

ANTONINO ALÌ

FACT FINDING

SERIOUS CRIMES IN SYRIA

▶ Human Rights Council

- ▶ The Human Rights Council is an inter-governmental body within the United Nations system **responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them.** It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva.
- ▶ The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly. The Human Rights Council replaced the former United Nations Commission on Human Rights.

HRC – INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON THE SYRIAN ARAB REPUBLIC

- ▶ 1. At its seventeenth special session, the Human Rights Council considered the report of the fact-finding mission submitted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to Council resolution S-16/1.1 In the light of the mission's findings, including that patterns of human rights violations may amount to crimes against humanity, and the deteriorating human rights situation in the Syrian Arab Republic, the Council decided to establish an independent international commission of inquiry.
- ▶ 2. On 12 September 2011, the President of the Human Rights Council appointed three high-level experts as members of the commission: Paulo Pinheiro (Chairperson), Yakin Ertürk and Karen Koning AbuZayd. A secretariat of the commission, with a broad range of expertise in the field of human rights investigations and international law, was provided by OHCHR.
- ▶ 3. The Human Rights Council requested the commission to make its report public before the end of November 2011. The commission will present a written update to the Council at its nineteenth session, in March 2012. The present report is submitted pursuant to the request of the Council.

COMMISSION MANDATE – RESOLUTION S-17/1 OF 23 AUGUST 2011

- ▶ The Human Rights Council, in its resolution S-17/1, mandated the commission to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic, to establish the facts and circumstances that may amount to such violations and of the crimes perpetrated and, where possible, to identify those responsible with a view of ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable. The commission adopted its terms of reference (annex I) in the light of its mandate.

OPCW-UN JOINT MISSION

- ▶ On 21 August 2013, the world was shocked to see images of Syrian civilians, including many children, who appeared to have been the victims of a gruesome chemical weapons attack in the Ghouta area of Damascus.
- ▶ The United Nations investigation of the incident confirmed that chemical weapons were used there on a relatively large scale, in the context of the ongoing conflict in the Syrian Arab Republic.
- ▶ The attack served as an impetus to diplomatic efforts to find a way to eliminate the chemical weapons programme of the Syrian Arab Republic. Those efforts produced the Framework for Elimination of Syrian Chemical Weapons dated 14 September 2013, agreed upon between the Russian Federation and the United States of America in Geneva.
- ▶ On the same day, the Syrian Arab Republic deposited with the United Nations Secretary-General its instruments of accession to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention), and declared that it will comply with its stipulations and observe them faithfully and sincerely, applying the Convention provisionally pending its entry into force in the Syrian Arab Republic.

OPCW-UN JOINT MISSION

- ▶ On 27 September 2013, the OPCW Executive Council adopted a historic decision EC-M-33/DEC.1 on the destruction of Syrian chemical weapons programme. This decision was endorsed by the unanimous adoption of United Nations Security Council resolution 2118 (2013) on the same day.
- ▶ The Executive Council decision set out an accelerated programme for achieving the elimination of Syrian chemical weapons by mid-2014. It required inspections in Syria to commence from 1 October 2013 and called for ambitious milestones for destruction which were to be set by the Executive Council by 15 November.
- ▶ The decision was informed by the preceding Framework Agreement on the elimination of Syrian chemical weapons, reached by the Russian Federation and the United States of America on 14 September, and facilitated the request by the Syrian Arab Republic that the Chemical Weapons Convention be applied ahead of the formal entry into force of the Convention for Syria on 14 October.

OPCW-UN JOINT MISSION

- ▶ Following the adoption of EC-M-33/Dec.1 and Resolution 2118 (2013), UN Secretary-General Ban Ki-moon and OPCW Director-General Ahmet Üzümcü worked in close consultation to develop recommendations on the setting-up of the Joint Mission and to plan for the implementation of OPCW Executive Council decision EC-M-33/Dec.1 and UN Security Council resolution 2118 (2013). These recommendations were presented by the UN Secretary-General to the Security Council in a letter on 7 October and subsequently endorsed by the Council.
- ▶ The OPCW-UN Joint Mission in Syria was formally established on 16 October 2013. On the same day, Ms. Sigrid Kaag of the Netherlands was appointed Special Coordinator of the Joint Mission. Both the establishment of the Joint Mission and the appointment of the Special Coordinator were made in close consultations with the OPCW Director-General. The Special Coordinator's mandate entailed to report to both the Secretary-General and the Director-General, provide overall coordination of the Joint Mission activities, and liaise and coordinate with the Syrian Government, opposition groups and the international community.. To support the Joint Mission's operations, separate but complementary Trust Funds were also established by the two organizations.As mandated by the Security Council, the Joint Mission's main tasks were to oversee the timely elimination of the Syrian chemical weapons programme in the safest and most secure manner possible.

OPCW-UN JOINT MISSION

- ▶ The OPCW-UN Joint Mission on the elimination of Syrian chemical weapons has completed its mandate and its operations drew to a close on **30 September 2014**. From there on, the OPCW mission in Syria will continue to deal with the destruction of chemical weapon production facilities and clarification of certain aspects of the Syrian initial declaration.

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY ON 21 DECEMBER 2016

- ▶ **International, Impartial and Independent Mechanism** to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011
- ▶ The General Assembly emphasizes the need to ensure accountability for crimes involving violations of international law, in particular of international humanitarian law and international human rights law, some of which may constitute war crimes or crimes against humanity, committed in the Syrian Arab Republic since March 2011 through appropriate, fair and independent investigations and prosecutions at the domestic or international level, and stresses the need to pursue practical steps towards this goal to ensure justice for all victims and to contribute to the prevention of future violations.

THE INTERNATIONAL, IMPARTIAL AND INDEPENDENT MECHANISM

- ▶ The G.A. welcomes the efforts by States to investigate and prosecute crimes within their jurisdiction committed in the Syrian Arab Republic, in accordance with their national legislation and international law, and encourages other States to consider doing the same and to share relevant information to that end with other States.
- ▶ 4. Decides to establish the **International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011** under the auspices of the United Nations to closely cooperate with the Independent International Commission of Inquiry on the Syrian Arab Republic to collect, consolidate, preserve and analyse evidence of violations of international humanitarian law and human rights violations and abuses and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.

THE INTERNATIONAL, IMPARTIAL AND INDEPENDENT MECHANISM

- ▶ On the basis of paragraph 4 of resolution 71/248, the mandate of the Mechanism encompasses **two main tasks**:
 1. to collect, consolidate, preserve and analyse evidence of violations of international humanitarian law and human rights violations and abuses;
 2. to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.