

Check against delivery

21st Session of the Human Rights Council

**Statement by Mr. Paulo Pinheiro
Chair of the Independent International Commission of Inquiry
on the Syrian Arab Republic**

Geneva, 17 September 2012

Madame President,

Excellencies,

Ladies and Gentlemen,

You have before you the Commission's latest report (A/HRC/21/50), released on 15 August 2012. It gives a detailed account of our findings based on information received up to 20 July. My remarks today will update those findings based on additional investigations finalized two weeks ago, during which we conducted a further 132 interviews.

The human rights situation in the Syrian Arab Republic has deteriorated to such a degree that it is difficult to describe justly in such a few words. Gross violations of human rights have grown in number, in pace and in scale. The frequency with which these egregious violations occur outstrips the Commission's ability to investigate them. Civilians, many of them children, are bearing the brunt of the spiralling violence.

In a dramatic escalation, indiscriminate attacks on civilians in the form of air strikes and artillery shelling levelled against residential neighbourhoods are occurring daily in some areas of Aleppo, Damascus, Dera, Latakia, Idlib and Homs governorates. Although the Free Syrian Army (FSA) is often present and attacking army positions in those areas, the use of inaccurate and indiscriminate weapons – or using accurate weapons in an indiscriminate way – combined with a failure to take all feasible precautions to protect civilians, reflects a disturbing disregard for established rules of armed conflict. This intensified shelling by Government forces no longer serves merely as a prelude to ground attacks, with some towns coming under sustained shelling.

Aleppo, in particular its Salaheddin neighbourhood, has been the target of unrestrained shelling. More than thirty civilians were killed, many of whom were women and children, when bombs landed on people queuing for bread in areas where the FSA was present. Azaz and Tal Rifat, two towns in Aleppo governorate, have come under intense shelling, resulting in significant civilian casualties.

In Damascus governorate, our investigations focused on the widely reported killings in Daraya. The Commission noted allegations against the FSA, though most accounts blamed Government forces. We have so far determined that anti-Government fighters sought refuge in Daraya, fleeing fighting in other areas. Government forces shelled the neighbourhood from 20 to 24 August, after which they moved in together with *Shabbiha*. Many young men, some of whom may have been defectors or FSA members who had dropped their arms, reportedly fled to an area referred to as “the gardens” (*Mazare*). Government forces attacked “the gardens” on 25 August killing over a hundred people - reportedly through extensive gunfire and shooting at close range at those hiding in the area. Further accounts describe *Shabbiha* conducting house searches, looking for fighting aged men. Bodies bearing clear signs of summary execution were later found in various shelters around Daraya. The incident requires further investigation.

Towns in Idlib governorate also came under sustained indiscriminate shelling throughout August. Taftanaz has been shelled for over a month and most of its residents are now in Turkey. According to the Turkish Government, approximately 60% of Syrian refugees in Turkey fled from Idlib

governorate. Homs governorate – and in particular Homs city – also experienced indiscriminate shelling as did the governorates of Damascus and Dara. In all locations, high numbers of civilian deaths and injuries were reported.

Government forces cordoned off some areas that are being shelled, resulting in shortages of food, water, gas and medical supplies. We received numerous accounts, in particular from civilians in Idlib and Aleppo governorates and in Homs city, of civilians barely managing to survive. Shelling, and in some cases snipers, made venturing outside often too dangerous to contemplate. It was evident from interviews that those fleeing Syria were driven out by shortages as well as by shelling.

The Commission found reasonable grounds to believe that during this reporting period Government forces and the *Shabbiha* committed war crimes, gross violations of human rights and crimes against humanity. Those violations and crimes include murder, summary execution, torture, arbitrary arrest and detention, sexual violence, violations of children's rights, pillaging and destruction of civilian objects - including hospitals and schools.

The Government refused the Commission access to the country, which continued to hamper investigations. In Al-Houla we concluded that Government forces acting in concert with the *Shabbiha* were responsible for the killings of dozens of women and children. Any further investigation in Al-Houla would benefit from access to crime scenes and the possibility of speaking with witnesses in person.

Turning to violations by anti-Government armed groups, there are reasonable grounds to believe that war crimes, including murder, extrajudicial execution and torture, were perpetrated by these groups.

Anti-Government groups executed captured Government soldiers, informers, and people they believed to be members of the *Shabbiha*. Despite indications that the FSA had adopted a code of ethics, on 10 September media reported that 21 Government soldiers were summarily executed in Aleppo allegedly by groups affiliated to the FSA.

Anti-Government armed groups admitted taking captives and holding them solely for ransom or exchange - threatening the captives with execution if the deal failed. They also allegedly used prisoners to detonate vehicle born explosives - an act that resulted in captives' death. These groups have also used imprecise or indiscriminate weapons, such as Improvised Explosive Devices, that equally pose a danger to civilians. Children under 18 years are fighting and performing auxiliary roles, such as assisting medical evacuations or as couriers, for anti-Government armed groups.

Improved organization, mobility and fire power (including mortars, heavy machine guns, and on occasion seized tanks) allowed anti-Government armed groups to continue attacks on army positions and convoys. The Commission notes with concern that the anti-Government armed groups are failing to adequately distinguish their fighters from the civilian population, through for example using uniforms or insignia. The civilian population is further endangered by the presence of armed groups in populated areas.

It is apparent that the crimes and abuses committed by anti-Government armed groups, though serious, did not reach the gravity, frequency and scale of those committed by the Government forces and *Shabbiha*.

The Commission confirmed the increasing presence of foreign elements, including Jihadist militants, in Syria. Some are joining anti-Government forces while others are establishing their own groups and operate independently. Such elements tend to push anti-Government fighters towards more radical positions.

The Commission condemns the large number of explosions throughout Syria resulting in scores of civilian casualties.

Sectarian tensions have increased dramatically, particularly in Latakia and Idlib governorates. Abductions and killings are taking place between Sunnis from one side, and Shias and Alawites on the other side. Other minority groups, such as Christians and Druze are reportedly organizing their own self-defence groups as their communities feel threatened by the increasingly sectarian violence.

The socio-economic and humanitarian situation has further deteriorated due to the cumulative effect of conflict and economic sanctions. The Commission maintains that sanctions result in a denial of the most basic human rights of the Syrian people. Scarcity of basic human needs such as potable water, food, electricity, petrol and cooking fuel is causing rampant inflation.

According to the Office for the Coordination of Humanitarian Affairs, the number of people in need of humanitarian aid has reached 2.5 million. More than 1.2 million people are internally displaced, of which half are children. In areas most affected - in particular in towns under siege - the humanitarian situation continues its downward spiral. Homes, schools and hospitals have been seriously damaged, if not destroyed or occupied. Nearly a quarter of a million Syrian refugees live in neighbouring countries, of which more than 100,000 were registered during August alone.

Despite the numerous crimes and violations set out in the report, the Commission is unaware of efforts – by either Government forces or anti-Government armed groups - to prevent or punish them in a manner that meets international standards.

The Commission has now conducted over 1100 interviews since September 2011 and delivered six reports and updates to the HRC detailing human rights violations and international crimes. We have collected an extraordinary body of evidence which will remain in the custody of the Office of the High Commissioner for Human Rights. Information collected, where consent was provided, will be available for future national and international justice mechanisms. The HRC must adopt a clear stance vis-à-vis the legitimate demands of the victims for accountability. The Commission warns those perpetrating the crimes documented in its reports that international criminal law holds responsible both superiors and subordinates - whether military or civilian.

We have recommended that our report be forwarded to the Security Council for its deliberations so it might take “appropriate action in view of the gravity of the violations, abuses and crimes perpetrated by Government forces and the *Shabbiha*, and by anti-Government groups”. In making this recommendation, the Commission recalls that, in the context of Syria, the power to refer the matter to the International Criminal Court rests solely with the Security Council.

Similarly, a second confidential list of individuals and units believed to be responsible for violations is being provided to the High Commissioner of Human Rights. The Commission considers it improper to publicly release the names due to the lower standard of proof employed by commissions of inquiry as compared to a court of law, the potential to undermine the right to the presumption of innocence and the absence of any accountability mechanism where a suspect can contest the allegations.

Madame President,

A political settlement is imperative as there is no military solution to the crisis. The conflict has unfolded for 18 months, with a confrontation of multiple internal and external actors, and appears set to continue until the exhaustion of one side or the other. Enhancing the military capacity of the Government, or supplying arms to its opponents, only aggravates and ultimately extends the conflict.

As political arrangements rarely occur without negotiation, they must be accompanied by dialogue, encompassing both government and opposition. It is critical that the international community deploy renewed efforts to support the mission of the Joint Special Representative of the United Nations and the League of Arab States, Lakhdar Brahimi, to stop the violence and steer the dialogue towards finding a durable solution to the crisis.

The conflict is spilling over into neighbouring countries, threatening their stability and the security of the region as a whole.

The unrelenting spiral of violence is inflicting untold damage to the foundations of Syria as a State and to its people. Our most important goal should be to protect the human rights of all those comprising the mosaic of Syrian society.