**Statement by the Special Representative of the Secretary-General**

**and Head of the United Nations Support Mission in Libya (UNSMIL)**

**pursuant to Human Rights Council resolution 28/30**

**Delivered by the Director of the**

**Human Rights, Transitional Justice and Rule of Law Division of UNSMIL**

*30th session of the Human Rights Council, Item 10*

*29 September 2015*

Mr. President,

Excellencies,

Ladies and gentlemen,

On behalf of Special Representative of the Secretary-General and Head of the United Nations Support Mission in Libya (UNSMIL) Bernardino Leòn, who regrettably cannot be here due to the critical phase reached by the political negotiations, I am pleased to provide further information on human rights developments in Libya. Assistant Secretary-General for Human Rights Ivan Šimonović has just given you an overview of the gravity of the human rights situation in Libya. I will focus on the human rights provisions of the Political Agreement that the Libyan parties have been asked to endorse, and on recent progress towards the return of displaced populations.

As we hold this important dialogue, UNSMIL is redoubling its efforts to encourage the Libyan parties to endorse without delay the full text of the Political Agreement put to them for final consideration. The Agreement sets out transitional institutional arrangements, centred on a Government of National Accord, where decisions would require the consensus of the Prime Minister and two deputies. The legislative function would be performed by the House of Representatives elected in June 2014, and a newly established consultative State Council would work closely with the House on legislative and other matters. These institutions are to govern Libya pending the adoption of a new Constitution.

The Agreement also includes important human rights provisions.

At the outset, the parties commit themselves to respecting Libya’s treaty obligations as well as relevant Security Council resolutions. The parties also explicitly commit themselves to ending impunity, ensuring specifically the prosecution of murder, torture and other crimes under international law. They also reject incitement to hatred and all forms of discrimination, and agree to combat terrorism while adhering to relevant international human rights standards.

The Agreement includes a number of specific provisions dealing with detainees, missing persons and internally displaced persons.

Within 30 days of the formation of the Government all parties shall release persons held in their custody without legal basis or hand them over to the judicial authorities which will determine within the following 60 days whether they should be released or prosecuted. Judicial officials should be protected as they perform these tasks. The authority to arrest and hold detainees will be removed from armed groups, and all prisons and detention centres will be placed under the exclusive control of state institutions.

More broadly, all armed groups are to withdraw from residential areas pending their disbanding and the integration of their members into civilian life or into the security forces. Until then, all armed groups shall respect Libyan law as well as international humanitarian law and human rights standards, especially with regard to the protection of civilians.

Within 60 days of its formation, the Government will establish an independent body on missing persons pursuant to Law No. 1 of 2014. The parties shall collect complete information on such cases and submit it to the Government.

The parties also commit themselves to facilitating the voluntary return of those displaced to their homes in dignity and safety, as well as the provision of humanitarian aid to those in need. The Government is to develop the necessary plans to ensure such returns. The Agreement also pledges to provide those displaced with protection and compensation.

The process of transitional justice is to resume, “in order to uphold the truth and achieve accountability, reconciliation, reparation and reform of state institutions” in line with Libyan law and international standards. The parties commit themselves to implementing Law No. 29 of 2013 on Transitional Justice. The Board of the Fact Finding and Reconciliation Commission should be appointed within 90 days of the entry into force of the Agreement.

Parties to the Agreement also commit themselves to maintaining the independence of the National Council on Civil Liberties and Human Rights and supporting it in the performance of its functions.

The Agreement stipulates that there would be no prosecution of any individual solely for fighting adversaries during the conflict, in line with international humanitarian law. This guarantee does not apply to anyone who may have committed war crimes, crimes against humanity or other crimes under international law, as the Agreement states clearly that there shall be no impunity for such crimes.

Let me now turn to recent progress achieved on the return of the displaced which has been possible in the context of the political dialogue facilitated by UNSMIL. This January, at the end of the first meeting of Libyan Municipalities which took place in Geneva, the representatives of Misrata and Tawergha agreed to acknowledge “the right of the people of Tawergha to return to their land”. The date of 31 December 2015 was later set as the deadline to achieve the returns.

You may recall that the town of Tawergha was attacked by armed groups from Misrata, following allegations of grave human rights abuses committed during the 2011 armed conflict in Misrata by pro-Qadhafi forces based in Tawergha. Approximately 40,000 Tawerghans remain displaced across Libya since August 2011.

The Human Rights Division of UNSMIL has facilitated further meetings between representatives of both sides. In May in Tunis both parties issued a joint statement reaffirming the right of return together with the need to achieve accountability and reparations for both sides. They also agreed to adopt confidence-building measures, for example with regard to visits to Tawerghan detainees held in Misrata. They decided to form a Joint Committee, which is now composed of 17 members including five women, to develop a detailed roadmap towards the returns.

I am pleased to report that a first meeting of the Joint Committee took place in Tunis from 9 to 11 September under the auspices of UNSMIL. The Committee agreed to prioritize discussing the issues of victims and reparations. A second meeting is now scheduled to take place in Geneva in the first week of November. In implementation of confidence-building measures, prison visits have taken place; a number of Tawerghan detainees have been released from detention centres in Misrata; and civil records held in Misrata were recently handed over to the Tawerghan community.

As this process advances, we hope that other communities will follow this example and work towards addressing the legacy of abuses and displacement across Libya.

On behalf of SRSG Leòn, I wish to conclude by commending the role of the Human Rights Council in keeping the human rights situation in Libya under close scrutiny. Such scrutiny is not only warranted by the gravity of the ongoing abuses and violations, but is also an essential complement to the efforts that UNSMIL is conducting to achieve a sustainable political settlement of the crisis in Libya.

Libyans have long been expecting a solution to the crisis engulfing their country. They deserve the full engagement of their leaders, as well as of the international community, so that Libya can resume a peaceful transition from dictatorship and violent chaos towards a state built on democracy, human rights, and the rule of law.

I look forward to a fruitful debate.

Thank you.