



Re: UN Human Rights Council should establish a Commission of Inquiry, or similar mechanism, for Libya

4 December 2019

Your Excellency,

We, the undersigned Libyan, regional, and international non-governmental organizations, are writing to urge your government to **support the establishment of a Commission of Inquiry, or similar mechanism, for Libya as a matter of urgency. An upcoming opportunity will be the 43rd Session of the United Nations Human Rights Council (the Council), which will take place from February to March 2020.**

We have witnessed a consistent deterioration in the human rights and humanitarian situation in Libya over the last year.

To help bring an end to the cycle of impunity in Libya and establish a measure of accountability, we echo calls made at the 42nd Session of the Human Rights Council by Deputy High Commissioner for Human Rights Kate Gilmore and Special Representative of the Secretary General (SRSG) and Head of the United Nations Support Mission in Libya (UNSMIL) Ghassan Salame for **the establishment of a robust international investigative mechanism to document violations and abuses, identify those responsible for them, preserve evidence for use in future criminal proceedings, and publicly report on the human rights situation in Libya.**

In her oral update, the Deputy High Commissioner highlighted the deteriorating human rights and humanitarian situation and stated that “the High Commissioner strongly supports the establishment of an international body mandated to investigate the full range of violations of international human rights and humanitarian law in Libya.”¹ The SRSG in turn called for the “Human Rights Council to

¹ This quote is from the statement as the Deputy High Commissioner delivered it, which is accessible via UN TV (Interactive Dialogue: High Commissioner Update on Libya - 34th Meeting, 42nd Regular Session Human Rights Council, 25 September 2019, at approximately 11 min 15 seconds into the recording). A related press release is also available at:

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25048&LangID=E>

establish an investigative mechanism, such as a commission of inquiry.”² The call to end impunity and bring those responsible for grave human rights violations to account was reiterated by the EU Delegation, as well as other states.

Insufficient domestic and international efforts to ensure accountability for ongoing crimes in Libya have emboldened State and non-State actors, some of whom are engaged in armed conflicts, to commit violations and abuses with impunity.

As found by the International Commission of Jurists in their report on the criminal justice system in Libya, [*Accountability for Serious Crimes Under International Law in Libya: An Assessment of the Criminal Justice System*](#),³ investigations and prosecutions of crimes under international law by Libyan authorities have been limited to a handful of cases in which the accused’s fair trial rights were violated, and substantial reforms to the legal framework are required to ensure fair and effective justice in future cases.

In this context, it is critical that the international community prioritise the restoration of the rule of law in Libya to bring about a measure of accountability and to break the cycle of impunity. The Council can play a vital role in this process by establishing an independent international investigation into violations and abuses of human rights and international humanitarian law in the country since May 2014.

The 2014 conflict led to the political division of the country, which in turn prevented an institution-building process. Impunity thrives, creating fertile ground for systematic and gross human rights violations by State and non-State actors. Those include: torture and ill-treatment, rape and other acts of sexual violence, arbitrary arrests and detention, forced displacement, enforced disappearances, and unlawful killings. The deliberate targeting of journalists, human rights defenders, lawmakers, state officials, members of the judiciary, and prosecutors and lawyers further undermine the rule of law.

Violations associated with the recent military offensive on Tripoli since April 2019, including the unlawful killing of civilians, are a symptom of impunity. The attack on a migrant centre in Tajoura in July, killing 46 civilians, is but one example. The ongoing conflicts between armed groups throughout the country have also resulted in damage to vital civilian infrastructure, including hospitals. These conditions have contributed to mass displacement and a large-scale humanitarian crisis.

During its 40th Session, Assistant Secretary General Andrew Gilmour reported to the Human Rights Council that migrants are being subject to “unimaginable horrors.”⁴ Mr. Gilmour reported to the Council that in the thirty years of his professional work, reports of sexual violence, torture, and extortion against detained migrants “were the most harrowing accounts I have ever heard.”

As highlighted by the Office of the High Commissioner for Human Rights on multiple occasions, the “inability of the justice system [in Libya] to function effectively has led to widespread impunity, particularly for violations and abuses perpetrated by armed groups.”⁵ **Strengthening international forms of justice and accountability are currently the only effective and plausible means of addressing violations and abuses in Libya.**

² <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=25/09/2019%2000:00:00>

³ <https://www.icj.org/libya-addressing-accountability-for-serious-crimes-and-reform-of-the-criminal-justice-system-are-key-to-peace-stability-and-justice-icj-new-report/>.

⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24397&LangID=E>

⁵ https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_46_EN.docx.

The Council's last three resolutions on Libya since March 2017 have called on the Libyan authorities to increase efforts to hold those responsible for violations or abuses accountable and otherwise focused on providing technical assistance and capacity-building. They failed to create the type of international, independent investigative mechanism that the situation requires.

Therefore, the Council should take credible action to ensure accountability for perpetrators of human rights violations and abuses committed in Libya. **Accordingly, our organizations call on the Council to establish a Commission of Inquiry, or similar mechanism, for Libya, which should be given a sufficient mandate and resources to:**

- Conduct transparent, independent, impartial, effective and thorough investigations into violations and abuses of human rights and international humanitarian law, including those that may amount to crimes against humanity and war crimes, committed since 2014, with a view to identifying perpetrators and ensuring they are held accountable;
- Document, monitor and publicly report on the human rights situation throughout Libya and determine and report the facts and circumstances of, collect and preserve evidence of, and clarify individual responsibility for alleged violations and abuses of human rights and humanitarian law, with a view to ending impunity and providing accountability, and make such information available for future criminal proceedings before national and international courts;
- Formulate and work to ensure the realization of concrete and practical recommendations to strengthen accountability, including through individual sanctions and the reform of the national criminal justice system;
- Provide regular updates and reports to the Human Rights Council and bodies and other UN bodies; and
- Work with governments and other international mechanisms to put in place effective measures to promote accountability for violations and abuses of human rights and international humanitarian law, including through cooperation and information sharing with the International Criminal Court, to whom the situation in Libya was referred by the UN Security Council through Resolution 1970 (2011), and other UN bodies, including the UN Support Mission in Libya and the Panel of Experts on Libya.

We urge you to actively support the creation of this desperately needed and long-overdue mandate and stand ready to provide any further information.

Please accept the assurances of our highest consideration,

Amnesty International
Cairo Institute for Human Rights Studies (CIHRS)
International Commission of Jurists (ICJ)
International Federation for Human Rights (FIDH)
Human Rights Watch (HRW)
Lawyers for Justice in Libya (LFJL)
Libya Platform (A Coalition of Libyan Civil Society Organizations)⁶
Women's International League for Peace and Freedom (WILPF)

⁶ <https://cihrs.org/libya-towards-resolving-the-humanitarian-crisis-and-promotion-of-human-rights/?lang=en>