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22nd 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, 11 March 2013

Monsieur President,

Excellencies,

Ladies and Gentlemen,

You have before you the Commission's latest report (A/HRC/22/59), released on 18 February 2013. Today, we are also circulating a Conference Room Paper containing an update of the situation since the close of that report on 15 January.

Now entering its third year, the unrest in the Syrian Arab Republic has reached new heights of destruction. The harrowing violence continues unabated, with hostilities now consuming vast swathes of the country. Millions are refugees or internally displaced. An estimated two-thirds of those fleeing Syria are women and children. Those still inside the country have found some comfort owing to the commendable solidarity of Syrian society, where families have offered the first line of humanitarian relief to the millions who are seeking to escape the violence. The coping mechanisms of Syria's society have been stretched to the limit by the sheer magnitude of the crisis. Many of those who remain in their homes face daily deprivations and threats to their existence.

As recent incidents on Syria's borders with Lebanon, Turkey, Iraq and Israel portend, the destabilizing effects of the conflict are increasingly felt throughout the region. Although countries of asylum have generously kept their borders open, their capacity to do so is under severe pressure, as they face a refugee crisis of immense proportions. The humanitarian response mechanisms are struggling to cope.

As the High Commissioner for Refugees, Mr Guterres, noted: *'what is happening in Syria today risks escalating very quickly into a disaster that could overwhelm the international response capacity – political, security related and humanitarian.'*

There is an urgent need for a sustained diplomatic initiative to put an end to the violence and the suffering of the Syrian population. So far, efforts to reach a negotiated political settlement have failed. Fierce fighting rages throughout the country, most recently the on-going battle in Al-Raqqa. The war displays all the signs of a destructive stalemate. Neither party seems able to prevail over the other militarily. The result has been an escalation in the use of force in the fallacious belief that victory is within reach.

The commission reiterates that the only solution to the Syrian conflict is a political one, complying with the principles of international law. While political efforts falter, all parties to the conflict must abide by the humanitarian imperative to protect civilians in their conduct of hostilities. Equally, all States parties to the Geneva Conventions are obliged to do everything in their power to ensure that the laws of armed conflict and their underlying humanitarian principles are applied universally.

Instead, our findings indicate that, in their conduct of hostilities, the parties to the conflict have failed to protect civilians. They have failed to take the necessary precautions in attack to spare civilians and to avoid the incidental loss of life. Moreover, they have frequently failed to distinguish themselves from civilians in the areas in which they operate, unnecessarily subjecting civilians to the brutality of war. As a consequence, indiscriminate and widespread shelling, the regular bombardment of cities, mass killing and the deliberate firing on civilian targets have come to characterize the daily lives of civilians in Syria.

Turning to a specific issue in our mandate, massacres. We have received information on scores of incidents that fall under our working definition. Despite our lack of access, investigations progressed on approximately 20 cases.

Government forces have targeted civilians and have conducted indiscriminate and disproportionate attacks. Although we have some evidence that the situation amongst anti-Government armed groups is improving, they also do not take the necessary precautions, particularly when detonating bombs where high numbers of civilian casualties are likely to result. These acts demonstrate a reckless disregard for human life.

We were very concerned by the capture and detention of 21 UN peacekeepers by the Martyrs of Yarmouk armed group last week in the Golan Heights. We welcome their safe release. The taking of UN staff as hostages is emblematic of the increasing recklessness with which the parties to the conflict treat human life. We condemn such outrageous acts and consider it a clear violation International humanitarian law.

Both Government affiliated militia and anti-Government armed groups have violated the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, to which Syria is a party. Young boys remain at risk for recruitment and use in hostilities, particularly by anti-Government armed groups. In al-Qusayr, boys as young as 13 were recruited, and those as young as 14 were given weapons training and operational roles. The Syrian Army's strict rules for preventing the recruitment of under-18s may

be coming under pressure as the bureaucratic systems needed to determine age prior to conscription fray. There has been an increased reliance on pro-Government militias, which have fewer safeguards against child recruitment.

The increased militarization of the conflict has had devastating consequences for civilians, spreading immense suffering. There is a human cost to the increased availability of weapons. As states look for solutions to the conflict, they must bear in mind that transfers of conventional arms and ammunition should not occur when there is a clear risk that the arms will be used to commit serious violations of international humanitarian law. Under the Geneva Conventions, states that engage with the parties to the conflict have their own obligation to ensure respect for the laws of armed conflict.

As hostilities spread across Syria, civilians fleeing the violence struggle to find safe havens. As a result, a tidal wave of displacement has been set in motion. Women and children bear a heavy burden, with millions caught in the midst of the crisis, traumatized and in need of psychological support. Equally, an estimated 100,000 Syrians have been wounded in the conflict. A quarter of them are permanently disabled.

The security situation in Syria has hindered and in many cases prevented humanitarian organizations from fulfilling their missions. We have documented countless incidents in which medical care has been used as a tactic of war. Hospitals and medical clinics are being targeted, destroyed and medical personnel captured. Health care is viewed in terms of military gain by the parties to the conflict. Civilians are left to languish in dire need of treatment. Under Common Article 3 to the Geneva Conventions, which binds all parties to the conflict, the wounded and sick must be collected and cared for, in all circumstances. Hospitals, medical units and medical personnel must be protected and not targeted.

All stakeholders in the Syrian crisis should redouble their efforts to facilitate a negotiated settlement bearing in mind the legitimate aspirations of all segments of Syrian society, including ethnic and religious minorities. The latest initiative by the UN and Arab League Joint Special Representative for Syria suggesting that the UN is willing to facilitate negotiations between the parties represents a step in the right direction and deserves to be supported.

The commission reiterates that all parties to the conflict have to comply with international humanitarian law in their conduct of hostilities. Government forces and anti-Government armed groups must refrain from attacking civilians and must provide unhindered access for aid to reach all people in need inside Syria.

Those responsible for grave violations must be held responsible, with referral to justice. There can be no enduring peace without justice.

If the national, regional, and international actors fail to find a solution to the conflict and stop the agony of millions of civilians, the alternative will be the political, economic and social destruction of Syria and its society, with devastating implications for the region and the world.