

Statement on the capture of Saif Al-Islam Gaddafi and Abdullah Al-Senussi

21 November 2011, The Hague

The Women's Initiatives for Gender Justice welcomes the 19 and 20 November captures of Saif Al-Islam Gaddafi and Abdullah Al-Senussi by forces of the National Transitional Council (NTC).

'This is an important development for Libya and an opportunity for the NTC to demonstrate its' respect for the rule of law' said Brigid Inder, Executive Director.

'After months of intense unrest and widespread violence, it is time for the NTC to transition itself into a law abiding, human-rights respecting authority. The murder of former Libyan President, Muammar Gaddafi by NTC forces, should not be repeated with the capture of the leader's son and his intelligence chief.'

On 26 February, the United Nations Security Council unanimously adopted Resolution 1970,¹ referring the Situation in Libya to the International Criminal Court (ICC). The Resolution further imposed measures including an arms embargo, a travel ban on Colonel Gaddafi's family and top ministers, and the freezing of Colonel Gaddafi's family assets.

An ICC Arrest Warrant, issued in June, charged Muammar Gaddafi, Saif Al-Islam Gaddafi and Abdullah Al-Senussi with murder and persecution as crimes against humanity.² In September 2011, INTERPOL issued a Red Notice to arrest all three indictees.³

'Given the absence of domestic laws adequately addressing crimes against humanity within Libya, the limited institutional capacity, in the short term, of the police to conduct impartial and lawful investigations, and the existence of the ICC Arrest Warrants, the NTC should transfer Saif Al-Islam and Al-Senussi to The Hague,' said Inder.

¹ Resolution 1970, UNSC, 6491th meeting, S/Res/1970 (2011), 26 February 2011.

² ICC-01/11-12; ICC-01/11-13; ICC-01/11-14; ICC-01/11-15.

³ See: <http://www.interpol.int/Wanted-Persons>. The Red Notice seeks the arrest or provisional arrest of wanted persons with a view to extradition based on an arrest warrant or a court decision, but is not an international arrest warrant itself.



Sharia Law

'In addition, on 23 October, the NTC announced that Sharia law would be the source of legislation for the new Libyan state. Sharia law, as implemented by most states which have adopted this as a legislative foundation, does not effectively address sexual violence and certainly not on the scale reportedly committed by Gaddafi's troops and possibly members of the NTC forces. Should the NTC be able to demonstrate its capacity to lawfully prosecute the other acts charged by the ICC, incidents of sexual violence will need to be tried in The Hague due to the lack of an adequate legal framework within Libya to prosecute these crimes,' said Inder.

'Even if the complementarity threshold is met by the NTC in relation to the current ICC charges, it won't be applicable to incidents of sexual violence,' said Brigid Inder.

