



Mrs Fatou Bensouda  
**Prosecutor of the International Criminal Court**

*Statement to the United Nations Security Council on the  
Situation in Libya, pursuant to UNSCR 1970 (2011)*

New York

13 May 2014 | Scheduled for delivery at 10:00 a.m.

Thank you, Mr President, your Excellencies:

1. It is just over three years since my Office started interacting with the United Nations Security Council on Libya following the Council's adoption of Resolution 1970, referring the situation in Libya to the International Criminal Court. The opportunity to once again engage with you as I present this seventh report regarding developments in Libya is welcome, as always.
2. In March this year, Libya marked the third anniversary of its revolution. We continue to witness the strong determination of the Libyan people to consolidate their freedom and build a modern democratic state that upholds the rule of law and respects human rights. Notwithstanding these aspirations, Libya continues to face serious security challenges and deep political crisis which undermine its ability to effect much needed meaningful judicial and other changes. The steady decline in the security situation has hampered my Office's investigative activities and hindered possibilities for effective interaction with the Government of Libya. Strengthening Libya's ability to assume its security responsibilities remains key to the success of our joint endeavors to bring lasting peace in Libya. Increased, well co-ordinated international efforts to provide support to Libya therefore remain essential.
3. Libyans should heed this Council's call on all parties to support the democratic transition in Libya including agreement on its immediate next steps, and to engage in political dialogue and refrain from violence and actions that challenge the stability of the state.
4. Reports of torture and mistreatment as well as deaths by torture in illegal detention centres are worrying. While the number of detainees requiring transfer to proper government-controlled detention facilities has reportedly dropped from 8,000 to 7,000, the process of transfer of prisoners to State-controlled detention centres has to be speeded up. Illegal detentions and torture should have no place in modern Libya. Those alleged to be responsible for these crimes must be investigated, prosecuted and face the full force of the law. My

Office stands ready to work with the Libyan Government to bring this scourge to an end.

5. The time has also come for the Libyan government to resolve the Tawergha issue. Steps taken by the Government of Libya, together with the UN Support Mission in Libya, to plan a national conference on internal displacement, and to organize meetings with the exiled Tawergha Local Council, as well as between the Tawergha Local Council and the Misrata Local Council are very much welcome. The national conference has yet to take place though, and these efforts have yet to bear fruit. They must be intensified.
6. It is important for the Government of Libya to bring all relevant stakeholders together to address alleged crimes in Tawergha. Participation of key partners from the international community in these discussions will be a clear message to the Tawerghans and the Misratans that the situation of Tawergha is of concern to the international community. This will also bring to bear the resources of the international community to help resolve the situation of Tawergha once and for all.
7. There is no doubt that Libya needs help to succeed in its aspirations for transition to democracy and rule of law. Justice is key to lasting peace, and justice should thus be at the forefront of international efforts to help Libya. Key partners of Libya should seriously consider forming a contact group on justice issues through which material and legal support could be provided regularly to enhance Libya's efforts to bring justice to the victims. The Government of Libya has repeatedly expressed its commitment to meeting its international legal obligations, and has sought help in order to do so. That help should be forthcoming as soon as possible.

Mr President,

8. Individuals alleged to have committed serious crimes in Libya must be brought to justice either in Libya or at the International Criminal Court: this is not negotiable. It is regrettable that progress has been slow in the case of Mr Abdullah Al-Senussi since the Chamber's

ruling that the case was inadmissible before the ICC and that he should be tried in Libya. We urge the Government of Libya to ensure that the case against him is proceeded with without undue delay and with full respect for his due process rights.

9. It is even more regrettable and indeed a source of great concern that despite the Chamber's order for the Government of Libya to surrender Mr Saif Al-Islam Gaddafi to the custody of the ICC, to date he has not been surrendered to the Court. While the admissibility decision is currently under appeal, Libya still has a positive legal obligation to fully cooperate with the Court and to comply with the Chamber's orders as the admissibility decision and the order to surrender Mr Saif Al-Islam Gaddafi are not suspended by the appeal process as confirmed by the Appeals Chamber in its July 2013 decision. To be absolutely clear, the Government of Libya should immediately surrender Saif Al-Islam Gaddafi to the Court. National judicial proceedings can never be an excuse for failure to comply with the Chamber's order. It is incumbent upon the Government of Libya to fully engage with the Judges and provide assurances that its domestic proceedings against Mr Gaddafi will not impede its obligation to surrender him.

Mr President,

10. Following the conclusion of the memorandum of understanding on burden-sharing with the Government of Libya last year, on 29 January 2014, my Office held fruitful and constructive discussions with the Libyan Prosecutor General Abdul Qader Radwan on practical aspects of the implementation of this MOU and strategies for further investigations, prosecutions and possible arrests. These discussions will be continued during the next meeting with the Prosecutor General's investigators, scheduled for 15 May. The support of this Council and of all States is critical for these joint endeavours to bring to justice, either in Libya or at the ICC, those responsible for serious crimes.

11. In particular, and as I have said before, such support is crucial for the colossal task of collecting evidence to untangle the *modus operandi* of the networks responsible for committing crimes. Amongst others, we will require telephone intercepts and sustained follow-up on the transfers of funds to establish the whereabouts and movements of persons under investigation. This is all information that we can only access through the assistance of States. Above all, we hope we can count on the cooperation of States in facilitating the smooth arrest and surrender of those against whom warrants will be issued. This is key for sending a clear message to would-be Libyan perpetrators and indeed all other would-be perpetrators that the international community is watching and will no longer allow impunity to reign unchecked.

12. I again stress that the memorandum of understanding is intended to foster cooperation and reinforce both parties' obligations to investigate and prosecute crimes and it does not apply or affect the on-going judicial proceedings in either the Saif Al-Islam Gaddafi or the Abdallah Al-Senussi cases.

Mr President,

13. Let me conclude by encouraging the Government of Libya to be fully transparent about its justice activities. It is my Office's sincere hope that the proposal for establishing a contact group will be followed up as soon as possible. This will send a clear message to the Government of Libya that its key partners intend to follow through on their pledges to support justice initiatives and to support the evolving relationship between the ICC and the Government of Libya.

14. I thank you, Mr President, your Excellencies, for your attention. | **OTP**