties.

#### **Summary executions, torture and ill-treatment, including sexual violence, arbitrary detentions and enforced disappearances**

25. In its most recent concluding observations on Libya<sup>16</sup> in 2007, the Human Rights Committee expressed concern at continuing reports of systematic use of torture and cruel, inhuman or degrading treatment or punishment and the lack of information regarding the prosecution of these cases. It also reiterated its concern regarding the allegedly large number of enforced disappearances and cases of extrajudicial, summary or arbitrary executions and the lack of clarification on the part of the State. The Committee was furthermore concerned that some 11 years after the event, the State was unable to provide information on the status of the work of the Commission responsible for the inquiry into the events at Abu Salim prison in 1996.

26. When the current phase of violent unrest started, security forces reportedly fired live ammunition against demonstrators, killing hundreds. Several incidents of this kind were repeated in different cities of Libya, and it was reported that shootings led to the killing of

<sup>15</sup> Turkey and the United States of America are not parties to the first additional Protocol to the Geneva Conventions.

<sup>16</sup> CCPR/C/LBY/CO/4

500 to 700 persons in February 2011 alone<sup>17</sup>. Bodies were reportedly removed from the streets, and medical doctors were not allowed to document the number of dead and injured admitted to hospitals. There are also reports of injured persons seeking treatment being arrested by security forces.

27. On 29 March<sup>18</sup>, the NTC, representing the opposition, issued a statement describing its “vision of a democratic Libya”, in which it vowed to draft a constitution, guarantee key rights to every Libyan citizen, respect freedom of expression and establish a “state that draws strength from our strong religious beliefs in peace, truth, justice and equality”. The NTC also said the future Government would bring members of the Qadhafi regime to justice, as opposed to taking revenge.

28. It has nevertheless been reported that dozens of civilians are being held in armed opposition-facilities around Benghazi on the basis of unknown motives, and several former members of the internal security police were found dead, shot in the head, or their throat slashed, often with hands and feet bound. Armed gangs are reported to roam the streets of Benghazi, interrogating suspects and detaining them without legal basis<sup>19</sup>. It is not clear, however, to which extent such armed groups operate on their own initiative or under a degree of control by the NTC authorities in Benghazi.

29. According to information received, hundreds of persons have been taken to undisclosed locations by Government forces, where they may have been subjected to acts of torture or other cruel, inhuman or degrading treatment, or been executed. In most of the cases reported, the fate and the whereabouts of these persons are still unknown, in breach of Libya’s obligations under the ICCPR to respect the rights of persons arrested, including their right to be promptly informed of the charges against them, to ensure that they are tried within a reasonable time, and to allow them judicially to challenge the lawfulness of their detention.

30. Hundreds have been reported missing, most of them civilians, including doctors, journalists, and persons caught in conflict areas. At least 370 Libyans were reported missing in the eastern part of the country between mid-February and late March 2011<sup>20</sup>, some of whom are known or suspected to be in Governmental custody. It was also reported that scores of persons disappeared around Nafusa area, in Libya’s western mountains<sup>21</sup>.

31. On 24 March 2011, the Working Group on Enforced or Involuntary Disappearances expressed deep concern about allegations, according to which hundreds of enforced

<sup>17</sup> Statement of Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, to the Security Council, May 2011, para 10.

<sup>18</sup> Statement delivered by the NTC during the London Conference on Libya, which took place on 29 March 2011, chaired by the UK Foreign Secretary, and attended by more than 40 Foreign Ministers, the UN Secretary General, the Organisation of the Islamic Conference, and the League of Arab States.

<sup>19</sup> Amnesty International, “Revenge killings and reckless firing in opposition-held eastern Libya”, 13 May 2011, available at <http://livewire.amnesty.org/2011/05/13/revenge-killings-and-reckless-firing-in-opposition-held-eastern-libya/> [date accessed: 31 May 2011]; New York Times, 10 May 2011, “Killings and rumors unsettle a Libyan city”, available at <http://www.nytimes.com/2011/05/11/world/africa/11benghazi.html> [date accessed: 31 May 2011]; The Washington Post, 22 May 2011, “Libyan rebels accused of reprisal attacks”, available at [http://www.washingtonpost.com/world/middle-east/libyan-rebels-accused-of-reprisal-attacks/2011/05/20/AFAeAh8G\\_story.html](http://www.washingtonpost.com/world/middle-east/libyan-rebels-accused-of-reprisal-attacks/2011/05/20/AFAeAh8G_story.html) [date accessed: 31 May 2011].

<sup>20</sup> Human Rights Watch, news release of 30 March 2011, available at <http://www.hrw.org/en/news/2011/03/30/libya-least-370-missing-countrys-east> [date accessed: 31 May 2011].

<sup>21</sup> See Amnesty International’s May 2011 report, “Disappearances in the besieged Nafusa mountain as thousands seek safety in Tunisia”, available at <http://www.amnesty.org/en/library/asset/MDE19/020/2011/en/aed13a1a-07b4-434b-bb28-0c0aa1d53069/mde190202011en.pdf>

disappearances had been committed over the last few months in Libya, and referring to the fact that these may amount to crimes against humanity.

32. On 25 February 2011, the High Commissioner called for an independent and impartial investigation to investigate the violent repression of protests in the country. She also called for the safety of all foreign nationals, and respect for the right of freedom of movement of those wishing to leave the country. On 10 March 2011, the High Commissioner condemned the detention and ill-treatment of three members of a BBC news team, as they sought to cover the situation in the western Libyan city of Zawiyah. The team of three was reportedly beaten and subjected to mock executions by members of the Libyan army and secret police. The High Commissioner noted that the journalists had reportedly observed terrible conditions in the detention centre where they were held, including clear signs that other detainees had been subjected to cruel, inhuman and degrading treatment.

33. The Committee to Protect Journalists has documented more than 80 attacks on the press since political unrest erupted in Libya. They include five fatalities, at least three serious injuries, at least 50 detentions, including incommunicado detentions, 11 assaults, two attacks on news facilities, the jamming of Al-Jazeera and Al-Hurra transmissions, at least four instances of obstruction, the expulsion of two international journalists, and the interruption of Internet services. At least six local journalists are missing and it is believed that they are in the custody of security forces. Another international journalist and two media support workers are also unaccounted for.

34. On 20 April 2011, the High Commissioner expressed extreme concern over all journalists known to be in detention in Libya, or whose whereabouts are not known, and called on the Government to release them immediately.

35. It was reported that on 26 March 2011, a postgraduate law student from Tobruk, was forcibly dragged out of the Rixos hotel in Tripoli by Libyan security officials in plain clothes, as she was trying to report to foreign journalists that she had been arrested by security forces at a checkpoint near Tripoli and held for two days, during which she was allegedly beaten, sexually assaulted and raped by members of the Qadhafi forces, before she managed to escape with the help of local residents. On 28 March, the Government reportedly said it could not open an investigation as the victim refused to undergo a medical investigation. It was also reported that instead, the Government sought to discredit her, claiming that she is mentally unstable, and accusing her of being involved in prostitution. No investigation is known to have taken place.

36. On 20 April 2011, the Special Representative of the Secretary-General on Sexual Violence in Conflict, Margot Wallström, reported that there was an urgent need to focus on the prevention of sexual violence as the fighting escalated in Misrata and other parts of Libya. Ms. Wallström strongly condemned the use of sexual violence as a means to political and military ends, and called upon all parties to allow access for UN staff and humanitarian organizations to monitor such violations and deliver aid to civilians caught in the fighting.

### **Violence against children**

36. On 9 March 2011, the Special Representative of the Secretary General for Children in Armed Conflict noted having received unconfirmed reports from numerous sources of the killing and maiming and use of children as combatants and the denial of humanitarian access. She reminded all parties to the conflict of their obligation under international law to protect children during armed clashes.

37. UNICEF has also reported various forms of abuse and violations against children, including killing and maiming, use of children by military armed groups, children

witnessing violence, and sexual violence against children. UNICEF stressed that in addition, children have been denied a normal and safe routine, in particular due to the fact that schools have now been closed for several months in areas where fighting is taking place, denying children their basic right to education and opportunities for development.

38. It was further reported that children have been participating in the conflict, in both combatant and support roles. UNICEF emphasized that children under 18 should in no circumstance be involved in armed conflicts, and that parties to the conflict should make a formal commitment to take all necessary measures to comply with this rule of international law. According to UNICEF, at least 20 children have been killed, including infants as young as nine months, and many other children have been injured by bullets and shelling. On 11 April 2011, UNICEF called for an immediate end to the conflict in Misrata, warning that tens of thousands of children are at risk.

### **Civilian casualties**

39. In her statement of 10 March 2011, the High Commissioner condemned the Libyan Government's continuous aerial bombardment of civilians and the use of military grade weapons and tanks on city streets, which she stressed would need to be investigated as possible crimes against humanity. The High Commissioner also expressed her utmost concern over accounts she received of summary executions, rapes and disappearances in the country.

40. On 20 April 2011, the High Commissioner urged NATO forces to exercise the utmost caution and vigilance so as to avoid civilian casualties.

41. On 17 May 2011, NATO informed OHCHR that it was continuing to undertake operations to protect civilians and civilian areas, to enforce the no-fly zone and arms embargo in Libya and that its air operations continued to reduce the Libyan regime's ability to coordinate and carry out hostile acts against civilians. NATO noted that the Government of Libya nevertheless continued to threaten and attack civilians in various areas through the territory. On 30 April, the Government of Libya reported that Qadhafi's son and three of his grandchildren were killed in a NATO air strike in Tripoli. NATO stressed that in carrying out its operations, it was taking maximum precautions to avoid any collateral damage and civilian casualties, and that its operations were in conformity with international humanitarian law and human rights law.

42. The dire situation of Misrata, a city of 300'000 people, which has been besieged by Government forces, and subjected to indiscriminate attacks for a protracted period, is particularly illustrative of the extent and gravity of crimes which are likely to have been committed in Libya since the beginning of the conflict. While it is not possible to have exact accounts, it is believed that hundreds of civilians were killed and thousands wounded.

43. By the second week of March, forces loyal to Qadhafi were attempting to reestablish control over parts of the city, moving heavy military vehicles into Misrata residential areas, and started launching attacks against densely-populated areas, using heavy artillery rockets, mortars and cluster munitions which cannot, by their nature, distinguish between civilians and civilian objects and military objectives. Heavy shelling by Government forces continued throughout the month of April, with reports of over 100 missiles launched daily, leading to scores of civilian casualties.

44. Doctors reported that more than 240 people have been killed and over 1,000 wounded in Misrata for the month of March only<sup>22</sup>. On 3 April 2011, two shells reportedly hit a field hospital in Misrata, killing one person and injuring 11. A Turkish hospital ship left Misrata carrying more than 250 people, many of them wounded, to Benghazi.<sup>23</sup> Accounts received reveal that Misrata was besieged and under sniper attack, electricity and water cut, and that there was a serious shortage of medicine in this period. Patients and medical staff had left, and ambulances were carrying the wounded to a new building being used as a makeshift hospital, which was reportedly overwhelmed by the casualties.

45. Government attacks against hospital patients were also reported, as well as kidnappings of injured members of the armed opposition and civilians from hospitals. As a consequence, the wounded were reportedly refusing to seek medical assistance for fear of being kidnapped or killed<sup>24</sup>.

46. Accounts of abuse of the Red Crescent emblem were also received, with reports that ambulances were used by Government forces in their military offensive<sup>25</sup>.

47. On 15 and 16 April 2011, three cluster bombs were allegedly seen exploding over the city, one 300 meters from Misrata hospital in a densely populated civilian area<sup>26</sup>. On 20 April 2011, the High Commissioner condemned the reported repeated use of cluster munitions and heavy weaponry by Libyan Government forces, in their attempt to regain control of Misrata, and stressed that such attacks on densely populated urban areas could amount to international crimes.

48. In the third week of April, the ICRC reported that the humanitarian situation in Misrata was likely to further deteriorate, for lack of essential services such as water, electricity, food and medical relief. On 22 April 2011, an ICRC-chartered boat arrived in Tobruk with around 600 civilians on board who had been evacuated from Misrata, mostly from Niger, Egypt and Libya<sup>27</sup>. On 10 May 2011, an ICRC ship reportedly arrived in Benghazi from Misrata carrying at least 108 refugees, including 25 with war wounds. The International Organization for Migration (IOM) carried out similar evacuation operations by sea from Misrata.

49. In the first week of May, it was reported that shells continued to fall down on Misrata, where clinics and hospitals confirmed at least 530 deaths from war-related trauma<sup>28</sup>. This count does not include many people who could not reach medical care before they died, and who were buried by their families.

<sup>22</sup> Al Jazeera, "Battle rages on for strategic Libyan town", 5 April 2011, available at <http://english.aljazeera.net/news/africa/2011/04/20114354942249240.html> [date accessed; 31 May 2011]

<sup>23</sup> BBC News, "Libya: Turkish ship rescues injured from Misrata", 4 April 2011, available at <http://www.bbc.co.uk/news/world-africa-12953538>

<sup>24</sup> Al Karama for Human Rights, "Injured abducted from hospitals by pro-Gaddafi forces", 16 March 2011, available at [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=697:libya-injured-abducted-from-hospitals-by-pro-gaddafi-forces&catid=27:communiqu&Itemid=138](http://en.alkarama.org/index.php?option=com_content&view=article&id=697:libya-injured-abducted-from-hospitals-by-pro-gaddafi-forces&catid=27:communiqu&Itemid=138) [date accessed: 31 May 2011].

<sup>25</sup> *Idem*.

<sup>26</sup> Human Rights Watch, News release, "Libya: Cluster Munitions strike Misrata", 15 April 2011, available at <http://www.hrw.org/en/news/2011/04/15/libya-cluster-munitions-strike-misrata> [date accessed: 31 May 2011].

<sup>27</sup> ICRC News release, 22 April 2011, available at <http://www.icrc.org/eng/resources/documents/news-release/2011/libya-news-2011-04-22.htm> [date accessed: 31 May 2011].

<sup>28</sup> New York Times, "Shell in Misurata Adds to a City's Grim Toll", 1 May 2011, available at [http://www.nytimes.com/2011/05/02/world/africa/02misurata.html?pagewanted=2&\\_r=1](http://www.nytimes.com/2011/05/02/world/africa/02misurata.html?pagewanted=2&_r=1) [date accessed: 31 May 2011]

50. It was reported that on 16 May 2011, the Libyan Government threatened to deploy human shields at telecommunications sites under threat of NATO bombing<sup>29</sup>. Other reports include the positioning of tanks amidst residential homes or other civilian buildings in Misrata, in a deliberate attempt to shield them from possible air strikes<sup>30</sup>.

51. On 6 April 2011, the Government of Chad informed OHCHR that Chadians living in Libya, and in particular those present in zones under opposition-control, were accused of being mercenaries fighting for the Qadhafi forces. According to the Chadian Government, several Chadians were victims of arbitrary arrests, enforced disappearances and executions. Some were reportedly arrested at their homes and forcibly enrolled in combating units of the armed opposition.

## V. Humanitarian situation and international response

52. Under the leadership of the Humanitarian Coordinator on Libya, UN agencies undertook a broad and coordinated response to deliver humanitarian aid and to ensure the repatriation of third country nationals, as well as the evacuation of Libyans fleeing the conflict. On 18 May, a revised Flash Appeal of US\$408 million was issued, to cover needs from March until the end of August. This marked a \$98m increase from a previous appeal in April, reflecting a stronger focus on humanitarian operations inside Libya, as well as continued support for people fleeing the country. Contributions of \$179 million have been received. While the fighting has reportedly diminished in Misrata more recently, a comprehensive humanitarian assessment of medical facilities, the damage to public infrastructure, and consequences of the prolonged fighting has yet to be undertaken. Ongoing fighting in the Nafusa mountains area remains of particular concern.

### Delivery of humanitarian assistance

53. On 28 April, the World Food Program (WFP) reported that Libya was at risk of a major food crisis within the next two months if steps were not taken to immediately increase the flow of commercial goods. The disruption of port activities, coupled with the lack of fuel and hard currency, as well as the departure of some 500'000 third-country nationals from the country, many of whom used to work in food production, were said to be among the main causes for this potential crisis. The western part of the country is particularly affected by the conflict, as access by humanitarian agencies remained hindered for a protracted period, and humanitarian operations were sometimes caught in fighting, raising international calls for a "humanitarian pause" to the fighting. Shortages of medical supplies and foodstocks were also reported, and an important number of medical personnel left the country, adding further complexity to an already overstretched humanitarian situation. The sanctions imposed by UN Security Council Resolution 1970 were also felt to severely impact on the enjoyment of economic and social rights in Libya, leading to serious delays in the delivery of goods. Tripoli residents reportedly have to queue for several days to obtain petrol in gas stations. The ongoing conflict will also have long-term consequences on supply lines for food, medicine, goods and cash flow.

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<sup>29</sup> New York Times, "Libyan Officials Threaten to Use 'Human Shields'", 16 May 2011, available at [http://www.nytimes.com/2011/05/17/world/africa/17libya.html?\\_r=2](http://www.nytimes.com/2011/05/17/world/africa/17libya.html?_r=2) [date accessed: 31 May 2011].

<sup>30</sup> Amnesty International, "Misrata: under siege and under fire", May 2011, available at <http://www.amnesty.org/en/library/asset/MDE19/019/2011/en/4efa1e19-06c1-4609-9477-fe0f2f4e2b2a/mde190192011en.pdf> [date accessed: 31 May 2011], page 20-21.

## Displacement and border-crossing

54. By mid-May, more than 800'000 persons crossed borders into Tunisia, Algeria, Niger, Chad, Sudan, Egypt, the Italian island of Lampedusa, or Malta<sup>31</sup>. These include mainly third country nationals returning to their countries of origin, but also refugees (mainly Sudanese, Eritreans, Ethiopians and Somalis) who cannot go back to their country of origin and need to be resettled. Some 300'000 Libyans have also reportedly fled the conflict, and more than 50'000 internally displaced persons were reported in the western part of the country.

55. 50'000 Libyan civilians have fled Libya's Western mountains region, and crossed into southern Tunisia. Most of the refugees are reportedly ethnic Berbers fleeing fighting and indiscriminate attacks, and are being absorbed by economically vulnerable Tunisian host-communities.

## Migrant workers

56. On 8 April 2011, the Committee on Migrant Workers expressed deep concern over the recurrence of violations of the right to life, sexual violence, acts of discrimination and arbitrary detention of migrant workers and their families, and in particular migrants from Sub-Saharan Africa. The Committee further urged all belligerent parties involved in the armed conflict to comply with their obligations under international human rights law, by ensuring strict respect for the rights to life and to freedom of movement of migrants and by facilitating the peaceful departure of those who wish to leave the country.

57. On 2 March, the Committee on the Elimination of Racial Discrimination expressed alarm at the violent clashes taking place in Libya, and their impact on the situation of foreign citizens and other minority groups living in the country. The Committee drew attention to the excessive use of force against the civilian population in Libya and acts of violence against foreigners, as well as the reported exodus of populations from neighbouring countries, also calling on the international community and the UN system to seek urgent measures to protect non-citizens, migrant populations, migrant workers, refugees and other minority groups in Libya.

58. In the days immediately following the assumption by NTC forces of de facto control in eastern Libya, accounts were received of numerous nationals of Sub-Saharan countries being summarily executed, allegedly at the hands of armed opposition groups. As the situation gradually evolved to an internal armed conflict, African migrants, long present in Libya were accused of serving as "mercenaries" with the Qadhafi forces and arrested by opposition groups<sup>32</sup>. While many were reportedly released thereafter, no comprehensive investigation was undertaken into the arbitrary arrests and summary executions which reportedly took place.

59. OHCHR further received accounts of Chadian migrant workers who had worked in Libya for lengthy periods, who were compelled to flee the conflict and undertake a perilous, several week-long journey by truck to Chad. Many, however, were not so lucky, and were summarily executed before they could leave Libya, their hands tied, forced to kneel or lie down and shot.

<sup>31</sup> UNHCR figures as of 18 May 2011: 395'000 persons crossed to Tunisia, 20'000 to Algeria, 62'500 to Niger, 24'000 to Chad, 2'800 to Sudan, 285'000 to Egypt, 13'000 to Lampedusa, and 1'100 to Malta.

<sup>32</sup> Amnesty International, "Revenge killings and reckless firing in opposition-held eastern Libya, *supra*, note 16.

## The desperate exodus of refugees towards Europe

60. Libya has traditionally been a transit and destination country for refugees. Prior to the current conflict, UNHCR had registered more than 8'000 refugees in Libya, as well as 3'000 asylum-seekers with pending cases. The main places of origin are Chad, Eritrea, Iraq, Palestine, Somalia and Sudan<sup>33</sup>. As reported above, people from sub-Saharan Africa were subjected to acts of discrimination, violence and even summary execution as they were associated with foreign mercenaries.

61. On 6 April 2011, UNHCR reported the drowning of 213 people in rough waters, some 60 kilometres off the southern coast of Italy. According to survivors, the group, including Somalis, Eritreans and Ivorians, departed Libya three days before in an attempt to reach the Italian island of Lampedusa. Many women and three children were among the dead. The Italian coastguard rescued 47 people, including two women, one of them pregnant.

62. It was further reported that a boat carrying 72 African migrants, including women, young children and political refugees ran in distress late March after leaving Tripoli for Lampedusa, as a result of which 61 passengers died, including two babies. According to a refugee interviewed by UNHCR, military vessels had twice passed their boat without stopping, and a military helicopter had dropped food and water on the boat. The first vessel refused their request to board. The second only took photos, he said. The man was not able to identify where the vessels had come from. The same refugee reported that when water ran out, people drank sea water and their own urine. They ate toothpaste. One by one people started to die. He said that they waited for a day or two before dropping the bodies into the sea. There were 20 women and two small children on board. A woman with a two-year-old boy died three days before her son died. The refugee described the anguish of the boy after his mother's death.

63. After arrival on a beach near Zliten, between Tripoli and the Tunisian border, a woman died on the beach from exhaustion. The remaining 10 men walked to the town of Zliten where they were arrested by the Libyan police. After two days, another survivor died. After begging jail staff to take the remaining survivors back to hospital, they were taken to a hospital in al-Khums city. Doctors and nurses were said to have given the group water and told them to leave. They were returned to the prison and then taken to Twesha jail near Tripoli. Finally, Ethiopian friends in Tripoli reportedly paid the prison in Zliten US\$900 to release the men. UNHCR is now providing them with assistance in Tunisia. The Council of Europe has called for an inquiry into the incident. At the time of writing, the circumstances of this tragic incident have not yet been fully elucidated.

64. On 12 May 2011, it was reported that up to 600 people may have drowned when a boat broke up off the coast of Libya. Most of the passengers are believed to have been from sub-Saharan Africa. Hundreds of bodies reportedly washed ashore along the Libyan coast. IOM reported that some of the refugees said they were forced on to the boats by Libyan troops and police, while others were given free passage, in contrast to common practice where migrants are charged extortionate prices for the crossing.

65. While people continue to flee Libya, a parallel reverse phenomenon was also reported, whereby hundreds of people who had fled Libya for Tunisia and Egypt in recent weeks have crossed back into Libya, with the intention of boarding boats to reach Europe. Among them are refugees, including Somalis, Ethiopians and Eritreans. Some 14'000 persons are reported to have arrived by boat in Italy and Malta from Libya. While refugees

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<sup>33</sup> UNHCR, "UNHCR fears for the safety of refugees caught in Libya's violence", News Stories, 22 February 2011, available at <http://www.unhcr.org/4d6393e06.html> [date accessed: 7 June 2011].

appear to be aware of the high death toll in such perilous journeys, most feel they have little to lose by the attempt as they are fleeing conflict zones, and come from countries to which safe return is not possible.

66. UNHCR estimates that 6'000 people will have to be resettled from the borders of Egypt and Tunisia in the coming months. So far, a number of countries have reportedly offered over 900 resettlement places.

## **VI. Conclusions**

67. **The peaceful protests which erupted in February 2011 were violently suppressed by excessive use of force against the opposition, including use of live ammunition by Government forces. The human rights situation in Libya remains of deep concern throughout the reporting period. The information received suggests that serious human rights violations have occurred on a widespread and protracted basis, and continue to take place. Since the escalation of the situation into an armed conflict, serious allegations of torture, ill-treatment and arbitrary arrests and detention of individuals have taken place in the course of that conflict. As a result, several hundred people have died, many others have been arrested, thousands were injured, and hundreds remain unaccounted for. The reports received also indicate, if confirmed, serious breaches of international humanitarian law. All these allegations deserve, as a matter of international law, genuine and effective investigation, with accountability for the perpetrators in order to avoid impunity.**

68. **The High Commissioner notes that the findings of the International Commission of Inquiry will be presented to the Council at the 17<sup>th</sup> session (A/HRC/17/44), with the International Commission of Inquiry having undertaken investigations on the ground and made a direct assessment of the available evidence. The High Commissioner looks forward to the Council's deliberations on and action in respect of the recommendations made by the International Commission of Inquiry.**

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