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**United Nations Human Rights Council: 18th Session**

**High Level Panel on the Promotion and Protection of Human Rights in the Context of Peaceful Protests**

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**Panel Presentation**

**Delivered by:**

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Mr. President, Madame President, Your Excellencies, Madame High Commissioner, Civil Society colleagues:

My presentation today is dedicated to the millions of citizens within the Arab region, and beyond, who have sacrificed and continue to sacrifice their lives and their safety in peaceful protests and acts of civil disobedience in order to demand a dignified life. I dedicate it to Abdulhadi al-Khawaja, the Bahraini human rights defender who is currently serving a life sentence behind bars following an unfair military trial. I also dedicate it to Syrian cartoonist Ali Farzat who was brutally attacked last week for using
his art to speak out against violations in his country and to Mikhail Sanad who is currently behind bars following undue military trial in Egypt. I further dedicate it to a new generation of rising human rights groups around the Arab world and particularly in Egypt, where the No to Military Trials group and similar groups are playing a pivotal role.

My presentation has been made in consultation with and in the name of a number of independent civil society organizations and human rights defenders from throughout North Africa and the Middle East.

First of all, I would like to thank the co-sponsors of this panel for inviting me to speak today, and the Office of the High Commissioner for Human Rights for their assistance in the holding of this important event. In particular, I would like to salute the courage and consistency that the High Commissioner has demonstrated in the promotion and protection of human rights in relation to the pro-democracy protests that have been occurring throughout the Arab world over the last ten months, and which continue to this day.

The large-scale peaceful protest movements and uprisings that have so far ousted deeply entrenched dictators in Tunisia, Egypt and Libya did not begin in December, 2010. For several decades, the Arab world has witnessed a gradual proliferation of protest movements for economic and political reform in many countries, including in Morocco, Algeria, Jordan, Yemen, Sudan, Syria, Iraq, the OPTs and Bahrain. And for decades those who have organized or participated in peaceful protests within the Arab region have been subject to several patters of repressions among which are extrajudicial killings, enforced disappearances, arbitrary arrest and detentions, torture and have been labelled as traitors by their own governments; in turn, governments and private actors around the world have often dismissed their cries for freedom, and either ignored, allowed or, in some instances, actively cooperated in their brutal repression. When approaching the Arab region, members of the international community have too willingly provided impunity and assistance to governments and leaders who violently and systematically suppress protests and other forms of peaceful political expression.

Often such impunity and assistance for repression has been granted in the name of counter-terrorism. Yet, I would argue that the current peaceful protests that have swept through the Arab region have done more to defeat Al-Qaeda and their philosophy of political violence, than the assassination of Osama Bin Laden or the vast amount of money and resources spent on counter-terrorism activities between various governments. If governments fail to heed the democratic demands of these peaceful protests, and those responsible for their brutal repression are not held to account by the international community, desperation may inspire more to abandon the unifying chant of “peaceful, peaceful,” and increasingly adopt methods of political violence.

Since December, 2010, almost all Arab governments have demonstrated a policy of zero tolerance for peaceful protests. An absence of serious, constructive and comprehensive dialogue with groups organizing protests, and the consistent refusal to respond to their legitimate political, economic, and social demands has lead to the current political and human rights crises’ we see unfolding throughout the region. Almost all Arab governments have resorted to violence, including the use of live ammunition, extrajudicial killings, mass arrests, torture and ill treatment, and the use of forced disappearances in response to such protests. In some cases, snipers have been sent to rooftops of schools, universities and places of worship to pick off innocent civilians; the relatives of prominent opposition figures have been abducted as hostages; children as young as 12 have been tortured and mutilated; medics treating wounded protestors have been violently attacked or arrested and referred to exceptional or military courts in trials that lack due process; sectarian conflict and xenophobia has been exacerbated by the official use of incitement and defamation campaigns. Laws have been passed that attempt to give authorities legal cover to use barbaric methods of intimidation and repression, including the use of states of emergency in illegitimate ways. Government media sources, often the only regular news source available due to severe restrictions on the freedom of the media, have been used to incite violence, hatred and defame the character and aims of reformists, protest movements, and civil society actors. For example, in Egypt, as in other countries, the authorities have launched an extensive propaganda campaign against independent human rights organizations and young political activists, calling them foreign agents and spies, in an attempt to provide cover for a crackdown. Moreover, foreign mercenaries and thugs or irregular militias have been used in Libya, Egypt, Syria, and Yemen in order to violently attack protestors side by side with regular police and/or military forces.

The double-standards and inconsistency with which the world has approached their human rights obligations in relation to protests in the Arab region, and elsewhere, presents the most obvious, but also one of the most profound and difficult challenges to ensuring the promotion and protection of human rights in the context of peaceful protests. The grave violations that we have witnessed being carried out by governments against peaceful protestors in Tunisia, Egypt, Libya, Bahrain, Yemen and Syria, have largely been the result of a deeply entrenched culture of impunity for such crimes- impunity deeply embedded in the legal structures and policies of Middle Eastern countries, and fostered by an international community and powerful governments around the world that too often possess the ability but lack the will to *consistently and reliably* provide protection for individuals involved in peaceful protest movements or create negative consequences for governments who violently and systematically repress this right. This leads us to a more general observation that crimes against humanity and other similar atrocities, consistently arise out of a combination of two factors: (1) Despotic governments that persistently and systematically use violence and intimidation to repress freedom of assembly, association and related forms of freedom of expression, and (2) impunity on a national and international level for such crimes. Unless these underlying factors are in some way seriously addressed by the international community, then it may be extremely difficult to prevent or avoid the commission of further atrocities against civilians in countries throughout the world,

In this sense, the double-standards and ambiguity that has characterized the response by almost all governments, including member states of the Arab League, Organization of Islamic Conference, EU, and the United States, in responding to the repression and attacks against peaceful protests in various countries of the Arab region, not only represents a betrayal of victims and a failure to implement the responsibility to protect doctrine, but will likely result in further atrocities and the possible creation of internal conflict in some countries.

Growing evidence that crimes against humanity appear to have been committed by government security forces in Bahrain and Yemen in response to popular protests has largely been swept under the rug. Even in the cases of Libya and Syria, where an all out war has been waged on the protesting population, a large difference exists in the response of the international community—with some members of the Security Council still unwilling to refer the situation in Syria to the International Criminal Court, a sad demonstration of just how deeply entrenched impunity is for governments that attack peaceful protests.

It is within this unacceptable reality that we are called on to search for solutions to the challenges facing human rights promotion and protection in the context of peaceful protests. The primary responsibility for ensuring the respect for human rights in the context of protests falls squarely on the government of the country experiencing such protests. However, within the international realm, it is the unreliability of politics to provide swift and consistent protectionthat we must guard against. To this end the international community should begin to put in place a holistic framework to guide governments and the international actors on how to provide human rights protection and promotion in responding to protests. While the rights of peaceful protestors are guaranteed in various international legal instruments and standards, their remains an urgent need to consolidate and more clearly articulate the various obligations, responsibilities, principles and policies that various sectors of a government should adhere to when confronted with peaceful protests, especially in instances of large-scale protests; as well as, the measures they can undertake to reduce the possibility of human rights violations if and when protests occur.

As such, I would like to use this space to advocate for the creation, by this Council, to be adopted by the General Assembly, of a *“Declaration on the guidelines and principles for the promotion and protection of human rights in the context of peaceful protests.”*

Moreover, I would like to submit the following as examples of guidelines and principles that have arisen out of lessons learned within the Arab region, and which I believe should be included in any such declaration:

* The right to life and the right to be free from torture or cruel, inhuman or degrading treatment or punishment, must be guaranteed by States to all individuals under all circumstances. Any human rights violations that amount to Crimes Against Humanity or are carried out in a discriminatory manner on the basis of race, colour, sex, language, religion or social origin are not justifiable by any derogation of rights obligations during state of emergency, including in situations involving wide-spread protests.
* Governmental leaders and the head of state of a country experiencing large scale protests should, without undue delay, clearly and publicly express the government’s intention to ensure the fundamental rights of those protesting are respected and that any government security forces that unduly commit acts of violence or cause harm to peaceful protesters can be held criminally responsible.
* As provided by international law, the use of foreign nationals and mercenaries to respond to public demonstrations and protests as well as the use of non-regulatory forces should be prohibited.
* The use of military forces and irregular militia to respond to peaceful public demonstrations should be prohibited.
* Security forces in general and anti-riot police and police responding to protests in particular should not be representative of a particular ethnic, racial, religious or political group within a country. All efforts should be made to ensure a balanced representation of various social groups within a country among these security forces.
* Protests, sit-ins, demonstrations of a peaceful nature, and other forms of social mobilization associated with peaceful political activities, should be decriminalized.
* A sub-section of security forces within a country should be trained specifically on how to respond to protests and perform crowd management in a peaceful manner that is in conformity with international human rights standards.
* Any detention of those involved in activities associated with peaceful protests and other forms of public demonstration should only be performed by civil security forces for the purposes of personal and public safety and only for a duration required in order to guarantee such safety, and no more than twenty-four hours. In all instances in which those participating in protests or demonstrations are detained for criminal offenses, they should be granted access to a qualified lawyer, and full due process guarantees before their natural judge. In no instance should those participating in protests and demonstrations be referred to military or exceptional courts.
* The terms *public safety*, *public order* and *public health* should be clearly and unambiguously defined within the laws of a country, and should be in accordance with international standards of human rights.
* In instances where riot gear and military hardware are used by government security forces to systematically commit human rights violations against individuals participating in public demonstrations and protests third party states and private companies that provide such equipment should immediately cease providing this equipment to a violating government, and any contractual obligations to this effect should be suspended
* Bi-lateral and multilateral aid and assistance between states should be specifically preconditioned on the full respect for freedom of assembly and association, and strong safe-guards should be put in place to ensure such aid is in no way used by recipient governments to supplement their ability to carry out large scale repression of these rights, especially during times of large-scale peaceful protests.
* The wide-spread blocking of basic systems of communication and commerce, including the internet, mobile and land line phone services, satellite channels and other media should be prohibited. The criminal liability of companies that are involved in such practices should be made clear in national penal systems.
* All instances of incitement to violence, hate, xenophobia and discrimination within the media should be combated. Instances of incitement to violence should be prohibited on state run media sources.

Respecting freedom of assembly in the context of peaceful protests remains of an up-most priority in the Arab region. Not only because of the events unfolding inside Syria and other countries, but because countries undergoing political transition like Egypt and Tunisia are still witnessing the commission of similar violations without adequate investigations and accountability measures into such violations.

The UN Human Rights Council addressed the human rights situation in both Libya and Syria responsibly, but politicization was an unfortunate factor explaining the Council’s inability to adequately deal with the situations in Bahrain and Yemen. The Council also seems to have concluded, erroneously, that the situation in Tunisia and Egypt no longer requires attention, which may unintentionally contribute to the deterioration of the situation in both countries, especially in Egypt where a sever regression in the human rights situation and polices of the current ruling authorities is currently occurring.

The courage and determination demonstrated by the citizens of the Arab world in their peaceful struggle for their fundamental rights deserves an international response that is equally courageous and determined in order to ensure they are provided protection and support. The sacrifices they have made and the great hope they have given to the world deserves nothing less.

Thank you.